ARK118 Doe v Archdiocese of N.Y.
2026 NY Slip Op 31422(U)
April 7, 2026
Supreme Court, New York County
Docket Number: Index No. 950018/2020
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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ARK118 DOE,

Plaintiff,

- v -

ARCHDIOCESE OF NEW YORK, SACRED HEART CHURCH, ST. JOHN, DOES 1-5 WHOSE IDENTITIES ARE UNKNOWN TO PLAINTIFF

Defendants.

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INDEX NO. 950018/2020

MOTION DATE 01/15/2026

MOTION SEQ. NO. 002

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 002) 19, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62

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

BACKGROUND

Plaintiff commenced this Child Victims Act ("CVA") action seeking damages for child sexual abuse allegedly perpetrated by Edward Pipala ("Pipala").

Plaintiff asserts three causes of action against each defendant: (1) negligence, (2) negligent training and supervision, and (3) negligent retention (NYSCEF Doc No. 19).

FACTS

The following information derives from admissions in the parties' statements of material facts deposition testimony (NYSCEF Doc Nos. 51, 59).

Plaintiff began attending mass at Sacred Heart Church ("Sacred Heart") when he was around eleven to twelve years old. Pipala served as a priest at Sacred Heart when Plaintiff was there. Plaintiff became socially acquainted with Pipala when he was around fourteen to fifteen years old. Plaintiff and his friends spent time with Pipala by driving around in Pipala's van and

drinking beers with him. Pipala also became personally acquainted with Plaintiff's family after Plaintiff's father and stepmother invited Pipala into their home. Pipala became a regular guest there, with Plaintiff estimating that he was invited around forty to fifty times. Pipala later was appointed to St. John's Church ("St. John's") in 1988, and Plaintiff began attending mass there.

The following information derives from Plaintiff's testimony (NYSCEF Doc No. 54).

Plaintiff stated that he was fifteen years old when Pipala facilitated his initiation into a clandestine club at Sacred Heart called "the Hole." The Hole met in the basement of the rectory of Sacred Heart. Pipala required initiates to masturbate into a cloth, whereafter current members would masturbate into the same cloth concluding with Pipala. Pipala arranged the initiation meeting in the rectory basement with two other boys and plied them all with alcohol. Plaintiff masturbated into the cloth which was passed around the group. Plaintiff testified that Pipala advised the Hole members to maintain the secrecy of the abuse occurring in the club.

Pipala first touched Plaintiff inappropriately when he was around sixteen to seventeen years old on an overnight trip to the Seaside condo of Plaintiff's family. Pipala often took Plaintiff on these trips and Plaintiff's family was aware of them. When Plaintiff and Pipala arrived at Seaside, the two spent time on the boardwalk, played games at the arcade and had a couple drinks. When they went back to the condo for the night, Pipala gave Plaintiff the downstairs bedroom and Pipala took the bedroom upstairs. Around twenty minutes later, Pipala reentered Plaintiff's bedroom wearing nothing but underwear. Pipala suggested that the two masturbate together, and they sat down on Plaintiff's bed and began to do so. While they were masturbating themselves, Pipala put his hand on Plaintiff's leg and Plaintiff froze. Pipala then began masturbating Plaintiff. Plaintiff testified that he went on approximately thirty trips with

Pipala to Seaside, and Pipala abused him on around five of these trips. Other instances of abuse at Seaside included Pipala performing oral sex on Plaintiff.

Pipala also abused Plaintiff around "100, 200" times in the room where the Hole meetings took place at Sacred Heart Church (*id.* at 119). Plaintiff stated that after mass, Pipala would invite him to the basement room to count the money obtained from the offerings of parishioners whereafter Pipala would masturbate in front of Plaintiff and Plaintiff would masturbate himself. A minority of the times involved Pipala touching Plaintiff or other boys in the presence of Plaintiff.

Pipala was later transferred to St. John's parish in 1988 after which Plaintiff began attending mass there. Pipala would bring Plaintiff to the bedroom of the rectory at St. John's and similarly masturbate in front of him. Of the estimated twenty times that this sexual contact occurred, Plaintiff testified that most instances involved masturbation and one involved Pipala performing oral sex on him. Plaintiff testified that his last sexual contact with Pipala was at St. John's when Plaintiff was around twenty years old (*id.* at 128).

Pipala was laicized in 2001 (NYSCEF Doc No. 57).

Prior to the commencement of this action, Plaintiff did not tell anyone that Pipala had abused him except for the other boys, who were also abused in the Hole gatherings.

PENDING MOTION

On March 31, 2026, St. John a/k/a St. John the Evangelist ("St. John's") moved for an order granting summary judgment dismissing Plaintiff's complaint in its entirety (NYSCEF Doc No. 49 [mot. seq. 002]).

The motion was fully briefed and marked submitted on March 31, 2026, and the Court reserved decision.

The Court denies the motion as St. John's fails to establish a *prima facie* case that the sexual contact occurring at St. John's did not fall under the CVA and also that it was not on actual or constructive notice of Pipala's abuse.

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]). A defendant's initial 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 fail (*Matter of New York City Asbestos Litig.*, 174 AD3d 461, 461 [1st Dept 2019] [alteration in original]).

When a movant meets this 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 defeat 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 and accord the nonmovant with "the benefit of every reasonable inference" (*Negri v Stop & Shop, Inc.*, 65 NY2d 625, 626 [1985]).

St. John's Fails to Establish a Prima Facie Case that It Cannot Be Liable for the Sexual Contact Occurring at St. John's

CPLR § 214-g provides:

> Notwithstanding any provision of law which imposes a period of limitation to the contrary and the provisions of any other law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to commencement of an action or special proceeding, every civil claim or cause of action brought against any party alleging intentional or negligent acts or omissions by a person for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child *less than eighteen years of age*, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child *less than eighteen years of age*, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child *less than eighteen years of age*, which is barred as of the effective date of this section because the applicable period of limitation has expired, and/or the plaintiff previously failed to file a notice of claim or a notice of intention to file a claim, is hereby revived[.] (emphasis added).

St. John's cites Plaintiff's deposition testimony wherein he stated that the sexual contact with Pipala occurring in the rectory of St. John's happened after he turned eighteen (NYSCEF Doc No. 54, at 34, 128). However, St. John's own submissions raise a triable issue as to whether any of Pipala's sexual contact with Plaintiff occurred prior to Plaintiff's having turned eighteen. Pipala's priest personnel file indicates that he was appointed to St. John's on July 2, 1988 (NYSCEF Doc No. 57, at 2), and other areas of Plaintiff's testimony indicate that Plaintiff had only turned seventeen when Pipala was appointed to St. John's as Plaintiff's twenty-first birthday was in 1992 (*see* NYSCEF Doc No. 54, at 129; *id.* at 48). Plaintiff also testified that he:

> followed Father Pipala to [St. John's in] Goshen. When he left Sacred Heart to go to Goshen, I started attending Goshen masses. We never — from when he landed in Goshen, we never went back to Sacred Heart at all. When he became pastor of Goshen, I went up a couple times and we always hung out in his rectory. When he started recruiting boys from St. John's, I met probably the first two or three that was in and he wanted me to be like the role model like the Somers guys were to me. (*id.* at 144).

St. John's thus fails to establish a *prima facie* case that Pipala's alleged sexual conduct with Plaintiff at St. John's fell outside the scope of the CVA as it is possible that some instances occurred before Plaintiff reached the age of eighteen.

St. John's Also Fails to Establish a Prima Facie Case as to Lack of Notice

St. John's argues that Plaintiff's negligence claims should be dismissed because it had no actual or constructive notice of Pipala's abusive propensities or conduct. St. John's cites Plaintiff's testimony where he stated that he never revealed Pipala's abuse to anyone outside of the Hole members, and St. John's also cites the testimony of Father George Hafeman and Deacon Bello stating that St. John's had no knowledge of Pipala's propensity for abuse.

A defendant is liable to a third party for the tortious conduct of an employee when (1) the defendant knew of its employee's harmful propensities, (2) the defendant failed to take necessary action and (3) this failure caused harm to others (*Waterbury v New York City Ballet, Inc.*, 205 AD3d 154, 160 [1st Dept 2022]). A defendant possesses culpable knowledge when the defendant is on actual or constructive notice of an employee's tortious propensities or conduct (*Nellenback v Madison County*, 44 NY3d 329, 334–35 [2025]; *Norris v Innovative Health Sys., Inc.*, 184 AD3d 471, 472–73 [1st Dept 2020]). Constructive notice arises when the defendant "has *reason* to know of the facts or events evidencing that propensity" (*Nellenback*, 44 NY3d at 335 [emphasis in original]).

St. John's fails to establish a *prima facie* case as its own submissions raise issues as to whether it was on actual or constructive notice of Pipala's abusive propensities or conduct. Plaintiff testified that Pipala engaged in sexual conduct with him in Pipala's bedroom at the rectory around twenty times after he was appointed to St. John's. Plaintiff also testified that Pipala similarly recruited boys at St. John's for participation in the Hole meetings (NYSCEF

Doc No. 54, at 144–45). Plaintiff estimated that Pipala had groomed over forty boys into entering the club (*id.* at 146). Plaintiff also testified that parents of other boys in the club knew about the existence of the Hole (*id.* at 147). Plaintiff's testimony raises an issue of fact as to notice as both the First and Second Department have held that allegations of repeated sexual misconduct by an employee on the employer's premises over an extended period of time may itself constitute evidence of constructive notice (*see MCVAWCD-DOE v Columbus Ave. Elementary Sch.*, 225 AD3d 845, 847–48 [2d Dept 2024]; *Sayegh v City of Yonkers*, 228 AD3d 690, 692 [2d Dept 2024]; *see also S.A.W. v Archdiocese of New York*, 2026 NY Slip Op 00603[U], at *1 [1st Dept, Feb. 5, 2026]).

Moreover, St. John's witness Father George Hafeman testified that if there were a complaint about a priest at St. John's, the complaint would likely go to the Archdiocese of New York and not to St. John's (*see* NYSCEF Doc No. 55, at 44–45). A jury could conclude from this testimony that St. John's may have been negligent by failing to establish a protocol for the investigation or reporting of misconduct among its employees. Hafeman also testified that he had no knowledge as to how priests would be supervised from 1988 to 1992 (*id.* at 46). Hafeman's testimony falls far short of establishing St. John's *prima facie* case as to lack of notice.

Equally unavailing is St. John's final argument that dismissal is required under *Nellenback v Madison County*. *Nellenback* was a fact-specific decision holding that the defendant did not have any opportunity or reason to know about the plaintiff's abuse when, unlike here, the plaintiff was abused off the defendant's premises and the plaintiff's foster child records were discarded pursuant to a routine process (*Nellenback v Madison County*, 44 NY3d 329, 331–32, 335 [2025]). *Nellenback* did clarify that a CVA defendant should be held to the standard of care "that was reasonable at the time" for the hiring, retention or supervision an

employee, and the First Department has since cited *Nellenback* for this proposition (*id.* at 337; *see C.R. v Episcopal Diocese of New York*, 243 NYS3d 348, 355 [1st Dept 2025]). However, whether St. John's breached its duty according to the standard of care that was reasonable at the time is a question of fact as "a jury determines whether and to what extent a particular duty was breached" (*Tagle v Jakob*, 97 NY2d 165, 168 [2001]).

The Court thus denies St. John's motion as St. John's fails to establish a *prima facie* case by merely pointing to gaps in Plaintiff's proof rather than submitting evidence affirmatively showing why it had no opportunity or reason to know about Pipala's abusive propensities or conduct (*see Matter of New York City Asbestos Litig.*, 174 AD3d 461, 461 [1st Dept 2019]).

The Court accords no weight to St. John's argument, raised for the first time in reply, that the First Amendment shields it from liability for the negligent hiring and retention of Pipala as "no consideration is to be accorded to novel arguments raised in reply papers" (*Matter of Gonzalez v City of New York*, 127 AD3d 632, 633 [1st Dept 2015], citing *Lumbermens Mut. Cas. Co. v Morse Shoe Co.*, 218 AD2d 624, 626 [1st Dept 1995]).

CONCLUSION

Accordingly, it is hereby:

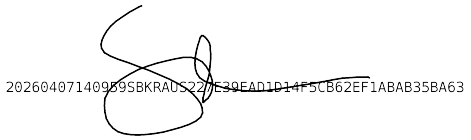
ORDERED that the motion of St. John a/k/a St. John the Evangelist (mot. seq. 002) is denied in its entirety; and it is further

ORDERED that the parties appear for a virtual pretrial conference on April 21, 2026 at 1:30 pm at which time a final trial date will be set; 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).

This constitutes the decision and order of this Court.



4/7/2026
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**