

**P.F. v Diocese of Brooklyn**

2025 NY Slip Op 32199(U)

June 10, 2025

Supreme Court, Kings County

Docket Number: Index No. 526614/2019

Judge: Sabrina Kraus

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
KINGS COUNTY

PRESENT: HON. SABRINA B. KRAUS PART CVA - 1 / 57

Justice

INDEX NO. 526614/2019

P.F., MOTION DATE 8/14/2020

Plaintiff, MOTION SEQ. NO. 003

DIOCESE OF BROOKLYN DECISION + ORDER ON MOTION
Defendant.

The following e-filed documents, listed by NYSCEF document number (Motion 003) 31-35, were read on this motion to/for DISMISS

BACKGROUND

Plaintiff commenced this CVA action seeking damages for alleged sexual abuse perpetrated upon Plaintiff when as a minor. Plaintiff makes the following allegations in the complaint.

Plaintiff was raised in a devout Catholic family. Plaintiff was introduced to Father Ferraro ("Ferraro"), groomed and became extraordinarily close to Ferraro while he was a priest within the Diocese Of Brooklyn. Ferraro served as the Plaintiff's family priest, and would attend family functions. Ferraro would isolate Plaintiff at these functions and sexually assault and abuse Plaintiff. Ferraro sexually assaulted and abused Plaintiff in approximately 1977-1978, when Plaintiff was thirteen (13) to fourteen (14) years-old.

The acts of sexual assault and abuse committed by Ferraro included forcing Plaintiff to remove his clothing, massaging Plaintiff, fondling Plaintiff's genitalia, and touching Plaintiff's anus.

The acts of sexual assault and abuse committed by Ferraro occurred following a Mass or other church services conducted in Plaintiff's family home. The acts of sexual assault and abuse of Plaintiff occurred while Ferraro was wearing his priest garb and serving in his pastoral and ministerial role.

The complaint asserts a cause of action for negligence.

In or about 2021, The Roman Catholic Diocese of Rockville Centre, who originally was named as a defendant, filed for bankruptcy and the action was stayed for several years. The stay imposed by the Bankruptcy Court and by operation of the Bankruptcy Code is no longer in effect, because the Diocese of Rockville Centre's Plan of Reorganization has been confirmed by the Bankruptcy Court. However, by operation of the Plan, the Diocese has been discharged from liability in all CVA cases asserted against them, and this Court therefore granted dismissal of the action as to that defendant (NYSCEF Doc # 71).

### **PENDING MOTION**

Defendant moves for dismissal pursuant to CPLR 3211(a)(5). For the reasons set forth below, the motion is denied.

### **DISCUSSION**

#### ***Standard on a 3211(a)(5) Motion***

On a motion to dismiss a complaint pursuant to CPLR 3211(a)(5) on the ground that the complaint is barred by the applicable statute of limitations, the defendant bears the initial burden of establishing, prima facie, that the time in which to sue has expired. In this regard, the defendant must establish, inter alia, when the cause of action accrued (*see Rodeo Family Enters., LLC v. Matte*, 99 A.D.3d 781, 783–784, 952 N.Y.S.2d 581; *Swift v. New York Med. Coll.*, 25 A.D.3d 686, 687, 808 N.Y.S.2d 731; *Gravel v. Cicola*, 297 A.D.2d 620, 620–621, 747 N.Y.S.2d 33). If the defendant satisfies this burden, the burden shifts to the plaintiff to raise a question of fact as to whether the statute of limitations was tolled or otherwise inapplicable, or whether the plaintiff actually commenced the action within the applicable limitations period (*see Singh v. Edelstein*,

103 A.D.3d 873, 875, 962 N.Y.S.2d 225; *Rodeo Family Enters., LLC v. Matte*, 99 A.D.3d

at 784, 952 N.Y.S.2d 581)

*Barry v. Cadman Towers, Inc.*, 136 A.D.3d 951, 952 (2<sup>nd</sup> Dept, 2016).

***The CVA is Constitutional***

“[A] claim-revival statute will satisfy the Due Process Clause of the [New York] State Constitution if it was enacted as a reasonable response in order to remedy an injustice.” *In re World Trade Ctr.*, 30 N.Y.3d at 400, 89 N.E.3d 1227; *see also Carroll v. Trump*, No. 22-CV-10016, 2023 WL 185507, at \*9 n.40 (S.D.N.Y. Jan. 13, 2023); *Giuffre v. Andrew*, 579 F. Supp. 3d 429, 453 (S.D.N.Y. 2022); *Farrell v. U.S. Olympic & Paralympic Comm.*, 567 F. Supp. 3d 378, 391 (N.D.N.Y. 2021); *PC-41 Doe*, 590 F. Supp. 3d at 558.

