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STATE OF MICHIGAN
IN THE SUPREME COURT

BRIAN McLAIN,

Plaintiff-Appellant,

v.

THE ROMAN CATHOLIC DIOCESE OF LANSING

Defendant-Appellee,

and

THE ROMAN CATHOLIC ARCHDIOCESE OF BALTIMORE, and RICHARD LOBERT,

Defendants.

MSC No.

COA No. 360163

Livingston County Circuit Court
Circuit Case No. 21-31108-NO

Filed under AO 2019-6

Plaintiff's Application for Leave to Appeal

-Oral Argument Requested-

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Date: June 8, 2023

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ORDER APPEALED FROM AND NEED FOR REVIEW

This cause of action arises out of a Catholic priest's sexual assault of a minor in 1999 and involves a determination of whether the subsequent lawsuit, filed in 2021, was timely pursuant to MCL 600.5851b(1)(b). That statute, which was enacted in 2018 in the midst of the Larry Nasser sexual assault revelations, modified the statute of limitations for, among others, individuals who were minors when they were victims of sexual assault. Specifically, the portion of the statute at issue in this case provides that:

> (1) Notwithstanding sections 5805 and 5851, an individual who, while a minor, is the victim of criminal sexual conduct may commence an action to recover damages sustained because of the criminal sexual conduct at any time before whichever of the following is later:
>
> (a) The individual reaches the age of 28 years.
>
> (b) Three years after the date the individual discovers, or through the exercise of reasonable diligence should have discovered, both the individual's injury and the causal relationship between the injury and the criminal sexual conduct.

In November 2020, Plaintiff first revealed the sexual assault, perpetrated by Fr. Richard Lobert, to a treating therapist. Subsequently, Plaintiff discovered that numerous conditions he had experienced in the years following the sexual assault, including anxiety, adjustment disorder and bipolar disorder, were caused by Lobert's criminal acts. Within six months of that discovery, Plaintiff filed this cause of action in April 2021 in Livingston Circuit Court.

Defendants moved for summary disposition in circuit court and contended that Plaintiff's cause of action was not timely filed.[1]

[1] Defendant Archdiocese of Baltimore also presented a jurisdictional argument which was not addressed in the Court of Appeals and is thus not at issue in this application.

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Defendants argued that in order for Plaintiff's complaint to be deemed timely, the court would have to retroactively apply MCL 600.5851b(1)(b), and that retroactive application was improper under the text of the statute and the applicable jurisprudence.

Plaintiff opposed Defendant's motion and argued that it was not seeking a retroactive application of the statute. The statute in question was enacted in 2018 and provided that a cause of action was timely if it was brought within three years of the discovery of the connection between the claimed injury and the sexual assault. Because that connection did not occur in this case until 2020, two years after the statute's enactment, Plaintiff's cause of action was timely. In other words, the statute, by redefining that the cause of action had to be brought within three years of the victim discovering the connection between the assault and the injury, modified when such a cause of action accrued. Plaintiff further contended that even if it were construed as a retroactive application of the statute, such an application would be proper under both the statutory language and applicable case law.

The circuit court denied the motion for summary disposition and agreed that Plaintiff was not seeking a retroactive application of the statute, which will be discussed in further detail in the body of this application. Thereafter, Defendants filed their applications for leave to appeal to the Michigan Court of Appeals, which were granted on June 7, 2022.

Following oral argument, the Court of Appeals issued a published opinion which reversed the Circuit Court's denial of Defendants' motions for summary disposition. The Court of Appeals disagreed with Plaintiff's argument that the statute impacted when his cause of action accrued. The Court concluded that in order for Plaintiff's action to be deemed timely, the statute would have to be applied retroactively. The majority then applied the factors set forth in *LaFontaine Saline Inc. v Chrysler Group LLC,* 496 Mich 26, 38; 852 NW2d 78 (2014), and determined that those factors precluded a retroactive application. Notably, within its analysis, the Court of Appeals recognized that there were conflicting authorities relating to at least one of the LaFontaine prongs relating to the subject of whether the statute impacted a vested right of the defendant. The Court found that it was unnecessary to

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resolve that conflict in light of the other factors weighing against retroactive application. As a result, the Court held that Plaintiff's action was not timely filed and that summary disposition was improperly denied.

