

**E.M. v Diocese of Brooklyn**

2025 NY Slip Op 34588(U)

November 28, 2025

Supreme Court, Kings County

Docket Number: Index No. 506725/2025

Judge: Joy F. Campanelli

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF KINGS: IAS PART 6

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E.M.,

*Plaintiff,*

Index No.: 506725/2025

**DECISION AND ORDER**

- against -

Hon. Joy F. Campanelli, J.S.C.

DIOCESE OF BROOKLYN, ST. MICHAEL’S CATHOLIC ACADEMY, JOHN DOE 1, and DOES 2-10,

*Defendants.*

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The following e-filed papers read herein:

Papers Numbered:

Seq. No. 002

Notice of Motion/Order to Show Cause/ Petition, Affidavits (Affirmations and Exhibits) Annexed	1&2
Opposing Affidavits (Affirmations and Exhibits)	3
Affidavits/ Affirmations in Reply	4
Other Papers (Proposed Order with Notice of Settlement):	_____

Defendant, The Roman Catholic Diocese of Brooklyn, New York s/h/a Diocese of Brooklyn (the “Diocese”), moves under motion sequence no. 002 for an order pursuant to CPLR § 3211 (a)(5) and (a)(7) dismissing the Plaintiff’s complaint in its entirety with prejudice as time-barred and for failure to state a cause of action. Defendant, St. Michael’s Catholic Academy (the “Academy”), moves for the same relief under motion sequence no. 003. Both motions were scheduled to be heard for October 1<sup>st</sup>, 2025. Motion sequence no. 003 was marked off due to the nonappearance of the movant. Motion sequence no. 002 was heard, and decision was reserved. Plaintiff opposes the motion arguing that the alleged abuse constitutes a crime under the Gender Motivated Violence Act (“GMVA”) which was amended in 2022 to revive claims that were previously barred so long as the victim in those cases filed the otherwise barred claims between March 1, 2023 and March 1, 2025.

## FACTUAL BACKGROUND

This action arises from alleged child sexual abuse in or about 2003, when the plaintiff was nine years old. Plaintiff claims that when they were a student and parishioner at the Academy that a priest from the Diocese sexually abused them on three different occasions. Plaintiff contends that the child sexual abuse constitutes a crime of violence motivated by gender and brought pursuant to the two-year look-back window created by the GMVA. Plaintiff further contends that the Diocese and the Academy enabled the priest to sexually abuse Plaintiff because the Defendants: provided the Diocesan priest with unsupervised and unfettered access to Plaintiff and gave the Diocesan priest opportunity to commit foreseeable acts of sexual abuse or assault; failed to protect Plaintiff from sexual abuse, sexual assault and lewd lascivious acts that constitute a crime of violence motivated by gender as defined under the GMVA.

The complaint also alleges that both Defendants: failed to adequately, properly and completely investigate the conduct of the Diocesan priest and whether Plaintiff was safe and free from maltreatment; failed to establish policies and procedures that were adequate to protect the health safety and welfare of children and protect them from physical and sexual abuse; retained and/or failed to supervise the Diocesan priest when Defendants knew or should have known the Diocesan priest posed a risk of substantial risk of harm to students, including Plaintiff; failed to make an inquiry into the background of the Diocesan priest before engaging the Diocesan priest to perform ministry related activities when they knew or should have known the Diocesan priest had a propensity to sexually abuse children; failed to adequately monitor and supervise Plaintiff; failed to adequately hire and train employees, agents and clergy; concealed their knowledge that the Diocesan priest was unsafe and posed a risk of child sexual abuse; and failed to report the sexual abuse of Plaintiff to law enforcement.

### LEGAL STANDARD

A party may move pursuant to CPLR § 3211(a)(5) for judgment dismissing one or more causes of action asserted against him on the ground that the cause of action may not be maintained because of statute of limitations. Similarly, a party may move pursuant to CPLR § 3211(a)(7) for judgment dismissing one or more causes of action asserted against him on the ground that the pleading fails to state a cause of action. On a CPLR § 3211 motion to dismiss, the court will "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" *Nonnon v. City of New York*, 9 N.Y.3d 825, 827 (2007). Under this review, "the sole criterion is whether the pleading states a cause of action, and if from its four corners factual allegations are discerned which taken together manifest any cause of action cognizable at law a motion for dismissal will fail." *Guggenheimer v. Ginzburg*, 43 N.Y.2d 268, 275 (1977).

### DISCUSSION

In the present case, the negligence cause of action is seeking damages for personal injuries allegedly sustained due to sexual abuse in the year 2003. It is well settled that CPLR § 214 (5) provides that the statute of limitations to bring a personal injury action is three years from when the injury is sustained. Further, the Second Department held that a negligence cause of action is subject to the same three-year statute of limitations set for in CPLR § 214 (5). *Guerrera v. Found. Title & Escrow Corp.*, 303 A.D.2d 456, 456 (2d Dep't 2003). However, under GMVA § 8-905, a civil action under this chapter must be commenced within seven years of the alleged crime of violence.

In 2022, the New York City Council passed an amendment to the GMVA that opened a look-back window on gender-based violence claims. This look-back window went into effect on

March 1, 2023, and gave survivors of gender-based violence a two-year window to bring civil claims against their perpetrators even if the statute of limitations on those claims had expired. However, unlike the Child Victims Act (“CVA”) or Adult Survivors Act (“ASA”) that provided similar look-back periods, the language of specifically limited its term to “any civil claim or cause of action brought under this chapter”. The look-back window under the GMVA provides:

A civil action under this chapter shall be commenced within seven years after the alleged crime of violence motivated by gender occurred. If, however, due to injury or disability resulting from an act or acts giving rise to a cause of action under this chapter, or due to infancy as defined in the civil procedure law and rules, a person entitled to commence an action under this chapter is unable to do so at the time such cause of action accrues, then the time within which the action must be commenced shall be extended to nine years after the inability to commence the action ceases. Notwithstanding any provision of law that imposes a period of limitation to the contrary, any civil claim or cause of action brought under this chapter that is barred because the applicable period of limitation has expired is hereby revived and may be commenced not earlier than six months after, and not later than two years and six months after, September 1, 2022.

See N.Y.C. Admin. Code § 10-1105(a). Unlike the CVA and the ASA, the GMVA is not just “a means to an end” of reviving certain otherwise-expired claims. *Roldan v. Lewis*, 2025 U.S. Dist. LEXIS 37621, at \*35-36 (E.D.N.Y. Mar. 3, 2025). In addition to creating a revival period, the GMVA establishes a standalone claim. *Id.* at \*36. Under the Amended GMVA in effect today, a plaintiff may ground such a standalone claim in the “enabling” liability previously discussed. *Id.* The relevant question, then, is whether that liability reaches pre-GMVA amendment conduct. *Id.*

Further, the Diocese argues that the Amendment’s revival window does not create retroactive liability. It is noted that the provision does not include any language suggesting that the Council intended to create causes of action against entities arising out of conduct that occurred before the GMVA was amended in 2022. Very recently, the First Department ruled on this issue of

retroactivity in *S.S. et al. v. The Rockefeller University Hospital*, No. 159929/23, 2025 WL 1559583 (1st Dep't June 3, 2025). In that case, the court ruled that the alleged abuse that occurred between 1966 and 1982 could not be brought under the GMVA. *Id.* at \*2. The First Department echoed that the 2022 amendments created an entirely new cause of action imposing civil liability on parties who enabled gender-motivated violence. *Id.* Since the cause of action did not exist at the time plaintiffs alleged abuse took place, the presumption against retroactivity applies and the court held that the amendments do not contain any language that shows an intention to have a retroactive reach. *Id.* Therefore, the First Department affirmed the trial court's dismissal of the plaintiff's claims under the GMVA as they were not revived by the 2022 amendments. *Id.* Further, the court ruled in *S.S.* that the revival provision also did not revive plaintiffs' common-law negligence and negligent hiring, retention, and supervision claims arising out of their alleged abuse. *Id.*

While this case is from the First Department, absent any contrary ruling from the Second Department, this ruling is binding on this trial court. The Appellate Division is a single State-wide court divided into departments for administrative convenience and, therefore, the doctrine of stare decisis requires trial courts in this department to follow precedents set by the Appellate Division of another department until the Court of Appeals or this court pronounces a contrary rule. *Mountain View Coach Lines, Inc. v. Storms*, 102 A.D.2d 663, 664-665 (2d 1984). This is a general principle of appellate procedure necessary to maintain uniformity and consistency and, consequently, any cases holding to the contrary are disapproved. *Id.* Therefore, the ruling from the First Department in *S.S.* holding that the GMVA lookback window does not provide for retroactive liability deems the claims in the present case as time barred. Since these claims are time barred, the complaint will be dismissed under CPLR § 3211 (a)(5) and the Court will not even reach an analysis for a

dismissal under CPLR § (a)(7). Despite the Academy's motion to dismiss being marked off and unheard, the statute of limitations will dismiss this complaint against all parties.

**CONCLUSION**

WHEREFORE it is hereby:

ORDERED that Defendant, the Diocese's, motion to dismiss is granted and the Plaintiff's complaint against them is dismissed in its entirety.

ORDERED that the Plaintiff's complaint is dismissed in its entirety against all other parties.

This constitutes the decision and order of the Court.

DATED: November 28, 2025  
Brooklyn, New York

  
Hon. Joy F. Campanelli, J.S.C.