

Court File No. 5615/10

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:



Plaintiff

-and-

**THE ROMAN CATHOLIC EPISCOPAL CORPORATION FOR  
THE DIOCESE OF TORONTO, IN CANADA**

Defendant

**STATEMENT OF CLAIM**

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. 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 Plaintiffs' lawyer or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claims 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 service 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 serve 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 FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. 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.

Date: MARCH 31, 2010 Issued by T. BAKER PER C. BAWKS.  
Registrar,  
Superior Court of Justice  
Civil  
Durham Region Courthouse  
150 Bond Street East  
OSHAWA, ONTARIO  
L1G 0A2

TO: **The Roman Catholic Episcopal Corporation  
for the Diocese of Toronto, in Canada**  
Office of the Archbishop  
Catholic Pastoral Centre  
1155 Yonge Street  
Toronto, Ontario  
M4T 1W2

## CLAIM

### The plaintiff claims:

1. The plaintiff, [REDACTED] claims damages as follows:
  - (a) non-pecuniary damages for pain and suffering in the amount of \$300,000.00;
  - (b) past and future pecuniary damages estimated in the amount of \$1,000,000.00;
  - (c) special damages in the amount of \$100,000.00;
  - (d) damages for mental distress in the amount of \$100,000.00;
  - (e) aggravated damages in the amount of \$50,000.00;
  - (f) punitive and exemplary damages in the amount of \$1,000,000.00;
  - (g) pre-judgment and post-judgment interest on the above-noted amounts pursuant to the terms and provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
  - (h) his costs of this action on a substantial indemnity basis;
  - (i) an Order for the sealing and/or non-publication of the Plaintiff's name in this proceeding, pursuant to Section 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;

and

- (j) such further and other relief as this Honourable Court may deem just.

**Parties:**

2. The plaintiff, [REDACTED] (the "Plaintiff"), was born [REDACTED] and presently resides in the [REDACTED]
3. The Plaintiff was at all material times a member of the Roman Catholic Church through the Roman Catholic Episcopal Corporation for the Diocese of Toronto, in Canada (the "Archdiocese"). Specifically, the Plaintiff was a member of St. Philip the Apostle Parish ("St. Philip's") located in Oshawa, Ontario.
4. The defendant Archdiocese is an archdiocese of the Roman Catholic Church charged with the administration of parishes of the Roman Catholic Church within its geographical jurisdiction. The Archdiocese's head office is located in the City of Toronto in the Province of Ontario.
5. The Archdiocese, during all material times had the following purposes and responsibilities:
  - (a) the establishment and maintenance of a uniform set of

rules and principles that collectively define the ideology of the Roman Catholic religion;

- (b) the establishment of churches and schools to teach and inculcate these rules and principles in its members; and
- (c) the recruitment, selection and training of priests to carry out its purposes.

6. The Archdiocese had a duty of care to its parishioners owing to the close proximity of its priests to the lives of the parishioners as well as the level of trust and faith that the parishioners and others extended to the Archdiocese, its priests and employees.

7. The perpetrator, Father Joseph E. Lawlor ("Lawlor"), now deceased, was during all material times a priest of the Roman Catholic Church and was employed by the Archdiocese. Lawlor was also for part of the material time a parish priest at St. Philip's, following which he was the parish priest at St. Paul's Catholic Church located in the town of Alliston, Ontario ("St. Paul's"). Lawlor also owed a duty of care to the Plaintiff.

#### **The Actions of Lawlor:**

8. In 1946, Lawlor was ordained to the priesthood by the Archdiocese following its recruitment, selection and training of him. Throughout his career



he worked in the Archdiocese.

9. In or about 1973, the Plaintiff met Lawlor through St. Philip's, at which he and his family attended regularly and were members.

10. Lawlor engaged in activities with the Plaintiff in his capacity as a priest, counselling him in religion, Catholic education and other matters. His activities included providing spiritual guidance, hearing confessions and conducting mass. The Plaintiff was an altar server at St. Philip's, and later St. Paul's, under the tutelage of Lawlor.

11. Through his position as a priest and representative of the Archdiocese, Lawlor was to the Plaintiff the ultimate ecclesiastical authority.

12. Lawlor used his position as a priest serving the Archdiocese, which was a position of authority and trust, to develop a close personal relationship with the Plaintiff when he was young. The relationship that Lawlor developed with the Plaintiff, under the guise of a priest-parishioner relationship, allowed Lawlor an opportunity to be alone with the Plaintiff and to exert total control over him, prey upon him and sexually abuse him.

13. Commencing in or about 1974, when the Plaintiff was approximately

eight years old, Lawlor sexually abused, assaulted and molested the Plaintiff, exposed him to prurient sexual behaviour, and encouraged him to engage in deviant and prurient sexual behaviour. The particulars of same include, but are not limited to the following:

- (a) exposing his naked body to the Plaintiff;
- (b) encouraging the Plaintiff to expose his own naked body to Lawlor;
- (c) exposing the Plaintiff to pornography;
- (d) fondling the clothed body of the Plaintiff, including but not limited to his penis;
- (e) fondling the naked body of the Plaintiff, including but not limited to his penis;
- (f) masturbating the Plaintiff;
- (g) directing the Plaintiff to masturbate him;
- (h) directing the Plaintiff to provide him oral sex;
- (i) ejaculating in the mouth of the Plaintiff;
- (j) engaging group sexual activities with the Plaintiff;
- (k) in order to facilitate the abuse, Lawlor engaged in a pattern of behaviour intended to make the Plaintiff feel that he was special in the eyes of Lawlor, the Church and God; and
- (l) in order to facilitate the abuses Lawlor also engaged in a

pattern of behaviour which was intended to make the Plaintiff feel that his soul was in jeopardy.

14. The aforementioned behaviours occurred at Lawlor's cottage located on Bass Lake, Ontario.

15. The aforementioned behaviour was related to priest-parishioner activities.

16. Throughout the period of time that the aforementioned behaviour was occurring, Lawlor used his position of authority and trust, as well as the dependency relationship that he had fostered with the Plaintiff, to ensure that the Plaintiff did not tell anyone about the behaviours in which they had engaged. Lawlor continued to minister to the Plaintiff during this time, which included the hearing of his confessions and the provision of Mass.

17. Lawlor's behaviour constituted sexual abuse and assault. It was also a breach of the duty of care that he owed to the Plaintiff in that, *inter alia*, he did wilfully and/or negligently inflict pain and suffering, mental suffering, humiliation and degradation upon the Plaintiff, assaulted the Plaintiff and interfered with his normal upbringing and childhood solely for the purpose of his own gratification. It was also a breach of the fiduciary duty that he owed



to the Plaintiff.

**The Actions of the Archdiocese:**

18. The Archdiocese taught the Plaintiff as well as other members of the Catholic Church the following:

- (a) that the Roman Catholic Church is the one true religion and is the representation of God's true teachings on earth;
- (b) that the authority of the Roman Catholic Church is supreme;
- (c) that by following the rules, principles and ideologies of the Roman Catholic Church one will gain the right to go to Heaven and that by failing to follow same one will not go to Heaven and will go to Hell;
- (d) that parents must bring their children up in the ways of the Roman Catholic Church and that children must attend at Catholic schools so that they can be educated with respect to the ways of the Church;
- (e) that you must go to church at least once per week and attend Catholic schools where the rules, principles and ideologies of the Roman Catholic Church and religion are taught;

- (f) that the rule of God is supreme and that to disobey the rule of God is a mortal sin that will cause one to go to Hell;
- (g) that God's representation on earth and the teachings of God are done through priests;
- (h) that priests are the chosen representatives on earth of God and have special powers; and
- (i) that priests are to be viewed with special reverence, power, respect, honour and authority.

19. The Archdiocese employed Lawlor to carry out the purposes and teachings referred to above in dealing with the Plaintiff. It provided Lawlor with the opportunity and means to come into contact with the Plaintiff. It fostered a relationship between Lawlor and the Plaintiff. It provided Lawlor with a position of respect and trust that the Plaintiff was bound by the rules set out above to follow and honour. It provided Lawlor with access and control of the Church and its grounds, which further added to his position of power and respect.