Plaintiff concurs with Defendant's statement of jurisdiction in that this Court granted the applications for leave to appeal in these consolidated cases by way of its June 7, 2022, order.

Plaintiff now timely files this application for leave to appeal. This Court should grant this application pursuant to the standard set forth in MCR 7.305(B)(3), as the issue presented in this application involves a legal principle of major significance to this State's jurisprudence. The question of whether the statute at issue applies retroactively, as well as the question of whether it modifies the accrual date in certain causes of action, could impact a significant number of sexual assault victims within our state. That the panel below expressed its own belief that there were conflicting authorities relating to how to apply the *LaFontaine* factors also demonstrates that there is a lack of clarity regarding retroactive application that does not just impact the statute involved here, but that will reemerge in future discussions of retroactivity.

The published decision in this case has already resulted in the dismissal of other actions. For example, after the Court of Appeals issued its opinion in this case, the Court of Appeals peremptorily reversed a denial of summary disposition in a similar case that was pending on application. *Kalafus v Gaborit*, unpublished order of the Court of Appeals, entered May 8, 2023 (Docket No. 363931). In that order, Judge Shapiro issued a concurring statement:

> I concur with my colleagues' decision to peremptorily reverse the trial court in light of this Court's recent decision in *McLain v Roman Catholic Diocese of Lansing*, ___ Mich App ___; ___ NW2d ___ (2023) (Docket Nos. 360163, 360173). While I do not agree with *McLain's* holding that MCL 600.5851b(1)(b) does not apply to claims that were time-barred before the statute's enactment, I am bound to follow it. MCR 7.215(C)(2), (J)(1). Were this issue

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> before me on plenary review, I would be willing to consider convening a conflict panel to further evaluate it. However, given the circumstances, I conclude that a grant of leave to appeal rather than peremptory reversal is likely to only delay timely review by the Supreme Court.

Thus, not only has the opinion in this case already impacted other cases, but there is already an expression of disagreement with this holding by an experienced judge of the Court of Appeals. If this Court were to deny this application for leave to appeal, there will only continue to be disagreements below that will not serve to the benefit of our courts, the legal community or the general public. It is far better for the questions in this application to be resolved by this Court promptly rather than farther down the line when even more sexual assault victims have had their cases improperly dismissed.

In passing MCL 600.5851b, the legislature took action to afford a remedy to sexual assault victims. The opinion from the Court of Appeals operates in contravention of that legislative intent and does so in a published opinion that will bind lower courts until this Court takes action. Sexual assault victims are entitled to clarity regarding when they are permitted to bring suit against their abusers. Both the Circuit Court in this case as well as Judge Shapiro and the Circuit Court in *Kalafus* interpreted this statutory authority differently than the panel below. There is a clear lack of consensus on this issue of first impression and there will continue to be until this Court reviews these significant issues.

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STATEMENT OF THE QUESTIONS INVOLVED

First Question:

Did the Court of Appeals err in reversing the denial of Defendant's motion for summary disposition upon concluding that Plaintiff's cause of action was timely filed?

Plaintiff-Appellee answers:	Yes.
Defendant-Appellant answers:	No.
The Court of Appeals answered:	No.
The trial court answered:	Yes.

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STATEMENT OF FACTS

This cause of action arises out of Father Richard Lobert's sexual assault of Plaintiff Brian McLain, which occurred in March of 1999. At issue in this appeal is whether the circuit court properly denied Defendant Roman Catholic Archdiocese of Baltimore's motion for summary disposition, which was filed prior to any discovery occurring. As such, this statement of facts is based only on the allegations within Plaintiff's complaint, which must be accepted as true at this stage.