The Legislative Memorandum accompanying the CVA bill, justifies passage for the Act as follows:

New York is one of the worst states in the nation for survivors of child sexual abuse. New York currently requires most survivors to file civil actions or criminal charges against their abusers by the age of 23 at most, long before most survivors report or come to terms with their abuse, which has been estimated to be as high as 52 years old on average. Because of these restrictive statutes of limitations, thousands of survivors are unable to sue or press charges against their abusers, who remain hidden from law enforcement and pose a persistent threat to public safety. This legislation would open the doors of justice to the thousands of survivors of child sexual abuse in New York State by prospectively extending the statute of limitations.... Passage of the Child Victims Act will finally allow justice for past and future survivors of child sexual abuse, help the public identify hidden child predators through civil litigation discovery, and shift the significant and lasting costs of child sexual abuse to the responsible parties.

Legis. Mem. (“CVA Sponsor's Mem.”), 2019, N.Y. Sess. Laws (Advance Sheets A-39) (McKinney).

It is now well settled that the CVA passes constitutional muster and comports with due process requirements [*see eg Torrey v. Portville Cent. Sch.*, 66 Misc. 3d 1225(A), (N.Y. Sup. Ct. 2020); *Giuffre v Dershowitz*, 19 CIV. 3377 (LAP), 2020 WL 2123214 (S.D.N.Y Apr. 8, 2020)].

Every federal and state court to consider the issue has found it constitutional. *See, e.g., Andrew*, 579 F. Supp. 3d at 453 (“Defendant is not the first litigant to advance this argument [that the CVA is unconstitutional], which has been rejected by every New York state and federal court to have encountered it. And it has been rejected repeatedly for good reason.”); *Farrell*, 567 F. Supp. 3d at 393 (“[T]he Court finds that the CVA is a constitutional revival statute designed to remedy an injustice; and, consequently, it does not violate either the New York or federal Due Process Clauses.”); *PC-41 Doe*, 590 F. Supp. 3d at 558 (“[T]he CVA, which afforded victims of childhood sexual abuse a limited period of time within which to pursue their claims of sexual abuse through the judicial system, was a reasonable, non-arbitrary response to remedy an injustice and therefore satisfies the New York Due Process Clause.”); *PB-36 Doe v. Niagara Falls City Sch. Dist.*, 152 N.Y.S.3d 242, 248, 72 Misc.3d 1052 (N.Y. Sup. Ct. 2021), *aff’d*, 182 N.Y.S.3d 850 (N.Y. App. Div. 2023); *ARK3 Doe v. Diocese of Rockville Ctr.*, No. 900010/2019, 2020 N.Y. Misc. LEXIS 1964, \*15 (N.Y. Sup. Ct. May 11, 2020) (finding that “the [CVA] is a reasonable response to remedy the injustice of past child sexual abuse” and “does not violate [the defendant's] right to due process under the New York State Constitution”); *Torrey v. Portville Cent. Sch.*, 125 N.Y.S.3d 531 (N.Y. Sup. Ct. 2020) (“[T]he Court finds the [CVA] a reasonable response to remedy an injustice. As such, it does not violate [the defendant's] right to due process under the New York State Constitution.”).

These courts have concluded, as does this Court, that the Legislature, in passing the CVA, was responding to the tremendous injustices created by a short limitation period for claims arising out of sexual abuse. Its decision to open a limited window of time to bring claims is a reasonable response to remedy that injustice.

**CONCLUSION**

WHEREFORE it is hereby:

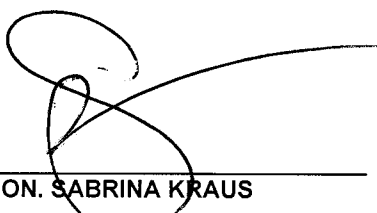
ORDERED that the motion is denied; and it is further

ORDERED that Defendant file and answer to the complaint with twenty days of receipt of this order with notice of entry; and it is further

ORDERED that counsel appear for a virtual compliance conference on July 29, 2025, at 4:00 PM.

This constitutes the decision and order of the Court.

6/10/25  
DATE

  
HON. SABRINA KRAUS

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  OTHER  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT  REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: