Doe XI v Archdiocese of N.Y.
2026 NY Slip Op 30305(U)
January 23, 2026
Supreme Court, New York County
Docket Number: Index No. 950066/2020
Judge: Sabrina Kraus
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. SABRINA KRAUS** **PART** **CVA 1**

Justice

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JOHN DOE XI,

Plaintiff,

- v -

ARCHDIOCESE OF NEW YORK, OUR LADY OF MOUNT CARMEL CHURCH, OUR LADY OF MOUNT CARMEL SCHOOL

Defendants.

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INDEX NO. 950066/2020

MOTION DATE 10/22/2025

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 1, 2, 20, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 66, 67, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132

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

BACKGROUND

Plaintiff commenced this action under the Child Victims Act ("CVA") seeking damages for personal injuries stemming from alleged sexual abuse at Our Lady of Mount Carmel School and Our Lady of Mount Carmel Church.

ALLEGED FACTS

Our Lady of Mount Carmel Church (the "Church") is a church that operated Our Lady of Mount Carmel School (the "School") located at 2465 Bathgate Avenue, Bronx, New York 10458 (NYSCEF Doc No. 20, at 2). Rudy Tremaroli ("Tremaroli") was a janitor and sports coach who worked at the Church and School from approximately 1959 to 1992.

Plaintiff met Tremaroli when he was about four to five years old around 1957 to 1958 (NYSCEF Doc No. 46, at 43; NYSCEF Doc No. 66 at 169–70). Plaintiff's brother introduced

Tremaroli to Plaintiff's family, after which Tremaroli became their close family friend (NYSCEF Doc No. 46, at 46). Plaintiff testified that his earliest memory of Tremaroli was Tremaroli spanking Plaintiff in his family's apartment which sometimes occurred in the presence of Plaintiff's mother and brother (*id.* at 43–44, 51).

Tremaroli escalated his abuse as Plaintiff grew older. During visits to Plaintiff's apartment, Tremaroli would regularly hug him and touch his genitals during the embrace (*id.* at 55). In 1963, when Plaintiff was about ten years old, Tremaroli one time waited for Plaintiff at the School after class had ended, brought Plaintiff to his apartment and made Plaintiff strip naked (*id.* at 93). Tremaroli then took pictures of Plaintiff while he was naked (*id.*). In 1964, when Plaintiff was eleven years old, Tremaroli invited him and another boy into his apartment and filmed the two while the other boy anally penetrated Plaintiff (NYSCEF Doc No. 66, at 116–18).

Tremaroli's abuse of Plaintiff continued at the School and the Church. Plaintiff testified that Tremaroli would grope Plaintiff's genitals at the School when Plaintiff was about nine to ten years old around 1962 to 1963 (*id.* at 91). This abuse occurred in the School's gymnasium and hallways (*id.* at 80, 87). Plaintiff testified that he believed that no one saw Tremaroli touch him inappropriately during these instances in the School's gym (*id.* at 84). At the Church, Plaintiff was briefly an altar boy, and Tremaroli would wait until services had ended, meet Plaintiff in the clergy house and grab Plaintiff's genitals when the two were alone (*id.* at 117–18, 130–31). This abuse occurred in approximately 1964 (*id.*).

When Plaintiff was around 14 to 15 years old in ninth grade, Tremaroli again convinced him to come to his apartment to take naked pictures in exchange for money (*id.* at 155). Tremaroli convinced Plaintiff to do so at the schoolyard of PS 45 (*id.* at 154–55). When Plaintiff

went back to Tremaroli's apartment, Tremaroli performed oral sex on Plaintiff (*id.* at 155). That abuse occurred in 1967 or 1968.

Finally, Plaintiff testified that Tremaroli sexually abused him on a family trip to Canada when Plaintiff was about 15 years old around 1968 (*id.* at 205–06).

Plaintiff only disclosed Tremaroli's abuse to his close friend—whom Tremaroli also abused in the presence of Plaintiff (*id.* at 191). Plaintiff's mother once heard a rumor that Tremaroli was abusing children and questioned Plaintiff about it, but he told his mother that he was "absolutely not" involved with the abuse and "vehemently denied it" (*id.* at 143–44, 146).

Tremaroli remained employed as a janitor until his death in 1992.