Brian was a troubled youth who resided, for a period of time, at the Maxey Boys School. In approximately March 1999, when Brian was 16 years old, Richard Lobert, a priest ordained by the Archdiocese of Baltimore, and working as a priest at the Maxey Boys School for the Archdiocese of Detroit and Diocese of Lansing, sexually assaulted Brian by forcing him to perform masturbatory acts upon him. Brian was a minor at the time this sexual assault occurred. (App, pp 002a-003a.)

Brian developed numerous mental health conditions, including an anxiety disorder, adjustment disorder and bipolar disorder. In November 2020, Brian revealed that Fr. Lobert sexually assaulted him to his therapist. It was not until that revelation that Brian was able to connect the occurrence of that sexual abuse to the emotional and mental damages that the abuse caused, as well as to his need for psychotropic medications. (App, p 003a.)

After Plaintiff made the causal connection between the sexual assaults and his injuries, Plaintiff filed this cause of action, which asserts claims against Fr. Lobert, as well as the Roman Catholic Diocese of Lansing and the Roman Catholic Archdiocese of Baltimore. Specifically, Plaintiff alleged that Defendant Lobert was liable for his acts of sexual assault and that the Diocese of Lansing and Archdiocese of Baltimore were both vicariously liable for those tortious acts of their agent and that they committed their own independent acts of negligence relative to their hiring, training and supervision of Fr. Lobert. (App, pp 001a-007a.)

All Defendants ultimately moved for summary disposition on the basis of MCR 2.116(C)(7), arguing that Plaintiff's cause of action was

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barred by the applicable statute of limitations. Defendant asserted that Plaintiff's cause of action accrued in 1999 and that he had until 2002 to commence this action. Defendant further argued that Plaintiff was trying to rely on the newly enacted statute located at MCL 600.5851b (which set forth the applicable statute of limitations for certain claims arising out of sexual misconduct) but that the statute could not be used retroactively. (App, pp 015a-028a, 046a-066a.)

In contrast, Plaintiff responded in opposition to the motions and explained that pursuant to the newly enacted provision at MCL 600.5851b, Plaintiff had three years to bring this action from the time he discovered that his injuries were caused by the sexual assault. Thus, because that discovery occurred in November 2020, he had until November 2023 to commence this action, which rendered the complaint timely. Plaintiff explained that he was not seeking to have that statute applied retroactively, because he did not discover the connection between the assault and the claimed injuries until *after* that statute was enacted. Regarding Defendant's assertion that the Court lacked jurisdiction, Plaintiff produced documentary evidence (despite no discovery having yet occurred) which reflected that the Archdiocese issued a statement as recently as 2021 stating that Fr. Lobert was a "priest of the Archdiocese of Baltimore." Plaintiff contended that at this early stage, he had met his jurisdictional burden and that further discovery was proper on that issue. (App, pp 029a-045a, 067a-086a.)

The trial court held a brief hearing on the motion for summary disposition on December 9, 2021. At the hearing, the parties each stated that they had no arguments beyond those that were contained within their briefs. The Court then stated that it would be issuing a written opinion, which it did on January 13, 2022. In that opinion, the Court denied each motion for summary disposition, finding that Plaintiff's cause of action was timely filed. The Court reasoned that pursuant to MCL 600.5851b, the Plaintiff had three years from the date that he connected his sexual abuse to his injuries in order to bring this cause of action. Because that connection was not made until November 2020, Plaintiff's cause of action was not untimely when it was filed in April 2021. The Court rejected the argument that Plaintiff was trying to have that newly enacted statute retroactively applied, as the statute was

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enacted in 2018, which was *before* Plaintiff discovered the connection between the sexual assault and his injuries. Regarding the jurisdictional argument, the Court noted that while Defendant had produced an affidavit in support of its position, Plaintiff made a prima facie showing of jurisdiction at this early stage by producing his own evidence demonstrating that Fr. Lobert continued to be affiliated with the Archdiocese of Baltimore long after these events occurred. As a result, the Court held that it was proper to proceed to discovery regarding that issue. (App, pp 106a-116a.)

Following the denial of its motion for summary disposition, the Archdiocese of Baltimore filed its Application for Leave to Appeal, which the Court of Appeals subsequently granted by way of its June 7, 2022, order. As is described in further detail above, the Court of Appeals issued a published opinion reversing the denial of summary disposition on April 27, 2023. The Court concluded that Plaintiff's complaint could only be deemed timely if the Court decided it was proper to retroactively apply MCL 600.5851b. Upon discussing the *LaFontaine* factors, the Court held that retroactive application was improper. (App, pp 126a-134a.) Plaintiff now timely files his application for leave to appeal.

Further facts necessary to the resolution of the appeal may be included in the discussion section below.

LEGAL STANDARD

Defendants briought a Motion for Summary Disposition pursuant to MCR 2.116(C)(7). A party may support a motion under MCR 2.116(C)(7) by affidavits, depositions, admissions, or other documentary evidence; if such material is submitted and the substance or content of the supporting proofs are admissible in evidence, then it must be considered. *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817, 823 (1999). However, unlike a motion under subsection (C)(10), neither movant nor the responding party is required to file supportive material, and the opposing party need not reply with supportive material. Rather, the contents of the Complaint are accepted as true unless contradicted by documentation submitted by the movant. *Id*, citing *Patterson v Kleiman*, 447 Mich 429, 434, n 6; 526 NW2d 879 (1994). As such, "All well-pleaded allegations are accepted as true and construed in favor of

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the nonmoving party." *Smith v Kowalski*, 223 Mich App 610, 616; 567 NW2d 463 (1997).

ARGUMENT

I. The Court of Appeals erroneously determined that Plaintiff's cause of action was not timely filed, which operated in contravention of the legislature's intent

The Court of Appeals concluded that the trial court erred in denying Defendant's motion for summary disposition upon concluding that Plaintiff's cause of action was filed before the applicable statute of limitations expired. In *Lothian v City of Detroit*, 414 Mich 160, 164-167; 324 NW2d (1982), this Court summarized some of the policies supporting the application of the statute of limitations as follows:

> A statutory limitations period represents a legislative determination of that reasonable period of time that a claimant will be given in which to file an action. A statute of limitations is a statute of presumption. The fact of 'delay extending to the limit prescribed', without further proof, 'is itself a conclusive bar' to suit . . .
>
> ***
>
> Limitations periods created by statute are grounded in a number of worthy policy considerations. They encourage the prompt recovery of damages . . . ; they penalize plaintiffs who have not been industrious in pursuing their claims . . . ; they "afford security against stale demand when the circumstances would be unfavorable to a just examination and decision" . . . ; they relieve defendants of the prolonged fear of litigation . . . ; they prevent fraudulent claims from being asserted . . . ; and they "'remedy *** the general inconvenience resulting from delay in the assertion of a legal right which it is practicable to assert'" . . . . (citations omitted).

As stated in *Lothian*, the policy consideration for statute of limitations represents a "reasonable period of time that a claimant will be given in which to file an action." It also encourages "prompt recovery of damages . . . security against stale demand . . . [and] remedy the

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general inconvenience resulting from delay in the assertion of a legal right."

The dispute here starts with ascertaining which statute of limitations covers these allegations. Defendants assert that, pursuant to MCL 600.5805(2), Plaintiff was required to bring this cause of action within three years of the sexual assaults that occurred in 1999. That argument, however, requires this Court to disregard the statutory provision located at MCL 600.5851b(1), which states:

> (1) Notwithstanding sections 5805 and 5851, an individual who, while a minor, is the victim of criminal sexual conduct may commence an action to recover damages sustained because of the criminal sexual conduct at any time before whichever of the following is later:
>
> (a) The individual reaches the age of 28 years.
>
> (b) Three years after the date the individual discovers, or through the exercise of reasonable diligence should have discovered, both the individual's injury and the causal relationship between the injury and the criminal sexual conduct.

