Braney v Roman Catholic Diocese of Syracuse
2020 NY Slip Op 33714(U)
April 15, 2020
Supreme Court, Onondaga County
Docket Number: 007403/2019
Judge: Michael V. Coccoma

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At a Term of the Supreme Court of the State of New York held for the County of Onondaga, Fifth Judicial District, at Chambers in the Village of Cooperstown, New York, on the 15th day of April, 2020

PRESENT: HON. MICHAEL V. COCCOMA
SUPREME COURT JUSTICE

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ONONDAGA

KEVIN BRANEY

Plaintiff

-against-

ROMAN CATHOLIC DIOCESE OF SYRACUSE; THE UNITED STATES CONFERENCE OF CATHOLIC BISHOPS; BISHOP ROBERT J. CUNNINGHAM; JOHN DOES 1-2, Names Unknown, as Personal Representatives of the ESTATE OF CHARLES ECKERMANN; PAUL ANGELICCHIO; JOHN DOES 1-2, Names Unknown, as Personal Representatives of the ESTATE OF JAMES QUINN; and JACQUELINE BRESSETTE,

Defendants

DECISION AND ORDER

Index No. 007403/2019

The action designated above, heretofore filed in the County of Onondaga, New York, Fifth Judicial District, is assigned to the undersigned.

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Currently before the Court are two (2) motions, seeking to dismiss all or part of the complaint in this matter. The first motion (Motion #4) is by defendant United States Conference of Catholic Bishops (hereinafter "USCCB"), seeking to dismiss the complaint entirely as against it. The second motion (Motion #5) is by defendants Roman Catholic Diocese of Syracuse, Bishop Robert J. Cunningham, and Jacqueline Bressette (hereinafter "Diocesan defendants"), seeking to strike certain paragraphs from the complaint and to dismiss certain causes of action as against them.

The Court heard oral argument on both motions on January 22, 2020 in Cooperstown, New York and reserved decision.

Now, on receiving and reading: the Affidavit of Theresa Ridderhoff, sworn to on November 5, 2019 with exhibit A (NYSCEF 33-34); and defendant USCCB's Memorandum of Law in Support of Motion to Dismiss, dated November 13, 2019 (NYSCEF 32), both in support of Motion #4; and the Affirmation of Sarah Tankard Bradshaw, Esq., dated December 30, 2019 (NYSCEF 53); and plaintiff's Memorandum of Law in Opposition, dated December 30, 2019 (NYSCEF 54), both in opposition to Motion #4; and defendant USCCB's Memorandum of Law in Reply, dated January 15, 2020 (NYSCEF 65), in reply to Motion #4; and the Affirmation of Dean J. DiPilato, Esq., dated November 13, 2019 with exhibit A (NYSCEF 37-38); and the Diocesan defendants' Memorandum of Law dated November 13, 2019 (NYSCEF 39), both in support of Motion #5; and the Affirmation of Sarah Tankard Bradshaw, Esq., dated December 30, 2019 (NYSCEF 55); and plaintiff's Memorandum of Law in Opposition, dated December 30,

2019 (NYSCEF 56), both in opposition to Motion #5; and the Affirmation of Dean J. DiPilato, Esq., dated January 15, 2020, with exhibits A and B (NYSCEF 61-63); and the Diocesan defendants' Memorandum of Law in Reply, dated January 15, 2020 (NYSCEF 64), both in reply to Motion #5; the following is the Decision and Order of the Court.

Plaintiff commenced this action on August 14, 2019 pursuant to the Child Victims Act, CPLR 214-g. Defendant USCCB herein moves to dismiss the complaint against it on two (2) grounds: 1. That the Court lacks personal jurisdiction over it pursuant to CPLR 3211(a)(8); and 2. That the complaint fails to state a cause of action pursuant to CPLR 3211(a)(7). The Diocesan defendants herein move for two (2) different forms of relief: 1. To strike certain paragraphs from the complaint pursuant to CPLR 3014 and 3024(b); and 2. To dismiss seven (7) of the nine (9) causes of action asserted against them, pursuant to CPLR 3211(a)(7) and 3211 (a)(5).[1]

In his opposition to Motion #4, plaintiff has voluntarily withdrawn two (2) causes of action against defendant USCCB (Causes of Action II and IV). Plaintiff opposes the dismissal, however, of Cause of Action V.

In his opposition to Motion #5, plaintiff has voluntarily withdrawn three (3) causes of action against the Diocesan defendants (Causes of Action II, IV, and XII). Plaintiff opposes the

[1]Defendant Paul Angelicchio has not filed any papers in connection with these motions, and there has been no appearance in the case on behalf of defendant John Does 1-2 as personal representatives of the Estate of Charles Eckermann or defendant John Does 1-2 as personal representatives of the Estate of James Quinn.

request to strike certain paragraphs of the complaint, as well as the dismissal of the other four (4) causes of action against the Diocesan defendants (Causes of Action I, III, X, and XI).

Turning first to Motion #4, defendant USCCB's motion, plaintiff requests the Court consider the jurisdictional arguments before the arguments on the merits. *Plaintiff's Memorandum of Law, NYSCEF 54, p. 3*. Defendant USCCB argues that the Court lacks personal jurisdiction over it under both general jurisdiction (CPLR 301) and long arm jurisdiction (CPLR 302). Under general jurisdiction, defendant USCCB argues that as a non-profit corporation in the District of Columbia, it has not engaged in a "continuous and systematic" course of business in New York, citing Landoil Resources v. Alexander, 77 N.Y.2d 28 (1990). With regard to long arm jurisdiction, defendant USCCB argues that it has no sufficient contact with New York under any of the provisions of CPLR 302(a).

In opposition, plaintiff argues that the allegations in the complaint, as well as the Ridderhoff Affidavit submitted by defendant USCCB, both show defendant USCCB "has engaged in purposeful activities within New York in connection with the abuse of plaintiff at issue in this litigation," (*Plaintiff's Memorandum of Law, NYSCEF 54, p. 4*), and alternatively, seeks discovery on the issue of jurisdiction pursuant to CPLR 3211(d).

As to general jurisdiction (CPLR 301), plaintiff spends very little of his opposition on this ground. At oral argument, plaintiff's counsel indicated plaintiff was still asserting general jurisdiction under the "doing business" test. Under the "doing business" test, plaintiff must show

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defendant USCCB "engaged in such a continuous and systematic course of 'doing business' [in New York] that a finding of its 'presence' in this jurisdiction is warranted." Landoil, 77 NY2d at 33. Defendant USCCB argues it is based in Washington, D.C. and has no office, property, or staff in New York except for two (2) employees working remotely because they live in New York. *Defendant's Memorandum of Law, NYSCEF 32, p. 6.*

At oral argument, plaintiff's counsel argued that a John Jay College study, an audit by a Rochester firm, and the presence of a victim assistance coordinator in New York sufficiently show defendant USCCB is "doing business" in the state. Specifically, plaintiff claims that USCCB's contact with New York include its passage of the Dallas Charter in 2002 regarding sexual abuse in the Catholic Church, a report by John Jay College in 2004 that had been requested by USCCB to study sexual abuse by priests, and an audit by a Rochester, New York consulting firm that was contained in the USCCB's 2018 Annual Report. *Plaintiff's Memorandum of Law, NYSCEF 54, pp. 15-16*. The allegations of abuse alleged by plaintiff in the complaint occurred in 1988-1989. The Court finds that these few contacts with New York, decades after the allegations in this case, are not sufficient to form a basis for general jurisdiction under CPLR 301 over defendant USCCB.

Turning to long-arm jurisdiction, plaintiff's opposition papers indicate he is concentrating on CPLR 302(a)(3)(ii), which states, in pertinent part, as follows:

> 3. Commits a tortious act without the state causing injury to person or property within the state, ... if he
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> * * * * *

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> (ii) expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce.

CPLR 302(a)(3)(ii). The tortious act outside New York alleged by plaintiff is "coordinat[ing] the transfer of predator priests into New York." *Plaintiff's Memorandum of Law, NYSCEF 54, p. 5.* Plaintiff provides no basis for this allegation whatsoever, and cites no facts in support. To the extent plaintiff is claiming that the adoption in 2002 of the Charter and Norms by defendant USCCB was a "tortious act," this allegation is also unsupported, by case law or otherwise. Accordingly, the Court finds plaintiff has not alleged a basis for specific jurisdiction under CPLR 302(a)(3)(ii), or any other provision of CPLR 302.

The Court must then turn to plaintiff's request to conduct jurisdictional discovery in order to further attempt to establish jurisdiction over defendant USCCB.

In order to justify jurisdictional discovery, plaintiff must show facts "may exist" to exercise personal jurisdiction over defendant USCCB, must make a "sufficient start" to warrant further discovery, and must show his position is "not ... frivolous." Peterson v. Spartan Indus., 33 N.Y.2d 463, 467 (1974); Marist College v. Brady, 84 A.D.3d 1322, 1323 (2d Dept. 2011). Here plaintiff claims contacts between USCCB and the State of New York in general, but nothing specific to this plaintiff nor to the claims alleged in this case. Moreover, as discussed supra, all of the contacts with New York alleged by plaintiff occurred decades after the claims alleged in this case. Again, plaintiff claims that USCCB's contact with New York include its passage of the

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Dallas Charter in 2002 regarding sexual abuse in the Catholic Church, a report by John Jay College in 2004 that had been requested by USCCB to study sexual abuse by priests, and an audit by a Rochester, New York consulting firm that was contained in the USCCB's 2018 Annual Report. *Plaintiff's Memorandum of Law, NYSCEF 54, pp. 15-16*. The allegations of abuse alleged by plaintiff in the complaint occurred in 1988-1989.

In cases where jurisdictional discovery has been allowed, plaintiffs have demonstrated sufficiently that ties between the defendants and the claims in the case "may exist." For example, in Peterson v. Spartan Indus., 33 N.Y.2d 463 (1974), cited by plaintiff, the plaintiff there claimed he was burned by a garden torch, using fuel manufactured by defendant Guard All. To support his request for jurisdictional discovery, plaintiff produced records from the New York City Fire Department:

> indicating that [Guard All] had represented that the Fire Department had approved the storage and use of the product involved, when in point of fact, no such approval had been given. Moreover, it was established that [Guard All] applied for several permits and received permission to sell and store some of its products in New York, albeit some years before the event alleged in the complaint.

Peterson, 33 N.Y.2d at 467. This shows a clear connection between the product involved in the case and New York.

As another example, in Gottlieb v. Merrigan, 119 A.D.3d 1054 (3d Dept. 2014), also cited by plaintiff, the court found plaintiff made a "sufficient start" and showed facts "may exist" where plaintiff, an attorney who represented a client named Swanson in a personal injury action in Massachusetts, was asserting a lien for counsel fees against defendants, who took over Swanson's

representation:

> raised questions of fact regarding whether defendants interjected themselves into Swanson's New York workers' compensation proceeding, ultimately negotiating the workers' compensation lien on the settlement proceeds from Swanson's personal injury action. Plaintiff argues that, without obtaining settlement of the lien and effecting its payment, defendants would have been unable to resolve the Massachusetts action or collect the counsel fees that are the subject of this action. Although defendants submitted an affidavit asserting that their communications in the workers' compensation case were "limited" and they maintain that the case was handled by Swanson's separate New York counsel, we conclude that plaintiff has made an adequate showing of defendants' involvement to survive a motion to dismiss.

Gottlieb, 119 A.D.3d at 1057. This shows a clear connection between the defendants and the claims at issue in the case.

The allegations in this case come nowhere close to making the types of connections made by the plaintiffs in Peterson and Gottlieb. While plaintiff has claimed defendant USCCB is involved in the transfer of "predator priests" in New York, *Plaintiff's Memorandum of Law, NYSCEF 54, p. 5*, plaintiff has not shown that any facts "may exist" to support this claim. While plaintiff has claimed defendant USCCB receives donations from donors in New York, plaintiff has not shown that any facts "may exist" to support the argument that a one-way monetary transaction constitutes "interstate commerce" for purposes of CPLR 302(a)(3)(ii).

Accordingly, the Court finds plaintiff has not shown sufficient justification for jurisdictional discovery.

Based upon all of the above, the Court finds plaintiff has established neither general

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jurisdiction nor long-arm jurisdiction over defendant USCCB, and the complaint against that defendant must be dismissed. Because of this ruling, the Court finds it unnecessary to reach defendant USCCB's alternative ground for dismissal on the merits.

Turning to Motion #5, the Diocesan defendants' motion, this motion seeks, as narrowed by plaintiff's opposition papers, the Court to strike the "Introduction" section and paragraphs 58-77, 159-163, and 177-190 from the complaint pursuant to CPLR 3014 and 3024(b), as well as to dismiss Causes of Action I, II, X, and XI.