20. The Plaintiff pleads that, at all material times, Lawlor was acting in the course of his duties as a priest of the Roman Catholic Church serving the Archdiocese and was using the aforementioned rules, principles and

ideologies to further his attempts to manipulate the Plaintiff and engage in deviant activities.

21. The Plaintiff pleads that the aforementioned rules, principles and ideologies of the Archdiocese created an opportunity for Lawlor to exert power and authority over the Plaintiff. This power and authority allowed Lawlor to engage in the aforementioned behaviours without resistance or question of the Plaintiff without risk of getting caught, and thereby put the Plaintiff at risk of being abused by Lawlor. This power and authority also afforded Lawlor an opportunity to foster a trusting relationship with the Plaintiff and to engage in the aforementioned behaviours for a considerable period of time without the risk of getting caught and thereby put the Plaintiff at risk of being abused by Lawlor.

22. As a result, the Archdiocese is vicariously responsible and liable for the actions of Lawlor.

23. The Plaintiff pleads that the Archdiocese was negligent and failed in its duty to the Plaintiff, the particulars of which are set out below:

- (a) it failed to recognize that a certain percentage of priests would become sexually deviant and would make sexual advances to children and young people;

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- (b) it failed to instruct priests in training and ordained priests about the possibilities of becoming sexually deviant and/or making advances to children and young people;
- (c) it failed to properly investigate Lawlor's background, character and psychological state prior to accepting him to serve in the Archdiocese;
- (d) it failed to document, discipline or expel Lawlor for his shortcomings;
- (e) it failed to follow its own internal policies in allowing Lawlor to serve in the Archdiocese;
- (f) it failed to warn Lawlor's immediate supervisors, parishioners, students and others who may come into contact with Lawlor with him of his difficulties;
- (g) it failed to educate members of the Roman Catholic Church about the possibilities of such deviant behaviours;
- (h) it failed to have any, or a proper, system of self-reporting, other-reporting or counselling in place for priests who engage in such behaviour;
- (i) it fostered a system, based on the rules, principles and ideologies of the church, in which deviant sexual practices were bound to develop among a percentage of the priests;

- (j) it fostered a system, based on the rules, principles and ideologies of the church, in particular, the rule that priests have absolute authority, whereby the reporting of such deviant sexual behaviour of a priest by its members would be considered to be "wrong";
- (k) it denied the existence, or alternatively was wilfully blind to the existence of the behaviours described herein;
- (l) it implemented and maintained a system that was designed to cover-up the existence of such behaviour if such behaviour was ever reported;
- (m) it failed to protect the Plaintiff from Lawlor when it knew or ought to have known that he was vulnerable to the attention and influence of Lawlor;
- (n) it failed to properly supervise, control and give guidance to its employee, Lawlor;
- (o) it failed to screen and/or monitor the character, sexual orientation and sexual activity of Lawlor;
- (p) it failed to warn the Plaintiff and others of the propensities of Lawlor;
- (q) it failed to remove Lawlor from his duties upon learning of allegations of sexual and other inappropriate conduct thereby leaving the Plaintiff exposed to Lawlor and his



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actions without protection;

- (r) it failed to protect the Plaintiff;
- (s) it failed to take steps to investigate the activities of Lawlor once it was fully aware of his shortcomings in an effort to locate and assist any victims; and
- (t) it failed to identify, counsel and assist the Plaintiff once it knew of Lawlor's prior behaviour.

24. In addition to, and in the alternative to, the above the Plaintiff pleads that the Archdiocese knew that Lawlor had the propensity to engage in such deviant behaviours and that he was, in fact, engaging in such deviant behaviour because of the following:

- (a) Lawlor's difficulties as a seminarian;
- (b) Lawlor's difficulties with alcohol;
- (c) Lawlor's difficulties with his sexuality;
- (d) the concerns of other clergy, parishioners, students and others;
- (e) the frequency with which the Plaintiff and other children and young people were involved with Lawlor;
- (f) the unusual interest that Lawlor took in young people and children, particularly the Plaintiff;
- (g) the duration of time in which the Plaintiff, other children

and young people spent regular time alone with Lawlor;

- (h) the fact that Lawlor was known to Diocese officials and others to take altar boys on overnight and extended trips to his cottage on Bass Lake, Ontario;
- (i) the fact that parents and others at Lawlor's previous postings had complained about his actions with young people; and
- (j) the fact that Lawlor would have, in accordance with the rules of the Roman Catholic Church, confessed about these deviant sexual behaviours (i.e. sins) from time to time to one or more of the other priests.

25. Despite its knowledge of same, the Archdiocese took no steps to stop the behaviour or to protect the Plaintiff and, instead, took steps to attempt to cover-up the behaviour.

26. In the alternative, if the Archdiocese did not have direct knowledge of the aforementioned behaviours, the Plaintiff pleads that the Archdiocese ought to have known about same because of the circumstances, as detailed above, surrounding the acts.

27. If the Archdiocese did not know of the aforementioned behaviour, it was

because of the existence of its own rules, principles and ideologies and its lack of due diligence in permitting Lawlor to minister in the Archdiocese that allowed Lawlor to conceal his activities and to cover up his deviant behaviour.

28. The Plaintiff pleads that the Archdiocese owed a special duty to the Plaintiff by virtue of their relationship with him to identify the Plaintiff and to counsel and render assistance to the Plaintiff once they became aware of the behaviour of Lawlor. Furthermore, they should have sought out other victims of Lawlor upon later learning of his misconduct.

29. The Archdiocese knew or ought to have known that Lawlor had engaged in deviant behaviour while ministering and failed to investigate such. In failing to investigate and identify any past failings of Lawlor it also failed to identify any victims who may have been in need of counselling, assistance and support because of the actions of Lawlor. Such assistance would be necessary in order to minimize the consequences of Lawlor's actions and the effect of same on the Plaintiff. It has failed, to this day, to investigate the extent of Lawlor's past behaviour and has failed to render any assistance to the Plaintiff, contrary to its own internal policies and the policies of the Canadian Catholic Conference of Bishops.

30. The Plaintiff states that the relationship between him, the Archdiocese

and Lawlor commenced when the Plaintiff was a child and, as such, the defendants owed to the Plaintiff a high duty and standard of care and, in particular, a duty to protect him from harm by its employees (i.e. priests) and specifically sexual abuse. The Archdiocese also breached the fiduciary duty that it owed to the Plaintiff.

31. The Plaintiff says that the Archdiocese, for the aforementioned reasons, failed in its duty of care to him and was thereby negligent.

**Damages:**

32. The Plaintiff states, and the fact is, that as a direct result of the behaviour of the defendants he has suffered damages and losses the particulars of which are as follows:

- (a) aggression, anger and rage;
- (b) depression and anxiety;
- (c) difficulties with interpersonal relationships and repeated failed romantic relationships;
- (d) distrust of authority figures;
- (e) emotional sensitivity;
- (f) hyper-vigilance;
- (g) impairment of his ability and opportunity to obtain and complete an education appropriate to his abilities/aptitude;
- (h) impairment of his ability to earn an income and support himself and time off work due to emotional trauma;

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- (i) impairment of his mental health and emotional well being;
- (j) inability to develop and engage in normal human relations, including difficulty in establishing relationships of intimacy;
- (k) lack of trust in others and resultant isolation from society;
- (l) loss of an interdependent relationship;
- (m) loss of faith;
- (n) mental anguish;
- (o) severe disruption of his relationship with his family;
- (p) shame, guilt, low self-esteem and feelings of worthlessness;
- (q) sleep disturbance, including nightmares and "flashbacks"; and
- (r) symptoms of post-traumatic stress disorder.

33. The Plaintiff has suffered and will continue to suffer physical, emotional and mental pain and suffering and a loss of enjoyment of life. The Plaintiff was deprived of a normal healthy childhood and adolescence as a result of the actions or inactions of the defendants. The life of the Plaintiff was fundamentally and forever changed by the above-noted behaviour.

34. The family of the Plaintiff has been adversely affected as a result of the shame, embarrassment and guilt caused to them as a result of the actions of the defendants.