As the Supreme Court explained in *Nation v WDE Electric Co*, 454 Mich 489, 494; 563 NW2d 233 (1997) (citing *Hiltz v Phil's Quality Market,* 417 Mich 335, 343; 337 NW2d 237 (1983), "[i]n resolving disputed interpretations of statutory language, it is the function of a reviewing court to effectuate the legislative intent. If the language used is clear, then the Legislature must have intended the meaning it has plainly expressed, and the statute must be enforced as written."

Here, under the plain language of the above statute, Plaintiff's cause of action was timely filed. As is explained above, Fr. Lobert sexually assaulted Plaintiff, a minor, in 1999. However, it was not until November 2020 that Plaintiff revealed that sexual assault to his therapist. Then, following that disclosure and as a direct result of his continued work with that therapist, Plaintiff discovered that his abuse at the hands of Fr. Lobert was the cause of Plaintiff's adjustment

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disorder, anxiety, bipolar disorder and his need for psychotropic medication. Plaintiff's complaint thus explicitly states at ¶20 that "[u]ntil receiving the insights provided through counseling in November 2020 to the present, Plaintiff did not discover, nor through the exercise of reasonable diligence should he have discovered, both the psychological injuries he suffered and the causal relationship between his psychological injuries and the criminal sexual conduct of Defendant Fr. Richard Lobert."

MCL 600.5851b states that it applies "notwithstanding section[] 5805," which is the section upon which Defendant now relies. Defendant asserts that despite that clear and unambiguous statutory language, MCL 600.5851b cannot apply to the case at bar because that would amount to a retroactive application of the statute. The trial court, however, properly saw through that argument. This statute was enacted in 2018 and provides at subpart (b) that the time for filing an action does not begin to run until an injured party discovers his injury and the causal connection between that injury and the sexual misconduct. Here, that occurred in 2020, *after* the statute was enacted. If this were an instance where Plaintiff made those connections at some point *prior* to the statute's enactment and then tried to utilize the statute after the fact, Defendant would be correct in characterizing this as a request to retroactively apply a statute. That is not, however, what occurred. Instead, Plaintiff brought suit within three years of the accrual of this action.

For the reasons stated above, the Legislature manifested its intent to have MCL 600.5851b apply, and thus claims accrue, when the connection between the injury and sexual assault as a minor was made. It is not dependent on whether the sexual assault occurred before or after the passage of the statute. The Court of Appeals concluded differently, holding that there is no evidence that the legislature intended to modify the accrual dates of an action arising out of sexual assault. Yet, the plain language of the statute leaves no doubt that the legislature consciously incorporated a discovery element into the determination of when the time for filing an action would begin to run. The Court of Appeals erred in concluding otherwise and that error alone merits review by this Court.

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While Plaintiff believes the Court of Appeals erred in its rejection of Plaintiff's accrual argument, it is further evident that the Court of Appeals erred in analysis of the retroactivity of MCL 600.5851b. In *LaFontaine Saline Inc. v Chrysler Group LLC,* 496 Mich 26, 38; 852 NW2d 78 (2014), this Court decided that whether a statute should be applied "retroactively" depends on applying four factors (known in Michigan jurisprudence as the *LaFontaine* factors):

> First, we consider whether there is specific language providing for retroactive application. Second, in some situations, a statute is not regarded as operating retroactively merely because it relates to an antecedent event. Third, in determining retroactivity, we must keep in mind that retroactive laws impair vested rights acquired under existing laws or create new obligations or duties with respect to transactions or considerations already past. Finally, a remedial or procedural act not affecting vested rights may be given retroactive effect where the injury or claim is antecedent to the enactment of the statute.

The application of these factors was further reinforced by the *Buhl v City of Oak Park*, 507 Mich 236 (2021) decision. Thus, the *LaFontaine* factors must be analyzed to determine whether MCL 600.5851b is to be applied "retroactively."

The first *LaFontaine* factor to be considered is "whether there is specific language providing for retroactive application." In this regard, there is indeed specific language that shows that MCL 600.5851b was meant to apply "retroactively" and prospectively. Namely, the statute states that:

> an individual who, while a minor, is the victim of criminal sexual conduct may commence an action to recover damages sustained because of the criminal sexual conduct **at any time** before whichever of the following is later:
>
> (a) the individual reaches the age of 28 years;

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> (b) three years **after the date** the individual discovers, or through the exercise of reasonable diligence should have discovered, both the individual's injury and the causal relationship between the injury and the criminal sexual conduct." [emphasis added]

The words "at any time before whichever of the following is later" mean that the statute applies "***at any time***" either (a) or (b) is true, whichever is later. This is specific language showing an intent to have the statute apply both "retroactively" to sexual assaults that occurred before the effective date of the statute and prospectively to protect future minor victims of sexual abuse. Similarly, the legislature expressly stated that this provision was "notwithstanding" sections 5805 and 5851. In LaFontaine, this Court specifically identified the term "notwithstanding" as one that can be indicative of legislative intent for retroactive application. *LaFontaine*, 496 Mich 1t 39, n 30.

Defendant relies on *Davis v State Employees' Ret Bd*, 272 Mich App 151, 155; 725 NW2d 56, 60 (2006) for the proposition that statutes are only to be applied prospectively unless the legislature manifest a clear intent for retroactive application. However, Defendant fails to acknowledge that "our Supreme Court in *Lynch*, *id.* at 583-584, stated: The Legislature's intent to apply an amended statute retroactively can be express ***or implied***." *Davis* at 156 (citing *Thompson v Merritt*, 192 Mich App 412, 417 (1991). Again, MCL 600.5851b's only temporal considerations for bringing suit are whether the person does so before he/she becomes 28 years old, or within three years of when he/she made the causal connection between his/her injury and the sexual assault. Had the Legislature intended the application of MCL 600.5851b to depend on when the sexual assault occurred, it would have expressed that.

In his briefing below, Plaintiff asserted that the second *LaFontaine* factor, much like in *Buhl*, is not applicable to the current case because it does not pertain to a specific antecedent event. The Court of Appeals agreed with that assessment, noting that the undersigned counsel changed his argument during oral argument based on a misunderstanding regarding the meaning of the second factor. Frankly, Plaintiff remains unclear on when the second factor does and does not

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apply. This Court's recent opinion in *Buhl* does not expound on that prong. Granting the application in this case would allow for further opportunity to clarify the LaFontaine factors.

Regarding the third *LaFontaine* factor, whether the retroactivity would "impair vested rights acquired under existing laws or create new obligations or duties with respect to transactions or considerations already past," Plaintiff respectfully submits that no vested right of Defendant is involved in this case. In *Buhl*, the Court found that MCL 691.1402a(5) should not be read retroactively to apply to plaintiff's case because:

> the subsequent application of the open and obvious danger doctrine would result in the dismissal of plaintiff's lawsuit because retroactive application would relieve defendant of the legal duty it owed to plaintiff at the time the injury occurred. In other words, because plaintiff's claim had already accrued on the day she was injured, the retroactive application of MCL 691.1402a(5) would effectively rewrite history as to the duty defendant owed plaintiff by absolving defendant of its duty . . . ."

