

Doe v Roman Catholic Archdiocese of N.Y.

2023 NY Slip Op 33333(U)

September 26, 2023

Supreme Court, New York County

Docket Number: Index No. 950037/2020

Judge: Sabrina Kraus

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. SABRINA KRAUS **PART** **57TR**

Justice

-----X

AL DOE, JOHN DOE

Plaintiff,

- v -

ROMAN CATHOLIC ARCHDIOCESE OF NEW YORK,
SACRED HEART CHURCH,

Defendant.

-----X

INDEX NO. 950037/2020

MOTION DATE 02/14/2022

MOTION SEQ. NO. 002

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 002) 33, 34, 35, 36, 37, 38, 39, 43, 44, 45

were read on this motion to/for SEVER.

BACKGROUND

Plaintiffs commenced this action under the Child Victims Act seeking damages for sexual abuse they allege they suffered by Father Edward Pipala. The Roman Catholic Archdiocese Of New York (“Archdiocese”) moves for an order severing the claims of the two Plaintiffs. For the reasons set forth below, the motion is denied.

ALLEGED FACTS

The following facts are alleged in the complaint.

In 1966, Father Edward Pipala (“Pipala”) was ordained as a Roman Catholic priest by St. Joseph’s Seminary in Yonkers, New York. Pipala served at numerous Roman Catholic parishes and performed numerous assignments on behalf of Defendants between 1966 and 1992.

From 1966 through 1975, Pipala worked for the Archdiocese at Cardinal Hayes High School in Bronx, New York. From 1975 through 1977, Pipala worked for the Archdiocese at Moore Catholic High School, Staten Island, New York.

The complaint alleges that, while father Pipala was teaching in Staten Island at Moore Catholic High School, one or more minor students made formal sex abuse complaints against him, and that in response the Archdiocese sent Pipala for psychological counseling.

In 1977, Father Pipala worked for the Archdiocese as a priest in residence at St. Margaret Mary in New York, New York, and, the Archdiocese learned that Pipala was sexually abusing children when a parent informed Church officials that Pipala had sexually abused her minor son. The complaining mother insisted to the Archdiocese that it permanently remove Pipala from any position in the Church where he would have access to children, and the Archdiocese assented verbally to that demand. According to an internal Archdiocese memorandum, the Archdiocese promised the complaining teenage boy's family that Father Pipala "would not work with children."

The Archdiocese then reassigned Pipala, from 1977 through 1981, to St. Joseph's in Croton Falls, New York. Pipala was next assigned to Plaintiffs' home parish of Sacred Heart Church in Monroe, New York from 1981 through 1988. He was also placed in charge of the parish's youth ministry, which give him access to a multitude of minor children, including both Plaintiffs.

Plaintiffs each came to know Pipala as their priest and/or counselor.

In approximately 1984, when Plaintiff Al Doe was approximately thirteen-years-old, Pipala, began to engage in unpermitted and harmful sexual contact with Plaintiff Al Doe.

In approximately 1986, when Plaintiff John Doe was approximately fourteen-years-old, Pipala, began to engage in unpermitted and harmful sexual contact with Plaintiff John Doe.

Pipala used his position as a priest to convince the parents of Plaintiffs to entrust their sons to him as they spent time at the rectory and Church where they were assaulted and sexually abused by Pipala.

While at Defendant Sacred Heart's parish, Pipala organized a secret and deviant adult-child sex club called "The Hole". As part of The Hole Club, Pipala provided alcohol to young boys, shared pornographic materials with young boys, encouraged the young boys to drink and smoke in the rectory, engaged in various sordid sexual acts with the young boys, and took numerous young boys on trips to a condo in Seaside Heights, New Jersey.

The complaint further alleges that Al Doe was sexually abused by Pipala on approximately one-hundred and fifty (150) occasions (or more), from approximately 1984 through 1988, and that from 1986 to 1991, Pipala sexually abused John Doe on approximately two-hundred occasions. Both Plaintiffs assert that such sexual assaults took place, *inter alia*, on Sacred Heart premises, including in the Church basement and the rectory, as well as at a Seaside Heights, New Jersey condominium to which Pipala often brought young boys for overnight visits.

DISCUSSION

According to CPLR §603, a court may, in furtherance of convenience or to avoid prejudice, order a severance of claims or issues in an action. The decision of whether or not to sever claims or issues is one that rests soundly within the discretion of the trial court, and on appeal, will be affirmed absent a demonstration of abuse of discretion or prejudice to a

substantial right. *See Radiology Resource Network v. Fireman Fund Insurance Comp.*, 784 N.Y.S.2d 101, 102 (1st Dept, 2004).

Orders for severance or separate trial create tension with the general policy underlying CPLR 601, 602, 1002, and 1007, which encourages liberal joinder of claims and parties. The joinder tools promote efficiency and economy and, with respect to related claims, help avoid inconsistent results. [N.Y. C.P.L.R. 603 (McKinney)].

The continued consolidation of Plaintiff's claims will further the interests of justice, judicial economy, and convenience, and will minimize the costs incurred by each party in prosecuting and/or defending these claims. The severance of Plaintiffs' claims, as requested by Defendant Archdiocese would require two trials where there are many overlapping and common legal and factual issues.

The First Department has held in a similar situation that:

The motion court providently exercised its discretion in denying defendants' application for severance (*see Geneva Temps, Inc. v New World Communities, Inc.*, 24 AD3d 332, 334 [1st Dept 2005]). Plaintiffs' claims share a “ ‘common nucleus of facts’ ” sufficient to warrant a joint trial (*Vecciarelli v King Pharms., Inc.*, 71 AD3d 595, 596 [1st Dept 2010], quoting *Sichel v Community Synagogue*, 256 AD2d 276, 276 [1st Dept 1998]).

Defendants have not shown that a joint trial will result in prejudice to a substantial right (*see Vecciarelli*, 71 AD3d at 596). Indeed, the trial court will have discretion to address any potential danger of “guilt by association” by appropriate curative instructions (*see Pierre-Louis v DeLonghi Am., Inc.*, 66 AD3d 855, 856 [2d Dept 2009]).

Cason v. Deutsche Bank Grp., 106 A.D.3d 533 (2013).

The court finds in this action that there exists a sufficient common nucleus of facts to warrant keeping these claims together and that judicial economy will also be served in this regard.

Based on the foregoing, the motion is denied in its entirety.

WHEREFORE it is hereby:

ORDERED that the motion is denied in its entirety; and it is further


ORDERED that, within 20 days from entry of this order, Plaintiffs 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); 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); and it is further

ORDERED that the parties appear for a First Virtual Compliance Conference on November 8, 2023 at 11:00 am; and it is further

ORDERED that any relief not expressly addressed has nonetheless been considered and is hereby denied; and it is further

ORDERED that this constitutes the decision and order of this court.

202309261123445BKRAUS350644ACC3734F88854AB9077BC1F5F2


9/26/2023
DATE

SABRINA KRAUS, J.S.C.

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	DENIED
<input type="checkbox"/>	GRANTED		
<input type="checkbox"/>	SETTLE ORDER		
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	<input type="checkbox"/>	OTHER
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/>	REFERENCE
<input type="checkbox"/>	SUBMIT ORDER		
<input type="checkbox"/>	FIDUCIARY APPOINTMENT		

APPLICATION:

CHECK IF APPROPRIATE: