

A.W. v Archdiocese of N.Y.

2025 NY Slip Op 34722(U)

December 4, 2025

Supreme Court, New York County

Docket Number: Index No. 950245/2021

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
NEW YORK COUNTY**

PRESENT: HON. SABRINA KRAUS PART CVA 1 / 57M

Justice

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INDEX NO. 950245/2021

A.W.,

MOTION DATE 07/30/2025

Plaintiff,

MOTION SEQ. NO. 002

- v -

ARCHDIOCESE OF NEW YORK, LASALLE ACADEMY,
THE BROTHERS OF THE CHRISTIAN SCHOOLS,
DISTRICT OF EASTERN NORTH AMERICA, INC.

**DECISION + ORDER ON
MOTION**

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 64, 65, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 133, 139, 140, 141, 142, 143

were read on this motion to/for JUDGMENT - SUMMARY.

BACKGROUND

Plaintiff commenced this action against the Archdiocese of New York, La Salle Academy, and The Brothers of the Christian Schools, District of Eastern North America, Inc., seeking damages for personal injuries arising out of sexual abuse he allegedly suffered as a student enrolled at La Salle Academy.

The Archdiocese has moved for dismissal of the complaint and the cross claims asserted against it.

For the reasons set forth below the motion is granted and the action is dismissed as against the Archdiocese.

FACTS

The following facts appear uncontested based on the parties' submissions.

Plaintiff attended LaSalle Academy for only part of tenth grade, for half the year around 1979-1980, transferring mid-year or possibly towards the end of the calendar year. During this period, Plaintiff alleges he was sexually abused by Brother Henry Betz (“Betz”).

Betz became a member of the religious order, the Christian Brothers, in the early 1950s. Betz attended novitiate at St. Joseph’s Institute, a Christian Brothers organization, in Barrytown, New York. Betz was employed by LaSalle Academy from 1972 to 1984 as an assistant principal and from 1984 to 1988 in a development role for fundraising. Betz’ employment by LaSalle Academy is further evidenced by the teacher contracts. Betz lived in the Christian Brothers community next door to LaSalle Academy with about twenty other Brothers.

Plaintiff alleges that the abuse occurred in a storage room near the gymnasium of LaSalle Academy between four and six times in approximately 1980. At the time of the alleged abuse, LaSalle Academy was located at 44 E 2nd St, New York, NY 10003.

Sister Patricia Anastacio testified that LaSalle Academy was owned and operated by The Brothers of the Christian Schools (“Christian Brothers”), not the Archdiocese. Sister Patricia Anastacio testified that LaSalle Academy has always been owned by the Christian Brothers and is an independent private high school that is independently chartered, and that Archdiocese has no involvement with the operations of LaSalle Academy or with implementing educational criteria at LaSalle Academy.

Sister Patricia Anastacio testified that the Department of Education of the Archdiocese does not cover LaSalle Academy and that it is an independent private high school. Sister Patricia Anastacio testified that LaSalle Academy hired its own teachers, and that hiring school administrators would likely be the responsibility of the Major Superior of the religious order. Sister Patricia Anastacio testified that during the relevant time period, the superintendent’s office

of the Archdiocese of New York had no involvement with staffing teachers at LaSalle Academy.

Property transfers involving LaSalle Academy were conducted independently between LaSalle entities and were approved by order of the Supreme Court for the State of New York, showing independent legal status.

LaSalle Academy is an independent entity with its own bylaws.

Brother Frank Byrne testified that LaSalle Academy was operated by the New York Province of the Christian Brothers. The Christian Brothers are an independent religious order with their own certificate of incorporation and headquarters.

DISCUSSION

Summary judgment is a “drastic remedy” reserved for cases when it is apparent that “no material and triable issue of fact is presented” (*Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404 [1957]). To prevail on a motion for summary judgment, the movant must establish *prima facie* entitlement to judgment as a matter of law, tendering evidence in admissible form demonstrating the absence of any triable issues of fact (CPLR § 3212(b); *Matter of New York City Asbestos Litig.*, 33 NY3d 20, 25–26 [2019]). A defendant is not entitled to summary judgment by “merely point[ing] to perceived gaps” in the plaintiff’s proof, rather than submitting evidence showing why the plaintiff’s claim must fail (*Matter of New York City Asbestos Litig.*, 174 AD3d 461, 461 [1st Dept 2019] [alteration in original], quoting *Ricci v A.O. Smith Water Prods. Co.*, 143 AD3d 516, 516 [1st Dept 2016]).

