PC-40 Doe v St. Peter & Paul R.C. Church

2026 NY Slip Op 31488(U)

April 8, 2026

Supreme Court, Kings County

Docket Number: Index No. 513720/2020

Judge: Joy F. Campanelli

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF KINGS: CVAP4M

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PC-40 DOE,

Plaintiff,

- against -

ST. PETER AND PAUL ROMAN CATHOLIC CHURCH, THE MERGED PARISHES OF SAINTS PETER AND PAUL AND EPIPHANY PARISH, THE ROMAN CATHOLIC DIOCESE OF BROOKLYN, AND DOES 1-10 WHOSE IDENTITIES ARE UNKNOWN TO PLAINTIFF,

Defendants.

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Index No.: 513720/2020

DECISION AND ORDER

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

The following e-filed papers read herein:	Papers Numbered:
	Seq. No. 003
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 The Roman Catholic Diocese of Brooklyn (the "Diocese") moves by notice of motion (sequence number 003) for an Order pursuant to CPLR § 3212, granting summary judgment and dismissing plaintiff's Complaint in its entirety, with prejudice, or in the alternative pursuant to CPLR 3211 and/or CPLR 3212, striking (i) the plaintiff's demand for punitive damages; and (ii) so much of the plaintiff's complaint as alleges that this action is exempt from the operation of Article 16 of the CPLR, and such other, further, and different relief as this Court deems just and proper. Plaintiff opposes.

In this Child Victims Act ("CVA") action, the plaintiff, proceeding under the pseudonym "PC-40 Doe," seeks to recover damages from the Diocese and defendant Saints Peter and Paul's

Church of Brooklyn, E.D. s/h/a St. Peter and Paul Roman Catholic Church, also s/h/a The Merged Parishes of Saints Peter and Paul and Epiphany Parish ("Saints Peter and Paul and Epiphany Parish") for personal injuries that he purportedly sustained as a result of alleged sexual abuse. Specifically, the plaintiff alleges that between approximately 1979 and 1980, he was sexually abused by two individuals, whom he claims he knew as "Father George" and "Father Peter" or "Vincent Peter", but who have never been fully identified (the "Unidentified Priests"). He claims that these individuals were priests employed by, affiliated with, or answerable to the Diocese. [1]

Additionally, the plaintiff alleges that between approximately 1982 and 1983, when he was between fourteen and sixteen years old, he was sexually abused by Fr. Raymond P. Roden ("Fr. Roden"), who at the time was a priest employed by the Parish

The plaintiff commenced this action on July 29, 2020, by filing and serving a Summons and Complaint in which he asserted causes of action for negligent hiring, retention, supervision, and direction, negligent, reckless, and willful misconduct, negligent infliction of emotional distress ("NIED"), premises liability, breach of fiduciary non-delegable duty, breach of duty in loco parentis, and breach of statutory duties to report against the Diocese and the Parish arising out of his alleged sexual abuse by Fr. Roden.

The Diocese and Parish joined issue on November 6, 2020, by filing and serving Verified Answers.

Much of the discovery in this case, including many of the depositions, was conducted in conjunction with the related CVA cases of two brothers: PC-38 Doe v. The Diocese, et al., Index Number 513684/2020 (Sup. Ct. Kings Cnty.) and PC-23 Doe v. The Diocese, et al., Index Number

[1] According to plaintiff's memorandum of law, plaintiff is no longer pursuing the claims against these Unidentified Priests. As such, this order will address only those arguments which relate to the alleged abuse by Fr. Roden.

512225/2020 (Sup. Ct. Kings Cnty.). The plaintiffs in all three cases claim that Fr. Roden abused them, knew each other at the time of the alleged abuse, and are represented by the same attorneys, Phillips and Paolicelli.

By stipulation dated November 17, the plaintiff agreed to voluntarily discontinue without prejudice his causes of action for negligent infliction of emotional distress, premises liability, breach of fiduciary non-delegable duty, breach of duty in loco parentis, and breach of statutory duties to report.

On August 27, 2025, the plaintiff filed his Note of Issue and Certificate of Readiness.

FACTUAL BACKGROUND

The plaintiff also alleges that between approximately 1982 and 1983, when he was approximately fourteen to sixteen years old, Fr. Roden sexually abused him approximately one to two times each week on the premises of the Parish, including the rectory.

Additionally, plaintiff in a related action, Erasmo Ortega ("Ortega"), alleges that Fr. Roden abused him between 1973 and 1976 at Transfiguration Church ("Transfiguration") and during a retreat in Tarrytown. He claimed that in approximately 1975 to 1976 he told Fr. Bryan Karvelis ("Fr. Karvelis"), the pastor of Transfiguration and a priest within the Diocese, that Fr. Roden was abusing him. Other than Fr. Karvelis, Ortega did not report the alleged abuse to anyone else.

The plaintiff first met Fr. Roden by the rectory of the Parish around 1981. He and PC-38 Doe used to play around the church, but they were in the chapel when they met Fr. Roden. Fr. Roden approached them, introduced himself as Father Ray, and hugged them. Fr. Roden asked him to kiss his ring.

As he continued to return to the church thereafter, Fr. Roden became more comfortable with touching him. Fr. Roden started patting his buttocks all the time in the church and did the

same to PC-38 Doe. Fr. Roden would kiss his head, and he would kiss Fr. Roden's hand. Fr. Roden also kissed PC-38 Doe's head and PC-38 Doe kissed Fr. Roden's hand, but the plaintiff did not witness this behavior occurring with anyone else. Fr. Roden also hugged PC-38 Doe in the presence of other unidentified children.

Other adults were present when Fr. Roden hugged, kissed, and touched the plaintiff and PC-38 Doe in the church and the rectory, but the plaintiff did not know if any of them were employees of the rectory or the church.

The plaintiff testified that he was in the changing room behind the altar in the church with PC-38 Doe the first time that Fr. Roden touched his genitals. The changing room was a small room with no windows. He and PC-38 Doe had gone to the room to help take out the trash and Fr. Roden closed the door and started hugging them. Fr. Roden then started touching their genitals, made them touch his genitals, and then performed oral sex on them.

About two weeks later, the plaintiff and PC-38 Doe went to the rectory to eat and help clean up. They sat on chairs in front of Fr. Roden's office and did an errand for him. A couple of adults were present and saw them sitting there. Fr. Roden then brought them into his office, touched their genitals, exposed his genitals to them, and performed oral sex on them while he made them masturbate him. The plaintiff never saw Fr. Roden again after this incident.

The plaintiff never contacted anyone from the Parish or the Diocese to report that Fr. Roden allegedly abused him. Likewise, PC-23 Doe never contacted anyone from the Parish or the Diocese to report that Fr. Roden allegedly abused him. Similarly, PC-38 Doe never told anyone that Fr. Roden allegedly abused him until 2012, when he and non-party Angel Huertas spoke at a barbecue about how Fr. Roden had abused them.

LEGAL STANDARD

In considering a motion for summary judgment, the Court's primary focus is whether a genuine issue of material fact exists. *Ayotte v. Gervasio*, 81 N.Y.2d 1062, 1063 (1993). Summary judgment is warranted when there are no material factual disputes to be resolved by the trier of fact. *Mallad Const. Corp. v. County Fed. S&L Ass'n*, 32 N.Y.2d 285 (1973). This may occur when all issues are strictly legal, *Long Island Railroad Co. v. Northville Indus. Corp*., 41 N.Y.2d 455, 562 (1977), or when uncontroverted facts allow only one conclusion as a matter of law. *Alvord & Swift v. Stewart M. Muller Constr. Co., Inc*., 46 N.Y.2d 276 (1978). The Court's primary objective in its review of a motion for summary judgment is, "issue finding, not issue determination." *Goldstein v. County of Monroe*, 77 A.D.2d 232, 236 (4th Dep't 1980); see also *Sillman v. Twentieth Century-Fox Film Corp*., 3 N.Y.2d 395 (1957). Furthermore, in reviewing a motion for summary judgment, it is not the court's duty to assess credibility, but rather to determine if bona fide issues of fact exist. *Gaither v. Saga Corp*., 203 A.D.2d 239 (2d Dep't 1994); *Black v. Chittenden*, 69 N.Y.2d 665 (1986).

The movant bears the burden of establishing a right to summary judgment, as a matter of law. *Ferrante v. American Lung Ass'n*., 90 N.Y.2d 623, 625 (1997). The movant bears the "initial burden of coming forward with admissible evidence." *GTF Marketing, Inc. v. Colonial Aluminum Sales, Inc*., 66 N.Y.2d 965, 967 (1985). "The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to eliminate any material issues of fact from the case." *Winegrad v. N.Y. Univ. Med. Ctr*., 64 N.Y.2d 851, 852 (1985); *see also Zuckerman v. New York*, 49 N.Y.2d 557 (1980).

After a movant establishes a prima facie showing, the burden shifts to the non-movant, and the non-movant is required to produce proof "sufficient to require a trial of material questions of fact on which he rests his claim or must demonstrate acceptable excuse for his failure to meet the

requirement of tender in admissible form; mere conclusions, expressions of hope or unsubstantiated allegations or assertions are insufficient." *Zuckerman, 49 N.Y.2d at 562*. The non-movant cannot "rely on mere speculation or conjecture as to the true nature of the facts to overcome a motion for summary judgment." *Harley ex rel. Johnson v. City of N.Y.*, 36 F. Supp. 2d 136, 138 (EDNY 1999) (quoting *Knight v. U.S. Fire Ins. Co*., 804 F.2d 9, 12 (2d Cir. 1987)). Summary judgment must be granted "if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party." *CPLR 3212(b)*.

In deciding a summary judgment motion, a court must view the evidence in a light most favorable to the opposing party and give such non-moving party the benefit of every favorable inference. *Sheryll v. L & J Hairstylists of Plainview*, Ltd., 272 A.D.2d 603, 604 (2d Dept. 2000). Moreover, on a motion for summary judgment premised on failure to state a cause of action, the relevant criterion is not whether the proponent of the pleading has stated a cause of action, but whether that party has one. *Seidler v. Knopf*, 186 A.D.3d 889, 890 (2d Dept. 2020).

It is the movant who has the burden to establish an entitlement to summary judgment as a matter of law. *Ferrante v. American Lung Assn.*, 90 N.Y.2d 623 (1997). CPLR §3212(b) requires the proponent of a motion for summary judgment to demonstrate the absence of genuine issues of material facts. *Alvarez v. Prospect Hosp.*, 68 N.Y.2d 320, 324 (1986); *Stone v. Continental Ins. Co.*, 234 A.D.2d 282, 284 (2d Dept. 1996). Where the movant fails to meet its initial burden, the motion for summary judgment should be denied regardless of the sufficiency of the opposing papers. *Alvarez*, 68 N.Y.2d at 324; *Winegrad v. New York University Medical Center*, 64 N.Y.2d 851, 853 (1985); *US Bank N.A. v. Weinman*, 123 A.D.3d 1108 (2d Dept. 2014).

Furthermore, as a general rule, a defendant's burden cannot be satisfied merely by pointing to gaps in the plaintiff's proof but must affirmatively demonstrate the merit of its claim or defense. *Reed v. Watts Water Technologies, Inc.*, A.D.3d WL 219927 (2d Dept. 2023); *Vittorio v. U-Haul Co.*, 52 A D 3d 823 (2d Dept. 2008). Only when a movant has shown a *prima facie* right to summary judgment does the burden ordinarily shift to the opposing party to show that a factual dispute exists requiring a trial. *Zuckerman v. New York*, 49 N.Y.2d 557 (1980); *Friends of Animals, Inc. v. Associated Fur Mfrs., Inc.*, 46 N.Y.2d 1065 (1979).

A necessary element of a cause of action for negligent hiring, retention or supervision of an employee is that the employer knew or should have known of the employee's propensity for the conduct which caused the injury. *Fuller v. Family Services of Westchester, Inc.*, 209 A.D.3d 983 (2d Dept. 2022). The employer's negligence lies in having placed the employee in a position to cause foreseeable harm, harm which would most probably have been spared the injured party had the employer taken reasonable care in making decisions regarding the hiring and retention of the employee. *Roe v. Domestic and Foreign. Missionary. Society of the Protestant Episcopal Church*, 198 A.D.3d 698, 701 (2d Dept. 2021).

Specifically, "the duty to investigate a prospective employee, or to 'institute specific procedures for hiring employees,' is triggered only when the employer 'knows of facts that would lead a reasonably prudent person to investigate the prospective employee'." *Sandra M v. St. Luke's Roosevelt Hosp. Center*, 33 A.D.3d 875, 879 (2d Dept. 2006).

Where, as here, a complaint also alleges negligent supervision of a child stemming from injuries related to an individual's intentional acts, "the plaintiff generally must demonstrate that the [defendant] knew or should have known of the individual's propensity to engage in such conduct, such that the individual's acts could be anticipated or were foreseeable." *Nevaeh. T v. City*

of New York, 132 A.D.3d at 842, *quoting Timothy Mc. v. Beacon City Sch. Dist*, 127 A.D.3d 826, 828 (2d Dept. 2015); *see also Mirand v City of New York*, 84 N.Y.2d 44 (1994). "[S]chools and camps owe a duty to supervise their charges and will only be held liable for foreseeable injuries proximately caused by the absence of adequate supervision." *Osmanzai v. Sports and Arts in Schools. Foundation, Inc.*, 116 A.D.3d 937 (2d Dept. 2014).

Additionally, notice may be imputed to a corporate entity even when no report is made of the alleged misconduct. When agents act within the scope of their authority, everything they know or do is imputed to their principals. Indeed, the principal is bound by knowledge acquired by an agent acting within the scope of his or her agency even if the information is never actually communicated to it. *People v Gross*, 169 A.D.3d 159 (2019).

With respect to the notice requirement as applied under the CVA, the Second Department held in *Kwitko v. Camp Shane, Inc.*, 224 A.D.3d 895, (2d Dept. 2024), that even when no formal report is made or documented, defendants can still be charged with notice of abuse. In that case, the court tempered the defendant's summary judgment burden to fit the legislative purpose of the CVA. The circumstances of each CVA case are unique, however many of them are brought based on events that occurred decades ago, as is the case here.

In *Kwitko*, the Second Department reversed the decision of Westchester County Supreme Court, which held that because there was no documentation that the alleged abuse was reported to staff at the defendant summer camp, and because plaintiff testified that no such report was made, that defendant met their prima facie burden regarding the notice requirement.

The rationale in *Kwitko* was applied by Nassau County Supreme Court in *M.E. v. Camp Summit of Summitville, Inc.*, 2024 N.Y. Misc. LEXIS 2092. In that case, the Court permitted renewal and re-argument of defendants' motion for summary judgment, which was previously

granted, and denied the underlying motion on the basis that defendants had not met their prima facie burden with respect to notice. In that case, as in *Kwitko*, "Defendants have no records to prove that they had no notice, actual or constructive, of a propensity of [camp counselor] to commit sexual abuse. [Camp counselor] is not even remembered by defendants. Defendants cannot simply rely on plaintiff's testimony that he told no one of his abuse. Nor can they rely on the fact that defendant Judith Stern, who ran the camp with her husband, personally was unaware of any allegations of sexual abuse of campers." *See Id* at 3.

DISCUSSION

The first issue is whether the Diocese had actual or constructive notice of Fr. Roden's abuse of plaintiff. Here, non-party Ortega testified that he was abused by Fr. Roden in the 1970s, when he was a minor child, and that he reported that abuse to Diocesan Priest and pastor, Fr. Karvelis, in 1975 or 1976. As such, there is evidence in the record that Fr. Karvelis had actual notice of Fr. Roden's propensity to abuse children prior to the events at issue.

Defendant first addresses this issue by claiming the Diocese could not have had actual notice of Fr. Roden's propensity for abuse despite Ortega's report because the report is not contained in the Clergy File. *Defendant's Memo. Of Law at Page 14, 15*. The caselaw does not support this argument. Ortega's sworn testimony that he reported Fr. Roden's abuse is evidence that at least one person, Fr. Karvelis, had actual notice of Fr. Roden's propensity to abuse children. Defendants cannot rely on a lack of documentation as maintained by the Diocese to argue that the Diocese lacked notice of this report.

As such, the next issue is whether the notice given to Fr. Karvelis can be imputed to The Diocese. A "[p]rincipal-agency relationship exists where one retains a degree of direction and control over another." *Garcia v. Herald Tribune Fresh Air Fund, Inc.,* 51 A.D.2d 897 (1st Dept.

1976). Whether an alleged principal had the right to control an alleged agent, and other questions regarding the relationship between the defendants, is normally a question of fact for the jury that is not appropriate for summary judgment. *Id*. *See Raiola v. Roman Catholic Diocese of Brooklyn,* 238 A.D.3d 923, 926 (2d Dept. 2025). Knowledge, acts, and omissions of agents or employees are imputed to principals. *Kirschner v. KPMG LLP,* 15 N.Y.3d 446, 465 (2010).

On this point, defendant argues that the alleged report to Fr. Karvelis does not constitute actual notice of Fr. Roden's propensity for abuse because Fr. Karvelis was not an employee or agent of the Diocese and therefore any knowledge he acquired cannot be imputed to the Diocese. *Defendant's Memo. Of Law at Page 15.* Defendant argues that because Fr. Karvelis was a pastor at Transfiguration, a separately incorporated parish from Saints Peter and Paul Epiphany Parish, he was not an employee or agent of the Diocese.

Alternatively, defendant argues that even if Fr. Karvelis was acting as an agent of the Diocese, he was acting outside the scope of his duty as an agent in responding to the report. *Defendant Memo. Of Law at pg. 17*. In support of this argument, defendant claims that The Diocese did not have any written policies or procedures regarding allegations of child sexual abuse in the 1970s. *Id*. Therefore, defendant argues, Fr. Karvelis responded to the report within his own discretion and was not subject to the authority of the Diocese in his response.

These arguments are unavailing. Defendant does not contest that Transfiguration and Saints Peter and Paul Epiphany Parish were part of a network of individual parishes overseen by the Bishop. Fr. Roden testified that the Bishop had authority to reassign a priest to different parishes within the Diocese if that priest was accused of misconduct. Additionally, Fr. Roden's personnel file contains multiple letters from the Bishop on Diocese letterhead regarding assignments to new parishes, payment for healthcare costs, and other administrative matters. This

demonstrates that although the parishes may be separate corporate entities, their operations are overseen and administered by the Diocese. As such, parish priests and pastors, as designees of the bishop, are agents of the Diocese when acting within the scope of their authority.

Further, it is not sufficient to argue that because the Diocese did not have a policy to respond to child sexual abuse by parish priests, that Fr. Karvelis was acting outside the scope of his authority as an agent of the diocese by failing to report it. Defendants cannot simultaneously claim that Fr. Karvelis's response to Ortega's report was not within the scope of his duties as an agent of the Diocese, and also that if Ortega had made such a report, it would have been in Fr. Roden's Clergy File maintained by the Diocese. Even if the Diocese did not have a specific protocol in writing to respond to child sex abuse, defendant concedes that Fr. Karvelis could have reported such allegation to the Diocese, as defendant itself argues that there would have been a report in Fr. Roden's clergy file if Ortega complained to Fr. Karvelis. The lack of a written policy does not put Fr. Karvelis's actions outside the scope of his duty to supervise day-to-day parish activities as a designee of the Bishop. Even absent a written policy, there was a clear chain of command between the Bishop and the parish priests that covered such reporting and documentation of complaints by parish members. Therefore, any notice that Fr. Karvelis had of Fr. Roden's propensity for abuse is imputed to the Diocese.

On these facts, the Court finds that defendant has failed to meet its prima facie burden to demonstrate entitlement to summary judgment. Regarding defendant's request that, in the alternative, the Court dismiss plaintiff's claims for punitive damages and for joint and several liability under Article 16, the Court finds that these claims are also to be decided by the jury.

CONCLUSION

Based on the testimony and evidence submitted, the Court finds that defendant has not made a prima facie case for summary judgment on plaintiff's claims regarding the abuse by Fr. Roden. Ortega's testimony that he reported Fr. Roden's misconduct to Fr. Karvelis in the 1970s constitutes actual notice of Fr. Roden's propensity for abuse. Because Fr. Karvelis was an agent of the Diocese, acting within the scope of his duty as a parish priest when the abuse was reported, his actual notice is imputed to the Diocese as a matter of law. As such, defendant's motion for summary judgment on the claims regarding Fr. Roden must be denied. Upon the representation by plaintiff that he is no longer pursuing his claims against the Unidentified Priests, those claims are hereby dismissed.

Therefore, it is hereby,

ORDERED that defendant Diocese's motion for summary judgment is granted to the extent that plaintiff's First Amended Complaint as against the Unidentified Priests is hereby dismissed; and it is hereby,

ORDERED that all other requests for relief in defendant's motion for summary judgment are denied.

This constitutes the decision and order of the Court.

DATED: April 8, 2026
Brooklyn, New York

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