PENDING MOTION

On January 9, 2026, the Archdiocese moved for summary dismissal of Plaintiff's complaint as against it pursuant to CPLR § 3212 (NYSCEF Doc No. 38 (mot. seq. 002)).

The motion is denied for the reasons set forth below.

DISCUSSION

Summary judgment is a drastic remedy reserved for cases where "no material and triable issue of fact is presented" (*Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404 [1957]). To prevail on 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]). Furthermore, a defendant's burden on summary judgment cannot be satisfied 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]).

When the movant meets this initial burden, summary judgment will be denied only when the nonmovant provides 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]). 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 failed to Meet Its Prima Facie Burden

The threshold question in any action for negligence is whether an 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]).

Ordinarily, there is no duty for a defendant "to prevent a third party from causing harm to another" absent a special relationship between the defendant and the third party or the defendant and the alleged victim (*Einhorn v Seely*, 136 AD2d 122, 126 [1st Dept 1988]). However, and contrary to the assertion of the Archdiocese (NYSCEF Doc No. 56, at 14–16), liability for the negligent hiring, retention and supervision of an employee "does not require a special relationship between the defendant and the alleged victim" (*Waterbury v New York City Ballet, Inc.*, 205 AD3d 154, 161 [1st Dept 2022]). When "[the employee's] conduct was a foreseeable outcome of [the] employment, [the defendant] had a duty to supervise that employment" (*id.* at 162, citing *Sheila C. v Povich*, 11 AD3d 120, 129 [1st Dept 2004]).

The Archdiocese maintains the burden to establish that it did not have the right to control the School and Church administrators, teachers, pastors, and priests that knew or should have known that Tremaroli was unsafe at the time he was abusing Plaintiff at OLMC—as well as the burden that these agents/employees lacked constructive notice. Similarly, the Archdiocese has the burden to establish that it did not owe a duty to Plaintiff, a student at the School and parishioner at the Church, while he was being abused by Tremaroli.

The Archdiocese fails to provide the Court with evidence sufficient to meet this burden.

Even if the Archdiocese had satisfied its burden, which it did not, Plaintiff submits evidence in opposition that raises issues of fact precluding summary judgment. Among other evidence, the testimony of the Archdiocese's corporate representative, Bishop Walsh, amply demonstrates determinative elements of the control exercised by the Archdiocese over, inter alia, the appointment and removal, transfer, evaluation, compensation, and the work and services generally of clergy and school principals (those who knew or should have known of Tremaroli's dangerousness) assigned to the OLMC Parish. Documents received from the Archdiocese Superintendent of Schools identify the Parish Pastor as representative of the Archbishop in granting the Pastor final approval in hiring and discharging of school employees and in granting as a special duty of the Pastor, the careful maintenance of the school building and employing and supervising a competent maintenance staff, which directly establishes the Archdiocese's control of Tremaroli. Further, depositions of other plaintiffs establish a question of fact as to the constructive notice to the Archdiocese's employees/agents regarding Tremaroli's dangerous propensities.

The Archdiocese owed a duty to Plaintiff to prevent foreseeable harm and there is evidence in the record from which a jury could find constructive notice of Tremaroli's dangerousness through Tremaroli's prolific abuse of both Plaintiff—multiple instances over years in multiple Parish locations—and Tremaroli's prolific abuse of other boys at the School/Church at the same time he was abusing Plaintiff in those locations.

The Archdiocese argues that it owed Plaintiff no duty under theories of negligent hiring, retention and supervision because the Archdiocese did not directly hire, retain or supervise Tremaroli. The Court disagrees.

Generally, an element of negligent hiring, retention and supervision is that the defendant was the employer of the alleged tortfeasor. However, agency relationships between a junior organization and a senior organization may impute liability onto a senior organization when the senior organization could also have been responsible for the hiring, retention or supervision of an employee (*see Schlesinger v Sisters of the Order of St. Dominic*, 236 AD3d 1074, 1076 [2d Dept 2025]). In *Schlesinger*, the Second Department affirmed the denial of a defendant's motion for summary judgment, reasoning that the defendant "failed to eliminate triable issues of fact as to whether it lacked *an employer/employee-like* relationship with [the alleged abuser]" (*id.* [emphasis added]). The defendant in *Schlesinger* was a religious order responsible for appointing its members to the school where the plaintiff was allegedly sexually abused—also by a janitor at the school (*id.*). However, the defendant had not actually employed the janitor when the abuse occurred (*id.*).