In Brian McLain's case, Defendants have no "vested right" that would be impaired by "retroactive" effect of MCL 600.5851b. Prior to MCL 600.5851b being enacted, it was still illegal to sexually assault a minor in Michigan. Thus, a defendant still had the duty to refrain from sexually assaulting a minor, and corporate/organizational defendants would still have the duty to supervise and monitor their employees/agents/representatives to prevent them from sexually assaulting minors. MCL 600.5851b does not change this duty. It merely prescribes an alternate time in which a claimant can make a claim due to the breach of duty, causation, and resulting damages committed or caused by offending defendants. Furthermore, there is no "duty with respect to transactions or considerations," as there was no contractual agreement between Lobert and McLain allowing for this sexual assault to occur. Defendants argue that "each Defendant had the vested right to believe no negligence claim could be sustained regarding 1999 acts or omissions," Michigan law has expressly rejected that notion. "The right to defeat a claim by interposing a statute of limitations **is not a vested**

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right." *Bessmertnaja v Schwager*, 191 Mich App 151, 154 (1991). [emphasis added]. Defendants' claim that they had a right to rely upon the previous statute of limitations in this case is clearly erroneous. Notably, the Court of Appeals concluded that there was a conflict between *Bessmertnaja* and *Gorte v Dep't of Transp*, 202 Mich App 161, 167; 507 NW2d 797 (1993), which the Court determined that it did not need to resolve. Again, granting this application would allow this Court to resolve that conflict, to the degree that it believes it necessary to resolve these issues.

The fourth *LaFontaine* factor also favors Plaintiff: "finally, a remedial or procedural act not affecting vested rights may be given retroactive effect where the injury or claim is antecedent to the enactment of the statute." Defendants' assertions fail in two regards. Applying the plain language of MCL 600.5851b, the claim accrued when Brian McLain connected the causal relationship between his mental health illnesses and the sexual assault suffered by Father Lobert. This was **after** the enactment of MCL 600.5851b, and thus the claim "is [not] antecedent to the enactment of the statute." Therefore, the analysis of whether MCL 600.5851b should be applied retroactively is moot. However, even if one bases the accrual upon the date of the injury, the fourth *LaFontaine* factor nonetheless supports Brian McLain's claim, as the act does not affect the vested rights of the parties. The core duties that defendants owed Brian McLain are completely unchanged by MCL 600.5851b. Moreover, "the right to defeat a claim by interposing a statute of limitations is not a vested right." *Bessmertnaja v Schwager*, 191 Mich App 151, 154 (1991).

There is a "well-established rule that remedial statutes are to be liberally construed to suppress the evil and advance the remedy." *Eide v Kelsey-Hayes Co*, 431 Mich 26, 34; 427 NW2d 488 (1988). "Generally, remedial statutes are those which provide a remedy . . . for the enforcement of rights and the redress of injuries. They also include statutes intended for the correction of defects, mistakes and omissions in the civil institutions and the administration of the state." *White v Gen Motors Corp*, 431 Mich 387, 396-397; 429 NW2d 576 (1988), quoting 3 Sands, Sutherland Statutory Construction (4th ed), § 60.02, p 60. In this case, it is clear that the Legislature intended to suppress the evil of

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predators sexually abusing children by allowing those who suffered sexual abuse as children redress against their assaulters for the horrible injuries they suffered as children, without the predators being able to hide behind the general three-year statute of limitations that would apply if the individual were assaulted as an adult.

CONCLUSION AND RELIEF REQUESTED

For the reasons set forth above, Plaintiffs respectfully request that this Honorable Court grant this application for leave to appeal. The published opinion of the Court of Appeals on this issue of first impression has quickly impacted other litigants and drawn statements of disagreement within the Court of Appeals. The matters involved in this case are of jurisprudential significance both as it relates to victims of sexual assault as well as jurisprudence relating to retroactivity of statutes. Because the legislature demonstrated that it intended to broadly provide remedies to victims of sexual assault, and because the decision below frustrates that clear intent, this Court should grant this application to give full consideration to the issues herein.

Respectfully submitted,

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Dated: June 8, 2023

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CERTIFICATE OF COMPLIANCE

I hereby certify that this document complies with the formatting rules in Administrative Order No. 2019-6. I certify that this document contains 4,990 countable words. The document is set in Century Schoolbook, and the text is in 12-point type with 17-point line spacing and 12 points of spacing between paragraphs.

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