

**John OK Roe v Roman Catholic Archdiocese of N.Y.**

2025 NY Slip Op 32551(U)

June 27, 2025

Supreme Court, New York County

Docket Number: Index No. 950823/2021

Judge: Adam Silvera

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ADAM SILVERA PART 01

Justice

-----X

JOHN OK ROE,

Plaintiff,

- v -

ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK,
CHURCH OF SAINT CLARE, OF STATEN ISLAND, NY,
RALPH LABELLE, DOES 1-10

Defendant.

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INDEX NO. 950823/2021

MOTION DATE 12/06/2021

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 16, 17, 18, 19, 22, 23, 24, 25, 26

were read on this motion to/for DISMISS

Upon the foregoing documents, it is ordered that defendant Church of St. Clare of Staten Island's motion seeking to dismiss plaintiff John Ok Roe's fourth cause of action for fiduciary/confidential relationship fraud and conspiracy to commit fraud, fifth cause of action for breach of fiduciary duty and/or confidential relationship, and sixth cause of action for negligent infliction of emotional distress, is hereby granted for the reasons set forth below.

Plaintiff commenced this action seeking to recover damages for personal injuries sustained as a result of alleged sexual abuse by defendant Ralph LaBelle (hereinafter referred to as "defendant LaBelle") while attending defendant Church of St. Clare of Staten Island.

On a motion to dismiss pursuant to CPLR 3211(a)(7), the movant has the burden to demonstrate that, based upon the four corners of the complaint liberally construed in favor of the plaintiff, the pleading states no legally cognizable cause of action. See Leon v Martinez, 84 NY2d 83, 87-88 (1994). A motion to dismiss the complaint for failure to state a cause of action

“will generally depend upon whether or not there was substantial compliance with CPLR 3013.” *Catli v Lindenman*, 40 AD2d 714, 715 (2d Dep’t 1972). If the allegations are not “sufficiently particular to give the court and parties notice of the transactions intended to be proved and the material element of each cause of action”, the cause of action will be dismissed. *See Catli*, 40 AD2d at 715. CPLR 3013 provides that “[s]tatements in a pleading shall be sufficiently particular to give the court and parties notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved and the material elements of each cause of action or defense.” The standard on a motion to dismiss a pleading for failure to state a cause of action is not whether the party has artfully drafted the pleading, but whether deeming the pleading to allege whatever can be reasonably implied from its statements, and accepting all factual allegations as true, a cause of action can be sustained. *See Stendig, Inc. v Thorn Rock Realty Co.*, 163 AD2d 46, 48 (1st Dept 1990); *Leviton Manufacturing Co., Inc. v Blumberg*, 242 AD2d 205, 208 (1st Dept 1997).

As to the portion of moving defendant’s motion seeking to dismiss plaintiff’s claim for fiduciary/confidential relationship fraud and conspiracy to commit fraud, plaintiff alleges that defendant Church of Saint Clare of Staten Island engaged in concealing, and failing to disclose, defendant LaBelle’s sexual misconduct. Moving defendant contends that such fraud claim was insufficiently pled, and thus, must be dismissed. A common law fraud claim requires a “misrepresentation or a material omission of fact which was false and known to be false by [the] defendant, made for the purpose of inducing the other party to rely upon it, justifiable reliance of the other party on the misrepresentation or material omission, and injury.” *Ambac Assur. Corp. v Countrywide Home Loans, Inc.*, 31 NY3d 569, 578-579 (2018). “A cause of action for fraudulent concealment requires, in addition to the four foregoing elements, an allegation that the defendant

had a duty to disclose material information and that it failed to do so.” *Gomez-Jimenez v New York Law School*, 103 AD3d 13, 18 (1st Dept 2012). A duty to disclose arises only where there is “the existence of a special or privity-like relationship imposing a duty on the defendant.” *Mandarin Trading, Ltd. v Wildenstein*, 16 NY3d 173, 180 (2011). Plaintiff has not alleged facts that would give rise to a fiduciary or confidential relationship between plaintiff and moving defendant. See *Marmelstein v Kehillat New Hempstead: The Rav Aron Jofen Community Synagogue*, 11 NY3d 15, 22 (2008). Without a fiduciary relationship and duty to disclose, plaintiff’s cause of action for fraud, sounding in fraudulent concealment, fails.

With regards to moving defendant’s application to dismiss plaintiff’s claim for breach of fiduciary duty and/or confidential relationship, moving defendant argues that it is insufficiently pled and duplicative of plaintiff’s general negligence claim. Defendant Church of Saint Clare of Staten Island disputes the existence of a fiduciary duty to plaintiff. “Where a . . . parishioner plaintiff seeks to establish the existence of a fiduciary relationship with an institutional church defendant, the plaintiff may not merely rely on the church’s status in general, but must come forward with facts demonstrating that his or her relationship with the institution was somehow unique or distinct from the institution’s relationship with other parishioners generally.” *Truesdell v Roman Catholic Diocese of Brooklyn, N.Y.*, 211 AD3d 413, 414 (1st Dept 2022). A fiduciary relationship may be established upon a showing that a congregant’s relationship with a church entity resulted in “de facto control and dominance” when the congregant was “uniquely vulnerable and incapable of self-protection regarding the matter at issue.” *Marmelstein, supra*, 11 NY3d at 22 (2008).

Plaintiff’s complaint alleges plaintiff was sexually abused by defendant LaBelle when plaintiff began attending defendant Church of Saint Clare of Staten Island where defendant

LaBelle was a priest. This allegation is insufficient to demonstrate that plaintiff's relationship with moving defendant was somehow unique from moving defendant's relationships with other attendees of the church. *See J.D. v Roman Catholic Diocese of Brooklyn*, 203 AD3d 880, 882-83 (2d Dept 2022). Additionally, plaintiff's breach of fiduciary duty claim, as pled in the complaint, is duplicative of plaintiff's negligence claim. *See Doe v Mesivtha, Inc.*, 224 AD3d 662, 664 (2d Dept 2024). Therefore, plaintiff's cause of action for breach of fiduciary duty is dismissed.

Lastly, regarding plaintiff's cause of action for negligent infliction of emotional distress, typically, such cause of action "must be premised on conduct that unreasonably endangers the plaintiff's physical safety or causes the plaintiff to fear for his or her physical safety." *Johnson v New York City Bd. Of Educ.*, 270 AD2d 310, 312 (2d Dept 2000). However, New York courts have held that "a cause of action for infliction of emotional distress is not allowed if [it is] essentially duplicative of tort . . . causes of action." *Wolkstein v Morgenstern*, 275 AD2d 635, 637 (1st Dept 2000). Here, the allegations set forth under plaintiffs' negligent infliction of emotional distress claim are duplicative of the negligence causes of action – namely, that defendant breached their duty to plaintiff by failing to supervise defendant LaBelle and protect plaintiff from danger. Given that plaintiff may recover for emotional distress caused by this breach under his other negligence-based causes of action, the instant negligent infliction of emotional distress claim is duplicative. *See Fay v Troy City Sch. Dist.*, 197 AD3d 1423, 1424 (3d Dept 2021) (dismissing a negligent infliction of emotional distress claim in a Child Victims Act action as duplicative of the negligence, negligent supervision, hiring, and retention claims). As such, this portion of moving defendant's motion is granted and plaintiff's cause of action for negligent infliction of emotional distress is dismissed.

Accordingly, it is hereby

ORDERED that defendant Church of Saint Clare of Staten Island's motion seeking to dismiss plaintiff's fourth, fifth, and sixth causes of action is granted; and it is further

ORDERED that, within 30 days of entry, defendant Church of Saint Clare of Staten Island shall serve a copy of this order upon all parties, together with notice of entry; and it is further

ORDERED that plaintiff shall, within 30 days from service of a copy of this order, file and serve a supplemental summons and First Amended Complaint in compliance with the instant Decision/Order; and it is further

ORDERED that defendants shall answer or otherwise respond to the First Amended Complaint within 30 days from service.

This constitutes the Decision and Order of the Court.

6/27/2025  
DATE

  
ADAM SILVERA, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	REFERENCE