The "Introduction" section of the complaint consists of three (3) unnumbered paragraphs and a quote from a deposition transcript in a different case. The statements contained therein either do not relate specifically to this case brought by this plaintiff, or they are repeated elsewhere in the complaint. "While this information may create an interesting historical background for this proceeding, none of it is relevant to [plaintiff's] claims, but it could serve to prejudice [defendants]." Albany Law School v. NYS OMRDD, 81 AD3d 145, 148 (3d Dept.), affirmed as modified on other grounds, 19 NY3d 106 (2012), citing Soumayah v. Minnelli, 41 AD3d 390, 392 (1st Dept.), appeal withdrawn, 9 N.Y.3d 989 (2007), Halford v. First Jersey Sec., 182 AD2d 1003, 1005 (1992). In addition, the paragraphs in this section are not numbered and do not contain a single allegation, in violation of CPLR 3014. For those reasons, the Court finds the "Introduction" section of the complaint should be stricken.

The Diocesan defendants next move to strike multiple paragraphs from the complaint,

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under CPLR 3024(b), on the basis that they are scandalous and prejudicial.

The first section at issue is entitled "The Diocese's Secret: Known Child Molester Priests Were Warehoused in Syracuse" and includes paragraphs 58-77. This section contains allegations against the Diocesan defendants as well as claims of wrongdoing by non-parties. It contains one (1) paragraph that mentions plaintiff, paragraph 60. Plaintiff argues the allegations are not scandalous, prejudicial, irrelevant, or unnecessarily inserted in the complaint and thus do not violate CPLR 3024(b). Moreover, plaintiff argues the paragraphs are necessary to show the environment created by the Diocesan defendants which is relevant to plaintiff's individual claims.

"In reviewing a motion pursuant to CPLR 3024(b) the inquiry is whether the purportedly scandalous or prejudicial allegations are relevant to a cause of action." Soumayah, 41 AD3d at 392, citations omitted. In this case, some of the allegations in this section relate to defendants and to plaintiff's claims that defendants did nothing despite knowledge of wrongdoing by priests. Other allegations are unrelated to the named defendants. To the extent paragraphs in this section relate to defendants and to plaintiff's claims that defendants did nothing despite knowledge of wrongdoing by priests, they are relevant to plaintiff's cause of action for negligence (Cause of Action V). To the extent paragraphs in this section are unrelated to the named defendants, they are not relevant to any cause of action in the complaint. Accordingly, the Court will strike the following paragraphs from the complaint as unrelated to the named defendants and thus irrelevant to any cause of action: 58, 59, and 62. The remaining paragraphs will not be stricken.

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Striking these paragraphs is simply that, striking paragraphs from the complaint. It is not a ruling on admissibility at trial. As the Second Department held, in considering a similar motion:

> It is our view that, on balance, it would be more in keeping with sound discretion and the interests of justice to preserve defendant's right to a fair trial by not permitting plaintiff to invoke the liberal rule with respect to pleadings and allege the aforesaid prejudicial unnecessary matter under the guise of relevancy, which we do not find at this posture of the proceedings. We make no determination as to the relevancy or irrelevancy of such evidentiary matter at the trial, predicated on what may be adduced thereat. Nor is it intended, by striking these allegations, that, if said evidentiary matter should become relevant at the trial, they cannot be proved without being specifically averred in the amended complaint.

Schachter v. Mass. Protective Assoc., 30 AD2d 540 (2d Dept. 1968).

The second section at issue is entitled, "Diocese Misrepresents Source of Funds for Priest Rape Settlement Program" and includes paragraphs 159-163. These paragraphs reflect settlement issues and do not refer to plaintiff Kevin Braney at all. They are not relevant to plaintiff's claims of abuse. They are prejudicial because they allege wrongdoing by the Diocesan defendants that is unrelated to plaintiff. They are not relevant to any cause of action against the named defendants. See Soumayah, supra. Accordingly, the Court finds paragraphs 159-163 of the complaint shall be stricken pursuant to CPLR 3024(b).

The third section at issue is entitled, "2018 Settlement Program: A Last Ditch Effort by the Church to Thwart Victims" and includes paragraphs 177-190. While this section refers in part specifically to plaintiff, it contains details of a settlement offer made by the Diocesan defendants to plaintiff, and must be stricken from the complaint pursuant to CPLR 4547. Brill & Meisel v. Brown, 113 AD3d 435, 436-437 (1st Dept. 2014). To the extent some of the paragraphs in this

section relate to matters other than the specific settlement offered to plaintiff, they nevertheless refer to the issue of settlement and must be stricken pursuant to CPLR 4547.

The remainder of the Diocesan defendants' motion seeks to dismiss four (4) causes of action asserted against them: I - Breach of Contract; III - Intentional Infliction of Emotional Distress; X - Civil Conspiracy; and XI - Fraud.

> On a motion to dismiss pursuant to CPLR 3211, the pleading is to be afforded a liberal construction (see, CPLR 3026). We accept the facts as alleged in the complaint as true, accord plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory.

Leon v. Martinez, 84 NY2d 83, 87-88 (1994), citations omitted.

Cause of Action I for breach of contract alleges that defendant Diocese of Syracuse and defendant Cunningham promised to pay for treatment for plaintiff, and then did not fully pay for the same, and disclosed plaintiff's private health information "within the Church," *Complaint, ¶ 219(d).*

A plaintiff alleging a breach of contract cause of action must allege the following elements: "(1) the existence of a contract, (2) the plaintiff's performance under the contract, (3) the defendant's breach of the contract, and (4) resulting damages." Palmetto Partners L.P. v. AJW Qualified Partners, LLC, 83 AD3d 804, 806 (2d Dept. 2011). Here plaintiff alleges defendants promised to pay for his treatment, he sought treatment, defendants refused to fully pay for the treatment, defendants disseminated his private health information, and he suffered "severe

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emotional distress, physical injuries, and economic losses." *Complaint, ¶¶ 215-221.* At this early stage, the Court cannot find that plaintiff failed to allege the elements of a breach of contract claim, and the Diocesan defendants' motion to dismiss this cause of action is denied.

Cause of Action III for Intentional Infliction of Emotional Distress alleges that defendants Diocese of Syracuse, Cunningham, and Bressette engaged in extreme and outrageous conduct with the intention or in the reckless disregard of causing plaintiff extreme emotional distress. This cause of action, while containing no factual allegations, appears to center on the claim for reimbursement alleged in Cause of Action I for breach of contract. *See Plaintiff's Memorandum of Law, NYSCEF 56, p. 15.*

"'The tort [of IIED] has four elements: (I) extreme and outrageous conduct; (ii) intent to cause, or disregard of a substantial probability of causing, severe emotional distress; (iii) a causal connection between the conduct and injury; and (iv) severe emotional distress.'" Conklin v. Laxen, 180 AD3d 1358, *3 (4th Dept. 2020), quoting Howell v. New York Post Co., 81 NY2d 115, 121 (1993).

Plaintiff has not alleged any actions on the part of these defendants directed at him that rises to the level of "extreme and outrageous conduct." Moreover, "'a cause of action for intentional infliction of emotional distress should not be entertained where the conduct complained of falls well within the ambit of other traditional tort liability.'" Torrey v. Portville Central Sch., 66 Misc3d 1225(A), *4 (Cattaraugus Co. Sup. Ct. February 21, 2020), quoting Di

Orio v. Utica City Sch. Dist. Board of Ed., 305 AD2d 1114, 1115-16 (4th Dept. 2003). Here plaintiff has alleged causes of action against the Diocesan defendants for negligence and gross negligence. Accordingly, for both reasons, the Diocesan defendants' motion to dismiss Cause of Action III for Intentional Infliction of Emotional Distress is granted.

Although Cause of Action X, for Civil Conspiracy, names the Diocese in the cause of action, it also names three (3) individual defendants: Eckermann, Angelicchio, and Quinn. Only the Diocese is currently moving to dismiss this cause of action against it. Despite the fact that this cause of action comprises twenty (20) paragraphs, it is not entirely clear what plaintiff is claiming was the Diocese's participation in the alleged conspiracy. In his opposition papers, plaintiff argues he is alleging a conspiracy in order to connect the actions of separate defendants with an otherwise actionable tort. *Plaintiff's Memorandum of Law, NYSCEF 56, p. 17.* Plaintiff claims the conspiracy cause of action expressly asserts negligence and gross negligence, and intentional torts against the individual priests. *Plaintiff's Memorandum of Law, NYSCEF 56, pp. 17-18.* However, conspiracy to commit a tort is not a separate cause of action from the alleged tort itself; to hold otherwise would be to permit possible double recovery for the same claim.