When the movant meets this initial burden, summary judgment will be denied only when the nonmovant tenders evidence in admissible form demonstrating the existence of triable issues of fact (*Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]). However, “[m]ere conclusions, expressions of hope, or unsubstantiated allegations or assertions are insufficient” to overcome a

motion for summary judgment (*Justinian Capital SPC v WestLB AG*, 28 NY3d 160, 168 [2016] [alteration in original]). Finally, courts view the evidence in a light most favorable to the nonmovant, according the nonmovant “the benefit of every reasonable inference” (*Negri v Stop & Shop, Inc.*, 65 NY2d 625, 626 [1985]).

The Archdiocese has Made A Prima Facie Showing that It Owed No Duty to Plaintiff

To prevail on a claim of negligence, the plaintiff must prove (1) “a duty owed to the plaintiff by the defendant,” (2) “a breach of that duty” and (3) “injury proximately resulting therefrom” (*Moore Charitable Found. v PJT Partners, Inc.*, 40 NY3d 150, 157 [2023]).

The “threshold” question in any action for negligence “is whether the alleged tortfeasor owed a duty of care to the injured party” (*Espinal v Melville Snow Contrs.*, 98 NY2d 136, 138 [2002]). While a jury decides whether and to what extent a duty was breached, courts are tasked with determining “whether any duty exists, taking into consideration the reasonable expectations of the parties and society generally” (*Tagle v Jakob*, 97 NY2d 165, 168 [2001]).

The Archdiocese made a *prima facie* showing by providing evidence in admissible form that it did not owe Plaintiff a duty because it neither owned, operated nor controlled La Salle and DENA, nor did the Archdiocese hire, employ, supervise or control Betz.

It is undisputed that the Archdiocese took no part in the appointment of Betz at La Salle. This was done by DENA (*see* La Salle By-Laws at 4). In addition to the testimony of Patricia Anastasio that the Archdiocese was not responsible for staffing at La Salle during the time of Betz’s employment, and that La Salle did not fall under the jurisdiction of the Archdiocese’s Department of Education, the Archdiocese provides DENA’s certificate of incorporation (Exhibit L) and La Salle’s property deeds showing transfers between La Salle and other organizations (Exhibit M). La Salle or DENA, not the Archdiocese, had the authority to initiate

or terminate Betz's employment (*see* Exhibit J at 8–9).

In opposition, the Plaintiff failed to raise a triable issue of fact regarding any alleged principal-agent relationship between the Archdiocese and DENA and La Salle or between the Archdiocese and Betz.

Plaintiff relies on a scholarly article Nicholas P. Cafardi & Rev. Jordan Hite, *Rights and Responsibilities Between Dioceses and Religious Communities*, 40 Cat. Lawy. 59 (2000) containing unsubstantiated allegations regarding the relationship between the parties of *this* case (*see Justinian Capital SPC v WestLB AG*, 28 NY3d 160, 168 [2016]), which is insufficient to rebut the evidence submitted by the Archdiocese in support of its motion.

The only substantive evidence that the Plaintiff offers is a single page of Ex J marked as a “Personnel Up-Date” which references both Betz and the Office of the Superintendent of Schools of the Archdiocese. The document contains Betz's name and other professional information, and at the bottom, the document states that it was to be returned to “Sr. Mary Fitzsimons at the above address,” with the address being listed for the Archdiocese's Office of the Superintendent of Schools.

The Court finds this page insufficient to raise a triable issue of fact.

Thus, Plaintiff's claim as against the Archdiocese fails because the Archdiocese was not Betz's employer nor in an “employer/employee-like relationship” with Betz (*Schlesinger v Sisters of the Order of St. Dominic*, 236 AD3d 1074, 1076 [2d Dept 2025]), and because it owed no duty to Plaintiff.

The Court further notes there is no opposition submitted to the part of the motion that seeks dismissal of the cross-claims asserted against the Archdiocese.

WHEREFORE it is hereby:

ORDERED that the motion of the Archdiocese to dismiss the complaint herein is granted and the complaint and all cross-claims are dismissed in their entirety as against said defendant, with costs and disbursements to said defendant as taxed by the Clerk of the Court, and the Clerk is directed to enter judgment accordingly in favor of said defendant; and it is further

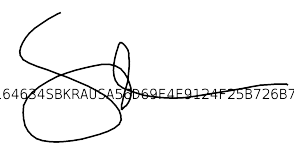
ORDERED that the action is severed and continued against the remaining defendants; and it is further

ORDERED that the caption be amended to reflect the dismissal and that all future papers filed with the court bear the amended caption; and it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice of entry upon the Clerk of the Court and the Clerk of the General Clerk’s Office, who are directed to mark the court’s records to reflect the change in the caption herein; and it is further

ORDERED that such service upon the Clerk of the Court and the Clerk of the General Clerk’s Office shall be made in accordance with the procedures set forth in the *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases* (accessible at the “E-Filing” page on the court’s website)].

This constitutes the decision and order of the Court.



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12/4/2025

DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE