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DRAFT

ONTARIO COURT (GENERAL DIVISION)

Court File No.

BETWEEN:

J.M.

Plaintiff

and

FATHER CHARLES MacDONALD, BISHOP ADOLPHE PROULX
and THE ROMAN CATHOLIC EPISCOPAL CORPORATION FOR
THE DIOCESE OF ALEXANDRIA-CORNWALL IN ONTARIO

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff(s) lawyer(s) or, where the plaintiff(s) do(es) not have a lawyer, serve it on the plaintiff(s), and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may served and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

FILED
OCT. 10th / 95

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: _____

Issued by: _____

Address of Court Office:
161 Elgin Street
Ottawa, Ontario
K2P 2K1

TO: FATHER CHARLES MacDONALD
c/o Michael Hebert
1400-155 Queen Street
Ottawa, Ontario
K1P 6L1

AND TO: BISHOP ADOLPHE PROULX
c/o Mr. Peter Annis
Scott & Aylen
Barristers and Solicitors
100-60 Queen Street
Ottawa, Ontario
K1P 5Y7

(613) 787-3500

AND TO: THE ROMAN CATHOLIC EPISCOPAL CORPORATION FOR
THE DIOCESE OF ALEXANDRIA-CORNWALL IN ONTARIO
c/o Mr. Peter Annis
Scott & Aylen
Barristers and Solicitors
100-60 Queen Street
Ottawa, Ontario
K1P 5Y7

(613) 787-3500

1. (A) The Plaintiff claims as against the Defendant Father Charles MacDonald:
 - (a) Damages for assault and battery in the amount of \$500,000;
 - (b) Damages for the intentional infliction of mental suffering in the amount of \$500,000;
 - (c) In the alternative to (b), damages for negligence in the amount of \$500,000;
 - (d) Damages for breach of fiduciary duty in the amount of \$500,000;
 - (e) Punitive, aggravated and exemplary damages in the amount of \$100,000;
 - (f) Damages for lost income in an amount to be determined by this Honourable Court;
 - (g) Damages for the cost of past and future therapy in an amount to be determined by this Honourable Court;
 - (h) Other special damages which have been and may be incurred by the Plaintiff since the date of the assaults upon him to the date of trial, such amounts and particulars to be provided to the Defendants prior to trial;
 - (i) Pre-judgment and post-judgment interest pursuant to the Courts of Justice Act, R.S.O. 1990, c.C-43, as amended;

- (j) Costs of this Action on a solicitor and client basis, plus all applicable Goods and Services Tax;
 - (k) Such further and other relief as to this Honourable Court may seem just.
- (B) The Plaintiff claims as against the Defendants Bishop Adolphe Proulx the Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall in Ontario:
- (a) Damages for negligence in the amount of \$500,000.00;
 - (b) Punitive, aggravated and exemplary damages in the amount of \$100,000.00;
 - (c) Damages for lost income in an amount to be determined by this Honourable Court;
 - (d) Damages for the cost of past and future therapy in an amount to be determined by this Honourable Court;
 - (e) Other special damages which have been and may be incurred by the Plaintiff since the date of the assaults upon him to the date of trial, such amounts and particulars to be provided to the Defendants prior to trial;
 - (f) Pre-judgment and post-judgment interest pursuant to the Courts of Justice Act, R.S.O. 1990, c.C-43, as amended;
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- (g) Costs of this Action on a solicitor and client basis, plus all applicable Goods and Services Tax;
 - (h) Such further and other relief as to this Honourable Court may seem just.
2. The Plaintiff is a male who currently resides in the City of Cornwall and who was born on December 1, 1958 in Cornwall.
 3. The Defendant Father Charles MacDonald (hereinafter referred to as "MacDonald"), currently resides in or about the City of Toronto in the Province of Ontario.
 4. At all material times, the said Defendant was an Ordained Priest with the Roman Catholic Church, an employee, agent and/or servant of the Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall in Ontario and was parish priest at St. Columbians Church in Cornwall, Ontario.
 5. The Defendant Bishop Adolphe Proulx (hereinafter referred to as "Proulx"), was the Bishop of the Roman Catholic Church for the Diocese of Alexandria-Cornwall in Ontario between 1966 and 1974. At all material times Proulx was the chief official of the Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall in Ontario, and the supervisor of MacDonald.
 6. The Defendant the Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall in Ontario (hereinafter referred to as "the Diocese"), was the employer and/or principal of MacDonald at all material times.

7. During his childhood, J.M. resided with his family in the City of Cornwall. In or about the year 1969, at the age of 11, J.M. became an altar boy at St. Columbans Church under the care and control of MacDonald.
8. The Defendant MacDonald sexually, emotionally and mentally abused, assaulted and traumatized J.M., thereby sexually assaulting, child abusing and intentionally inflicting mental suffering upon him.
9. The Defendant MacDonald's abuse of J.M. occurred over a prolonged period of time, on an irregular and infrequent basis. The abuse commenced when the Plaintiff was approximately eleven years of age and continued until he was approximately thirteen years of age. This abuse occurred at various locations including at a Church retreat in St. Andrews, Ontario, at the home of Bishop Proulx in Alexandria, Ontario and at an unknown location in the countryside near Cornwall, Ontario.
10. The Defendant MacDonald's abuse of J.M. grew progressively worse as time passed. The initial incident involved the fondling of J.M. through his clothing with his hands. This occurred at the Church Retreat in St. Andrews, Ontario. The second incident occurred in the fall of 1971 at the home of Bishop Proulx in Alexandria, Ontario. On that occasion, the Defendant MacDonald forced the Plaintiff to masturbate him. Finally, the abuse culminated in an incident when J.M. was taken to a remote location in the country at which point MacDonald attempted to force the Plaintiff to perform fellatio upon him. The Plaintiff resisted, however, MacDonald forced the Plaintiff to masturbate him on this incident. During each incident of abuse MacDonald would laugh.
11. The Defendant MacDonald was able to perpetuate the continuation of the sexual abuse over a prolonged period of time through the imposition of threats, promises

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9. The Defendant MacDonald's abuse of J.M. occurred over a prolonged period of time, on an irregular and infrequent basis. The abuse commenced when the Plaintiff was approximately eleven years of age and continued until he was approximately thirteen years of age. This abuse occurred at various locations including at a Church retreat in St. Andrews, Ontario, at the home of Bishop Proulx in Alexandria, Ontario and at an unknown location in the countryside near Cornwall, Ontario.
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and inducements made to J.M. and by virtue of his position as the parish priest. This condition instilled in J.M. the feeling of fear, guilt and shame.

12. The Defendant MacDonald's conduct and actions in the circumstances caused J.M. to develop certain psychological mechanisms in order to survive the horror of the sexual abuse. These mechanisms included denial, repression, dissociation, anger, rebellion and an alienation from his family members. Eventually J.M. became addicted to drugs and alcohol, and dropped out of school.
13. The conduct of the Defendant MacDonald was intentional, malicious and was done with the knowledge that it would cause J.M. to suffer humiliation, indignity, physical, emotional and mental distress and injury. Further, the conduct of the Defendant MacDonald was done with the knowledge that J.M.'s emotional and physical anguish would increase and was done with wanton, careless and wilful disregard for the consequences to J.M..
14. In the alternative the Plaintiff states that the Defendant MacDonald was negligent in his conduct towards J.M. He owed J.M. a duty of care and his conduct fell well below the standard of care owed. The Defendant MacDonald knew or ought to have known that his sexual abuse of J.M. would cause him to suffer humiliation, indignity, physical, emotional and mental distress and injury and that this emotional and physical anguish would increase.
15. The conduct of the Defendant MacDonald was harsh, vindictive, malicious and reprehensible. Such conduct is offensive to the ordinary standards of decent conduct in the community and is conduct which ought to be deterred and is deserving of full condemnation and punishment.

16. The Defendant MacDonald owed a fiduciary duty towards J.M. as a person in a position of trust to him as a child. He breached this duty to properly care for, protect and minister to the child by his repeated acts of sexual abuse.
17. The Defendants Proulx and the Diocese, at all times material to this action, knew or ought to have known of the sexual, mental and emotional abuse inflicted upon J.M. by the Defendant MacDonald. The Plaintiff states that the Defendants Proulx and the Diocese were negligent in failing to render assistance or to protect him. In fact, one incident of abuse took place at the home of Proulx. These Defendants Proulx and the Diocese owed J.M. a duty of care and their conduct fell well below the standard of care owed, thereby increasing and adding to the length and intensity of the sexual and mental abuse and distress suffered by D.S..
18. The Defendant Diocese owed a fiduciary duty towards J.M. as an institution in a position of trust to him as a child. Many of the incidents of abuse took place on at or immediately following Church activities and on Church property and, accordingly, the Defendant Proulx was negligent in his supervision of the activities of MacDonald.
19. The Plaintiff states that Diocese is vicariously liable for the sexual assaults committed against him by it's priest the Defendant MacDonald.
20. The Plaintiff states that the acts of sexual abuse committed against him by the Defendant MacDonald were perpetrated and prolonged by virtue of the negligence of Proulx and the Diocese. These Defendants knew or ought to have known that the sexual abuse was occurring, and failed to render assistance or to protect D.S.. The particulars of the negligence are as follows:
 - (a) they failed to take adequate safeguards to ensure that the corporation's employees were not a danger to children in its churches;

- (b) they failed to properly supervise and monitor the activities of employees;
- (c) they failed to properly supervise and monitor church property and buildings;
and
- (d) they failed to warn the Plaintiff of dangers which they knew or ought to have known existed on church property.

21. As a result of the assaults upon him, the Plaintiff's childhood innocence, physical safety, integrity and mental well-being have been irreparably damaged and, J.M. has been left emotionally and mentally scarred. J.M. has suffered and will continue to suffer damages and consequences of the abuse, including, but not limited to:

- (a) loss of a healthy childhood development;
- (b) alienation from parents and other family members;
- (c) difficulty in developing meaningful and healthy relationships and maintaining a marriage;
- (d) inability to trust other individuals and a distrust and disrespect for authority which led the Plaintiff to become addicted to narcotics and alcohol for an extended period of time;
- (e) emotional and mental distress;
- (f) low self-esteem;
- (g) major depression;

- (h) low sense of self-worth;
 - (j) experiencing blackouts;
 - (k) difficulty sleeping;
 - (l) inability to concentrate;
 - (m) inability to pursue education and achieve career potential; and
 - (n) drastic weight loss.
22. As a consequence of these experiences J.M. will be put to medical expense and will continue to require therapy and medical attention.
23. J.M. has lost potential income as a result of not pursuing his education and not attaining his career potential as well as being convicted of numerous criminal offences and being imprisoned.
24. As against all Defendants, the Plaintiff pleads and relies upon the common law, the law of equity, and the Child Welfare Act, S.O. 1965, c.14, as amended.
25. The Plaintiff states that the conduct of the Defendants constitutes a wanton disregard of his rights which entitles him to an order for punitive damages.
26. The Plaintiff proposes that this action be tried at the City of Ottawa in the Regional Municipality of Ottawa-Carleton.

Dated: September 27, 1995

FREDERICK COGAN & ASSOCIATES
Bank Street Chambers
102 Bank Street
Ottawa, Ontario
K1P 5N4

Bryce V. Geoffrey
(613) 237-4000

Solicitors for the Plaintiff

J.M.

Plaintiff

- and -

FATHER CHARLES MacDONALD, et al.

Defendants

Court File No.

ONTARIO COURT (GENERAL DIVISION)
Proceedings commenced in Ottawa

STATEMENT OF CLAIM

FREDERICK COGAN & ASSOCIATES
102 Bank Street
Ottawa, Ontario
K1P 5N4

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Bryce V. Geoffrey
Solicitor for the Plaintiff