

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

JOSEPH JEAN-CHARLES, a/k/a JEAN-CHARLES: CIVIL ACTION NO.:
JOSEPH, :
Plaintiff, : 3:11-CV-00614 (JCH)
v. :
DOUGLAS PERLITZ; FATHER PAUL E. :
CARRIER, S.J.; HOPE E. CARTER; HAITI FUND, :
INC.; FAIRFIELD UNIVERSITY; THE SOCIETY :
OF JESUS OF NEW ENGLAND; JOHN DOE :
ONE; JOHN DOE TWO; JOHN DOE THREE; :
JOHN DOE FOUR; JOHN DOE FIVE; JOHN DOE :
SIX; JOHN DOE SEVEN; JOHN DOE EIGHT; :
JOHN DOE NINE; JOHN DOE TEN; JOHN DOE :
ELEVEN; AND JOHN DOE TWELVE, :
Defendants. : NOVEMBER 16, 2011

FAIRFIELD UNIVERSITY'S MOTION TO DISMISS THE COMPLAINT

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendant Fairfield University (the "University"), hereby moves to dismiss the Complaint filed by the Plaintiff Joseph Jean-Charles, a/k/a Jean-Charles Joseph ("Plaintiff") in its entirety against the University.

For the reasons set forth more fully in the accompanying memorandum of law, Counts Seven, Eight, Nine and Ten – which are the only counts asserted against the University – must be dismissed because Plaintiff has failed to plead any facts to support his conclusory allegations that the University: (i) negligently hired, retained, directed and supervised Defendant Douglas Perlitz ("Perlitz") (Count VII); (ii) negligently hired, retained and directed and supervised Defendant Father Paul E. Carrier ("Father Carrier") (Count VIII); (iii) breached a fiduciary duty to Plaintiff

**ORAL ARGUMENT REQUESTED
TESTIMONY NOT REQUIRED**

(Count IX); and (iv) is vicariously liable for Defendant Perlitz's alleged abuse of Plaintiff (Count X).

The negligence claim that Plaintiff asserts in Count VII should be dismissed because the University did not retain or employ Perlitz, and thus there is no basis for Plaintiff's conclusory assertion that the University had a duty to supervise or direct Perlitz. Count VII should also be dismissed because there also are no allegations that would constitute a breach of the alleged duty.

The negligence claim that Plaintiff asserts in Count VIII should be dismissed because Plaintiff fails to allege that the University had a duty to supervise Father Carrier in his capacity as a volunteer officer of the Haiti Fund, Inc. an entity that is separate from the University and that was responsible for hiring and supervision of Perlitz; and because there are also no allegations that would constitute a breach of the alleged duty.

Count IX should be dismissed because Plaintiff fails to allege facts to support his conclusory allegation that the University owed a fiduciary duty to him to protect him from the alleged abuse inflicted on him by Perlitz, and because this Count fails to allege a breach of the alleged duty.

Lastly, Count X should be dismissed because Plaintiff has failed to allege facts to support his allegation that Perlitz was acting as an agent of the University when he allegedly abused Plaintiff and because Perlitz's conduct occurred outside the scope of his employment and was not in furtherance of the University's business.

Accordingly, the Complaint must be dismissed in its entirety against the University.

Respectfully submitted,

**DEFENDANT,
FAIRFIELD UNIVERSITY**

By /s/ Stanley A. Twardy, Jr.
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CERTIFICATION OF SERVICE

I hereby certify that on this date a copy of the foregoing Defendant Fairfield University's Motion to Dismiss The Complaint was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

 /s/ Thomas D. Goldberg
Thomas D. Goldberg