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1900 Bausch & Lomb Place
Rochester, NY 14604

Cali, James

St. Margaret Mary Church nka St. Kateri Tekakwitha Parish
Lum, William

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State of New York

MONROE COUNTY CLERK'S OFFICE
WARNING – THIS SHEET CONSTITUTES THE CLERKS
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JAMIE ROMEO

MONROE COUNTY CLERK



STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

JAMES CALI,

Plaintiff,

v.

ST. MARGARET MARY CHURCH n/k/a
ST. KATERI TEKAKWITHA PARISH a/k/a
ST. KATERI PARISH AT ST. MARGARET
MARY, KATERI TEKAKWITHA ROMAN
CATHOLIC and SAINT KATERI; and
WILLIAM LUM,

Defendants.

VERIFIED ANSWER

Index No. E202006669

Defendant, ST. MARGARET MARY, ROCHESTER ("Defendant"), incorrectly sued herein as ST. MARGARET MARY CHURCH n/k/a ST. KATERI TEKAKWITHA PARISH a/k/a ST. KATERI PARISH AT ST. MARGARET MARY, KATERI TEKAKWITHA ROMAN CATHOLIC and SAINT KATERI, by its attorneys, WOODS OVIATT GILMAN LLP, for its Answer to the Verified Complaint herein:

1. Denies knowledge and information sufficient to form a belief as to the allegations contained in Paragraphs 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 25, 26, 27, 28, 32, 33, 34, 35, 36, 37, 42, 43, 44, 45, 46, 48, 49, 50, 53, 60, 61, 62, 102, 105, 106, 107, 108, 109, 111, 119, 122, 134, 135, 136, and 137 of the Verified Complaint.

2. Denies knowledge and information sufficient to form a belief as to the allegations in Paragraphs 6 and 7 of the Verified Complaint, except admits ST. MARGARET MARY, ROCHESTER, is or was a not-for-profit religious corporation duly incorporated under the laws of the State of New York.

3. Denies the allegations contained in Paragraphs 1, 20, 24, 29, 30, 38, 39, 40, 51, 52, 54, 55, 56, 57, 58, 59, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81,

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82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 100, 103, 104, 110, 112, 113, 114, 115, 116, 117, 118, 120, 123, 124, 125, 126, 127, 128, 129, 131, 133, 138, 139, 140, 141, and 143 of the Verified Complaint.

4. As to the allegations contained in Paragraphs 31, 97, 98, 99, 130, and 142 of the Verified Complaint, Defendant denies the allegations as they pertain to Defendant, and denies knowledge and information as to the remainder of the allegations therein.

5. Repeats and realleges each and every answer to the allegations contained in Paragraphs 41, 47, 101, 121, and 132 of the Verified Complaint with the same force and effect as if fully set forth herein.

6. Denies the remaining allegations of the Verified Complaint not specifically admitted or otherwise denied herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. Some or all of the causes of action set forth in Plaintiff's Verified Complaint fail to state a cause of action.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

8. The Court lacks personal jurisdiction over the Defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

9. Some or all of the causes of action in Plaintiff's Verified Complaint have not been brought within the time prescribed by the applicable statute of limitations.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

10. Plaintiff fails to plead with specificity in compliance with N.Y. C.P.L.R. §§ 3014 and 3016.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

11. The alleged injuries suffered by Plaintiff were not proximately caused by any actions of the Defendant.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

12. The imposition of punitive damages would violate the Defendant's right to due process and equal protection under the Fifth and Fourteenth Amendments of the United States Constitution and relevant New York State constitutional law.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

13. Plaintiff's Verified Complaint and each and every claim therein which seeks an award of punitive or exemplary damages, fails to allege facts sufficient to justify an award of such damages against the Defendant.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

14. Upon information and belief, some or all of the damages alleged in the Verified Complaint are barred and/or subject to the qualifications of the provisions of N.Y. C.P.L.R. § 4545.

15. In the event that the Plaintiff recovers a judgment against the Defendant for the cost of medical care, loss of earnings, or other economic loss resulting from the alleged conduct, the Defendant is entitled to a reduction in the amount of the award in favor of the Plaintiff and against the Defendant by the amount of past and future collateral source payments to or for the benefit of the Plaintiff of such loss, cost, and expenses pursuant to N.Y. C.P.L.R. § 4545.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

16. If Plaintiff has suffered any damages as alleged in the Verified Complaint, Defendant cannot be held vicariously liable for these damages because they arose from conduct

which was outside the scope of the individual alleged abuser's employment.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

17. Any claim by Plaintiff is barred to the extent that the Child Victims Act (New York Laws 2019, Ch. 11, Sec. 2, eff. 2/14/2019; N.Y. C.P.L.R. § 208) is found to violate the United States Constitution and/or relevant New York State constitutional law.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

18. In the event a verdict or decision is rendered in favor of Plaintiff against the Defendant, said Defendant is entitled to limitations on liability as set forth in Article 16 of the N.Y. C.P.L.R.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

19. The Plaintiff has failed to join a necessary party pursuant to N.Y. C.P.L.R. § 1001.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

20. The injuries or damages described in the Verified Complaint were caused in whole or in part by the negligence, or intentional or other culpable conduct of such other person(s) or entities for whose acts this Defendant was not responsible and over whom this Defendant had no control, and without any negligence, intentional, or other culpable conduct on the part of this Defendant causing or contributing thereto.

RESERVATION OF RIGHTS

21. The Defendant reserves the right to amend or supplement its Answer and plead such additional defenses or claims, the existence of which may become known to it through further investigation and/or discovery in connection with this action.

22. The Defendant reserves the right to assert any claims against The Diocese of Rochester, including for contribution, indemnification, or insurance coverage or any other

payment or benefit, whether as a named or additional insured or otherwise. The Defendant is not herein asserting claims against The Diocese of Rochester, based upon the applicability of a stay in making such claims, to the extent provided under 11 U.S.C. § 362(a). The Defendant reserves its rights to assert that this action is stayed as to the Defendant under 11 U.S.C. § 362(a), including under 11 U.S.C. § 362(a)(3), based upon the Defendant's status as co-insured or additional insured with The Diocese of Rochester with respect to insurance coverage for this action.

WHEREFORE, Defendant, ST. MARGARET MARY, ROCHESTER, demands (1) judgment dismissing Plaintiff's Verified Complaint; (2) an allocation and apportionment of the relative culpabilities of all parties, and damages, if any; (3) together with the costs and disbursements of this action; and (4) such other relief as this Court deems just and proper.

Dated: June 13, 2022
 Rochester, New York

WOODS OVIATT GILMAN LLP

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