> There is no substantive tort of civil conspiracy, however (see Cunningham v Hagedorn, 72 AD2d 702). Allegations of conspiracy are permitted only to show that the tortious acts flowed from a common scheme or plan and to connect each defendant with an actionable injury (see Cunningham v Hagedorn, supra; Health Delivery Systems v Scheinman, 42 AD2d 566; Egan Real Estate v McGraw, 40 AD2d 299, 304; and cf. Satin v Satin, 69 AD2d 761; Chase Manhattan Bank N. A. v Perla, 65 AD2d 207). The gravamen of the conspiracy action is the underlying wrong and the injury that results to plaintiff from it. The conspiracy causes of action in plaintiff's complaint, however, allege nothing more than the agreement with a codefendant to commit the substantive tort previously alleged. The agreement itself is not actionable (see Associated Coal Sales Corp. v Hughes, 64

> AD2d 562, 563; see, also, 8 NY Jur, Conspiracy, § 8), and if the conspiracy causes of action are allowed, plaintiff, having recovered on the substantive tort, would then be permitted a duplicative recovery on the conspiracy causes of action with the proof of nothing additional other than the agreement.

Danahy v. Meese, 84 AD2d 670, 672 (4th Dept. 2011). Accordingly, the Diocesan defendants' motion to dismiss Cause of Action X for Civil Conspiracy is granted.

Finally, Cause of Action XI alleges fraud in connection with the alleged promise to reimburse plaintiff for treatment. This alleged promise is the basis of plaintiff's First Cause of Action for breach of contract, as discussed supra. The First Cause of Action survives the instant motion to dismiss and remains in the case. A fraud claim cannot be based on the same factual allegations as a breach of contract claim, unless separate wrongdoing is alleged. In MBIA v. Countrywide, 87 AD3d 287 (1st Dept. 2011), cited by plaintiff, the First Department explained as follows:

> A fraud claim will be upheld when a plaintiff alleges that it was induced to enter into a transaction because a defendant misrepresented material facts, even though the same circumstances also give rise to the plaintiff's breach of contract claim... 'Unlike a misrepresentation of future intent to perform, a misrepresentation of present facts is collateral to the contract . . . and therefore involves a separate breach of duty.'

MBIA, 87 AD3d at 293, citations omitted.

Here the allegations of fraud are that defendants told plaintiff they would reimburse treatment, but knew they would "strictly control the amount of therapy that would be compensated and that they would not fully compensate" plaintiff for the treatment. *Complaint, NYSCEF 1, ¶ 300.* However, none of the factual allegations in the complaint allege defendants

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told plaintiff they would fully reimburse his treatment. In fact, the complaint contains many allegations where defendants told him what the limits on reimbursement would be: 1. Six (6) sessions at $85.00/hour (*¶ 93[a]*); 2. No reimbursement for psychotropic medications (*¶ 93[c]*); 3. Twenty-six (26) more sessions (*¶ 95*); 4. Treatment for PTSD at $85.00/hr (*¶ 111*); and 5. Treatment for PTSD would not be reimbursed if not within defendants' guidelines (*¶ 112*).

" In order to establish fraud, a plaintiff must show a material misrepresentation of an existing fact, made with knowledge of its falsity, an intent to induce reliance thereon, justifiable reliance upon the misrepresentation, and damages." MBIA, 87 AD3d at 293, citations omitted. Plaintiff has, quite simply, not stated a cause of action for fraud. In any event, all he has alleged is a misrepresentation of a future intent to perform, which is not collateral to the alleged contract. Thus this claim cannot stand where plaintiff has also alleged breach of contract. Accordingly, for both these reasons, the Diocesan defendants' motion to dismiss Cause of Action XI for Fraud is granted.

Based upon all of the foregoing, it is hereby

ORDERED, that Motion #4, by defendant USCCB to dismiss, is GRANTED, and it is further

ORDERED, that Motion #5, by the Diocesan defendants, is GRANTED to the extent that the "Introduction" section of the complaint, and paragraphs 58, 59, 62, 159-163, and 177-190 are hereby stricken from the complaint, and it is further

ORDERED, that Motion #5, by the Diocesan defendants, is GRANTED to the extent that

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Causes of Action III, X, and XI are dismissed, and it is further

ORDERED, that Motion #5, by the Diocesan defendants, is DENIED in all other respects.

Dated: April 15, 2020

ENTER