35. The Plaintiff was so profoundly negatively affected by these behaviours and activities that he spent many of the formative years of his life struggling to deal with the physical, mental, psychological and emotional sequelae of these events. The Plaintiff has suffered the following:

- (a) severe abuse of alcohol;
- (b) a propensity to engage in reckless and careless behaviour;
- (c) compulsive behaviour;
- (d) failure/drop-out of school;
- (e) mistrust of authority figures;
- (f) nervous shock, humiliation, degradation;
- (g) poor performance in school;
- (h) self-loathing;
- (i) lack of self-confidence; and
- (j) suicidal ideation, suicidal thoughts and attempts.

36. The Plaintiff has suffered a tremendous loss of enjoyment of life and ongoing pain and suffering. His ability to carry on a normal life has been extinguished or impaired.

37. The Plaintiff has suffered physical, mental, psychological and emotional stress, shock and suffering that will continue forever.

38. The Plaintiff is required to undergo medical treatment and psychological counselling and will continue to require same indefinitely throughout his lifetime.

39. The Plaintiff has sustained out-of-pocket expenses, the particulars of which will be provided prior to the trial of the within action.

40. The Plaintiff has suffered and will continue to suffer economic losses, including, past income loss, future and ongoing income loss, and various other out-of-pocket expenses, the particulars of which will be provided.

41. The Plaintiff pleads that the conduct of Lawlor described herein was harsh, high-handed, and malicious and, as such, should be punished with aggravated and/or punitive damages, for which the Archdiocese is vicariously liable.

42. The Plaintiff further pleads that the conduct of the Archdiocese described herein was harsh, high-handed, and malicious and, as such, should be punished with aggravated and/or punitive damages, including but not limited to:

- (a) failing to appropriately react to reports of Lawlor's sexual

misconduct and instead transferring him to new postings where further unsuspecting victims awaited;

- (b) consciously and deliberately suppressing information concerning his sexual misconduct in an effort to protect the reputations of the Archdiocese over the safety of children; and
- (c) promoting a culture of secrecy with respect to the sexual misconduct of clergy which was intended to benefit the Archdiocese rather than stop the misconduct or assist the victims.

43. The Plaintiff has only recently been able to face these effects and still to this day has not fully realized the extent of his victimization. The Plaintiff became sufficiently capable of appreciating the impact of the abuse and related events in mid-2008. The Plaintiff relies upon the discoverability rule and the doctrine of fraudulent concealment. The parties were in a special relationship with each other, and given that relationship the defendants' abovementioned actions amount to an unconscionable thing and the effect of the defendants' conduct has given rise to a concealment of the cause of action.

44. The Plaintiff claims, in the alternative to damages, compensation for the

above losses.

45. The Plaintiff relies on the *Criminal Code of Canada*, R.S.C. 1985, c. C-46, the *Negligence Act*, R.S.O. 1990, c. N.1, as amended, the *Victims Bill of Rights*, 1995, S.O. 1995, c.6, and the *Limitations Act 2002*, S.O. 2002, c.24 Schedule B, the *Occupiers' Liability Act*, R.S.O. 1990, c. O.2, and any and all predecessor legislation.

46. The Plaintiff also relies upon the 1917 Code of Canon law and the 1983 Code of Canon Law and related canonical and papal pronouncements as the internal policies and procedures of the Archdioceses and the Order.

47. The Plaintiff proposes that this action be tried in the City of Oshawa in the Province of Ontario.

Date of Issue: *MARCH 31, 2010*

P. M. LEDROIT (LSUC#12470Q)  
DALLAS J. LEE (LSUC# 50625M)  
Ledroit Beckett  
Litigation Lawyers  
630 Richmond Street  
LONDON, ON N6A 3G6

Tel: (519) 673-4994  
Fax: (519) 432-1660

Solicitors for the Plaintiff

- and -

THE DIOCESE OF TORONTO CANADA

Court File No.

66151/10

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Oshawa

STATEMENT OF CLAIM

LEDROIT BECKETT  
Litigation Lawyers  
630 Richmond Street  
London ON N6A 3G6

D.J.Lee (LSUC #50625M)

Tel: (519) 673-4994

Fax: (519) 432-1660

E-Mail: dlee@ledroitbeckett.com

Solicitors for the Plaintiff