Tremaroli was similarly employed as a janitor at the Church; however, his employment was conditional upon the authority of the pastor, who was appointed to the Church by the

Archdiocese. The Archdiocese has thus failed to eliminate triable issues of fact that it lacked an employer/employee-like relationship with Tremaroli.

The Archdiocese further argues that the Church and School were "operated, maintained and managed independently during the time of the alleged abuse and was a separate and distinct legal entity operating separately and independently of the Archdiocese," eliminating any issue of fact as to an agency relationship between the Archdiocese and the Church (NYSCEF Doc No. 56, at 14). The Court disagrees.

As explained by the First Department, "It is well settled that a principal-agency relationship exists where one retains a degree of direction and control over another" (*Garcia v Herald Tribune Fresh Air Fund, Inc.*, 51 AD2d 897, 897 [1st Dept 1976]).

While the Archdiocese has not met its *prima facie* burden, the Court nevertheless cites several issues of fact in the underlying record that would necessitate a trial on this issue:

> (1) In 1972, the Pastor of the Church was appointed by Archbishop Terence Cardinal Cooke (NYSCEF Doc No. 76, Ex. 3).
>
> (2) According to testimony from Bishop Gerald Walsh, Archbishop Cook approved the transfer of all priests within the Archdiocese's territory, which would include the pastor of the Church (NYSCEF Doc No. 75, Ex. 2, at 19 [on file with Court]).
>
> (3) According to Bishop Walsh, principals at the School needed the approval of the Archdiocese's Department of Education before they could serve as principal (*id.* at 13).
>
> (4) Pastor of the Church Father Jose Felix Ortega testified that his own salary was set and paid by the Archdiocese (NYSCEF Doc No. 48, at 75).
>
> (5) Principal of the School John Musto testified that the pastor of the Church had the authority to hire custodians at the Church (NYSCEF Doc No. 49, at 86).
>
> (6) Principal Musto also testified that teachers at the School were likely interviewed and hired by the principal during the time of 1959 to 1992 (*id.* at 115).
>
> (7) Principal Musto also answered affirmatively that the pastor of the Church would take "guidance or direction" from the Archdiocese with respect to the operation of the School from the period of 1959 to 1992 (*id.* at 82–83).

Thus even if the Archdiocese had met its initial burden, it not entitled to summary judgment because "questions of agency and of its nature and scope are questions of fact to be submitted to the jury under proper instructions by the court" (*Garcia v Herald Tribune Fresh Air Fund, Inc.*, 51 AD2d 897, 897 [1st Dept 1976]).

There is also evidence in the record from which a jury could conclude that the Archdiocese had actual or constructive notice of Tremaroli's conduct and propensities.

Issues of fact also exist as to the Archdiocese's notice of Tremaroli's propensity for abuse or actual abuse of children.

When an employer owes a duty to a third party under the theory of negligent hiring, retention and supervision, the plaintiff must then demonstrate that "an employer knew of its employee's harmful propensities, that it failed to take necessary action, and that this failure caused damage to others" (*Waterbury v New York City Ballet, Inc.*, 205 AD3d 154, 160 [1st Dept 2022], citing *Gonzalez v City of New York*, 133 AD3d 65, 67–68 [1st Dept 2015]). The causation element, referred to as the "nexus" requirement, provides that "the employer's negligence must be a proximate cause of the plaintiff's injury" (*id.* at 162, citing *Gonzalez*, 133 at 67, 70, 71).

Regarding the supervision of Tremaroli where the nexus requirement is satisfied, the Archdiocese argues that it cannot be liable for negligence because it did not have knowledge of Tremaroli's existence until the start of this litigation. The Archdiocese fails to make a *prima facie* showing of entitlement to judgment as a matter of law but instead asks the Court to award it summary judgment based on perceived gaps in Plaintiff's ability to prove notice at trial. As noted above that is not a basis to grant summary judgment.

Additionally, knowledge that is acquired by an agent acting within the scope of their agency "is imputed to [the agent's] principal and the [principal] is bound by such knowledge although the information is never actually communicated to [the principal]" (*Center v Hampton*

Affiliates, Inc., 66 NY2d 782, 784 [1985]; *see also A.M. v Holy Resurrection Greek Orthodox Church of Brookville*, 190 AD3d 470, 470–71 [1st Dept 2021]; *R.L. v Holland Cent. Sch. Dist.*, 2025 NY App Div LEXIS 7557, at *5 [4th Dept 2025]). Thus, if certain employees at the Church or School were "acting on the . . . Archdiocese defendants' behalf" when they learned of the subject abuse, their knowledge would be imputed to the Archdiocese (*see A.M.*, 190 AD3d at 470–71).

As the Court holds above, questions of fact exist as to the agency relationship between the Archdiocese and the School and Church. If a jury finds that employees at either of those junior organizations were under actual or constructive notice of the abuse, the Archdiocese could also be liable under Plaintiff's theory of negligent hiring, retention and supervision. Such questions of fact as to actual or constructive notice pertain both to the Archdiocese's investigative procedures and to Tremaroli's longstanding *modus operandi* of abusing children.

The Court thus holds that the Archdiocese has failed to affirmatively establish that the School, the Church or the Archdiocese lacked actual or constructive notice of the subject abuse by "merely point[ing] to perceived gaps" in the Plaintiff's proof "rather than submitting evidence showing why" Plaintiff's claims must fail (*Matter of New York City Asbestos Litig.*, 174 AD3d 461, 461 [1st Dept 2019]). Assuming arguendo the Archdiocese had made such a prima facie case, there is still evidence in the record from which a jury could find defendants were on constructive or actual notice of both Tremorlis conduct and proclivities in the widespread longstanding abuse of the young boys he came into contact with under their supervision.

The volume and frequency of incidents of sexual abuse by Tremaroli involving Plaintiff and other boys at the Church and School demonstrates that the Archdiocese at least should have known of his misconduct, particularly the incidents occurring on school grounds. *See Sallustio v.*

Westchester Board of Cooperative Educational Services, 235 A.D.3d 680 (2d Dep't 2025) (holding that the school district failed to make a prima facie case, noting that, "in particular, given the frequency of the alleged abuse … the defendants failed to eliminate triable issues of fact as to whether they should have known of the abuse"); *Brauner v. Locust Valley Cent. Sch.* Dist., 234 A.D.3d 914 (2d Dep't 2025) (rejecting school district's prima facie case "based on the frequency of the alleged abuse, which occurred between 50 and 100 times over the course of two school years"); *J.J. v. Mineola Sch. Dist.*, 232 A.D.3d 713 (2d Dep't 2024). It may be inferred from the volume and frequency of abuse by a single perpetrator that he was emboldened by school officials' lack of supervision to engage in continued and prolific abuse of students. Such evidence demonstrates a lack of reasonable care and raises triable issues of fact.

Finally, questions of fact exist as to whether the 1963 and 1967/68 instances of abuse taking place in Tremaroli's apartment were proximately caused by Tremaroli's employment as a janitor and coach. For the 1963 incident, Tremaroli invited Plaintiff to his apartment by picking Plaintiff up at the School, and for the 1967/68 incident, Tremaroli invited Plaintiff to his apartment when at the schoolyard of PS 45. Whether the School properly allowed a ten year old child to be picked up and taken to an apartment by a janitor and adult that was neither his parent or guardian raises issue of fact.

The First Amendment does not preclude the Archdiocese from being held liable for the negligent hiring, retention or supervision of Tremaroli.

The Archdiocese argues that is entitled to summary judgment because the First Amendment prohibits claims against religious institutions based on their norms, customs and usages and also prohibits courts from interpreting them. The Court disagrees.

The Free Exercise Clause of the First Amendment provides, "Congress shall make no law . . . prohibiting the free exercise" of religion (US Const, 1st Amend). The Free Exercise Clause,

as applied to the States through the Fourteenth Amendment, mandates that the law "be applied in a manner that is neutral toward religion" (*Masterpiece Cakeshop, Ltd. v Colorado Civ. Rights Commn.*, 584 US 617, 640 [2018]). Laws that are "neutral and generally applicable" are not subject to strict scrutiny under the Free Exercise Clause when they only "incidentally burden religion" (*Fulton v City of Philadelphia*, 593 US 522, 533 [2021], citing *Employment Div. v Smith*, 494 US 872, 878–82 [1990]). However, the government fails to act neutrally when "it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature" (*id.*, citing *Masterpiece Cakeshop*, 584 US at 643–44).

Regarding courts' intervention in civil disputes, the First Amendment "forbids civil courts from interfering in or determining religious disputes, because there is a substantial danger that the state will become entangled in essentially religious controversies or intervene on behalf of groups espousing particular doctrines or beliefs" (*Matter of Congregation Yetev Lev D'Satmar, Inc. v Kahana*, 9 NY3d 282, 286 [2007]). However, courts may adjudicate disputes involving religious institutions "as long as neutral principles of law are the basis for their resolution" (*Escobar v Segunda Iglesia Pentecostal Juan 3:16 Asamblea de Dios*, 232 AD3d 719, 720 [2d Dept 2024]).

Various Departments in this State have consistently held that a religious institution may be liable for the negligent hiring, retention or supervision of an employee without violating that institution's Free Exercise rights (*PB-20 Doe v St. Nicodemus Lutheran Church*, 228 AD3d 1233, 1238 [4th Dept 2024] [*rejecting on appeal the argument that the religious institution could not be liable for the negligent hiring, retention or supervision of a pastor under the First Amendment*]; *Kenneth R v Roman Catholic Diocese of Brooklyn*, 229 AD2d 159, 164–65 [2d Dept 1997] [*holding that liability for negligent hiring, retention and supervision did not*

implicate the First Amendment because there was no evidence that increased supervision of an alleged abuser violated religious doctrine or inhibited a religious practice]).

Plaintiff's cause of action asserts liability against the Archdiocese for the negligent hiring, retention and supervision of Tremaroli, a janitor and sports coach. The Archdiocese fails to demonstrate why the present dispute cannot be adjudicated "solely upon the application of neutral principles of law, without reference to religious principles" (*see Lifschitz v Sharabi*, 153 AD3d 1338, 1338 [2d Dept 2017]). Adjudication of this matter would not require the Court or a jury to intervene in a "religious dispute[]" or on behalf of a group "espousing particular doctrines or beliefs" (*Matter of Congregation Yetev Lev D'Satmar, Inc.*, 9 NY3d at 286). The Archdiocese also cites no religious principles that would be implicated should there be a determination that it was negligent for hiring, retaining or failing to adequately supervise Tremaroli. Finally, the Archdiocese does not explain why liability for the negligent hiring, retention or supervision of Tremaroli would be "intolerant of [the Archdiocese's] religious beliefs . . . because of their religious nature" rather than the application of "neutral or generally applicable" law (*see Fulton v City of Philadelphia*, 593 US 522, 533 [2021]).

Accordingly, the Archdiocese fails to make out a *prima facie* case for entitlement to summary judgment on the defense of the First Amendment.

CONCLUSION

Accordingly, it is hereby:

ORDERED that the motion of the Archdiocese of New York (mot. seq. 002) is denied in its entirety; and it is further

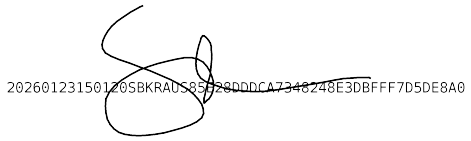
ORDERED that, within twenty (20) days from entry of this order, Plaintiff shall serve a copy of this order with notice of entry on the Clerk of the General Clerk's Office (60 Centre Street, Room 119, New York, NY 10007); and it is further

ORDERED that such service upon the Clerk 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 at the address www.nycourts.gov/supctmanh).

ORDERED that the action is reassigned to Justice Hasa Kingo for trial; and

ORDERED that the parties are directed to reach out to Justice Kingo's Part Clerk and request a date for a pre-trial conference.

This constitutes the decision and order of this Court.



1/23/2026
DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:		**CASE DISPOSED**			**NON-FINAL DISPOSITION**		
		GRANTED	X	**DENIED**	**GRANTED IN PART**		**OTHER**
APPLICATION:		**SETTLE ORDER**			**SUBMIT ORDER**		
CHECK IF APPROPRIATE:	X	**INCLUDES TRANSFER/REASSIGN**			**FIDUCIARY APPOINTMENT**		**REFERENCE**