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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR MULTNOMAH COUNTY

6 P.W., an individual proceeding under a) Case No.
7 fictitious name; R.M., an individual)
8 proceeding under a fictitious name; and M.J.,) **COMPLAINT**
9 an individual proceeding under a fictitious) (Sexual Battery of a Child/*Respondeat*
10 name,) *Superior*; Intentional Infliction of Emotional
11) *Distress/Respondeat Superior*; Negligence;
12) Fraud
13)
14 Plaintiffs,)
15 v.)
16) JURY TRIAL DEMANDED
17)
18) *Not subject to Mandatory Arbitration*
19)
20 BOY SCOUTS OF AMERICA, a)
21 Congressionally Chartered Corporation,)
22 authorized to do business in Oregon; and)
23 CASCADE PACIFIC COUNCIL, BOY)
24 SCOUTS OF AMERICA, an Oregon Non-)
Profit Corporation,)
Defendants.)

14 (Common Allegations)

15 1.

16 Plaintiff P.W. is an adult male born in the year 1961. Plaintiff R.M. is an adult male born
17 in the year 1963. Plaintiff M.J. is an adult male born in the year 1963. Plaintiffs R.M., P.W., and
18 M.J. will hereinafter be referred to collectively as "Plaintiffs." At all times relevant to the acts
19 alleged in this complaint Plaintiffs were unemancipated minors who were invited to participate
20 in meetings, events, and activities promoted or sponsored by Defendants or agents of the
21 Defendants.

22 2.

23 Defendant Boy Scouts of America ("Defendant BSA") is a congressionally chartered
24 corporation authorized to do business in Oregon. Defendant Cascade Pacific Council, Boy
Scouts of America ("Defendant CPC") is an Oregon non-profit corporation. Defendant BSA and

1 Defendant CPC will be referred to collectively as "Defendants." At all times relevant to this
2 Complaint, Defendants invited participation of boys, including Plaintiffs, into their Scouting
3 program and selected adults to serve as Scout Leaders.

4 3.

5 From at least 1935, Defendants knew that Scout Leader positions were being used by
6 predatory child molesters to victimize children, and that Defendants had an institution-wide or
7 systemic child sexual abuse problem. Based on thousands of internal reports contained in
8 Defendants' "ineligible volunteer files" ("IV Files") created prior to Plaintiffs' participation in
9 Scouting, Defendants understood: (a) the recidivistic nature of child sexual abuse by Scout
10 Leaders; (b) how Scout Leaders used their positions of trust to groom victims and accomplish the
11 abuse of scouts; and (c) the common indications that abuse was occurring. Based on this
12 knowledge, prior to the selection of Calvin Malone ("Malone") as a Scout Leader in Portland,
13 Defendants became aware that Scout Leaders, including Calvin Malone, were in fact sexually
14 abusing boys. Specifically, (a) Defendants learned that Malone had previously engaged in
15 common grooming patterns known to Defendants based on previous reports of sexual abuse
16 (including providing alcohol to Scouts); and (b) Defendants learned that Malone had sexually
17 abused at least one Scout in California in or around 1970. Based on this knowledge, in
18 approximately 1970, Defendants determined that Malone posed a danger to Scouts and created
19 an ineligible volunteer file on Malone.

20 4.

21 Despite the knowledge set out in paragraph 3, Defendants selected Malone as a Scout
22 Leader in Portland, Oregon in or around 1974. At all times relevant to this Complaint,
23 Defendants selected or accepted Malone for the position of Scoutmaster, or a similar capacity,
24 for the Boy Scout Troop to which Plaintiffs belonged. As Scoutmaster, Malone's role was to
educate, mentor, befriend, counsel, and train young boys like Plaintiffs in morality, patriotism,
and various life skills.

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11 5.

Despite the knowledge set out in paragraph 3, Defendants also selected Malone as a paid youth worker in Portland, Oregon in or around 1974. At all times relevant to this Complaint, Defendant selected, accepted, and employed Malone in the position of "District Aide" or a similar capacity. As a District Aide, Malone's job duties included but were not limited to: serving as a liaison between Defendants and low income communities; recruiting boys and adults to participate in the Scouting program; directing an outreach program for inner city youth; providing training in program skills for Scouting personnel; assisting in planning and directing Scouting activities and youth programs in the greater Portland metro area; acting as a Scoutmaster or other adult leader for unit activities; and organizing new units to provide Scouting for the youth of the Portland metro area.

12 6.

Malone's position as a Scoutmaster and District Aide will be referred to as "Scout Leader" throughout this Complaint. As a Scout Leader, Malone was in a position of trust, confidence, and authority over minors involved in Defendants' programs, including Plaintiffs.

15 7.

Defendants authorized and empowered Malone to perform all the duties of a Scout Leader, including the power to provide instruction, counseling, moral guidance, physical supervision of boys participating in Scouting, the power to enforce the rules governing the boys' participation in Scouting, as well as other duties. Defendants retained the right to control the means and methods used by Scout Leaders like Malone in fulfilling these duties for Defendants. Defendants taught and instructed boys, including Plaintiffs, to have respect for and obey persons in positions of authority, including Scout Leaders like Malone. Defendants knew that as part of his duties as a Scout Leader, Malone would be in a position of trust, confidence, and authority over the boys involved, including Plaintiffs. At all times relevant to this Complaint, Defendants authorized or ratified the conduct of Malone in performing the duties of a Scout Leader.

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8.

While performing the duties as a Scout Leader, and for the purpose of furthering his duties required in that role, Malone befriended Plaintiffs; gained the trust and confidence of Plaintiffs and their families as an instructor, guide, mentor, counselor, and authority figure; and gained the permission, acquiescence, and support of Plaintiffs' families to spend substantial periods of time alone with Plaintiffs. As a result, Plaintiffs were conditioned to trust Malone, to comply with his directions, and to respect Malone as a person of authority in moral and ethical matters. This course of conduct is referred to in this Complaint as "Grooming." Alternatively, or in conjunction with the Grooming activity, Malone acted as a Scout Leader toward Plaintiffs, supervised Plaintiffs on Scouting trips and outings, and exercised authority *in loco parentis* over Plaintiffs during Scouting events.

9.

Using his authority and position of trust as a Scout Leader, and through the Grooming process, Malone induced and directed Plaintiffs to engage in various sexual acts with Malone. Malone's Grooming and/or Malone's authorized activities as a Scout Leader led to and resulted in the sexual abuse of the Plaintiffs, discussed below. Malone's Grooming actions and/or his actions as a Scout Leader to Plaintiffs were:

- (a) committed in direct connection and for the purpose of fulfilling his employment and agency with Defendants;
- (b) committed within the time and space limits of his agency as a Scout Leader;
- (c) done initially and at least in part from a desire to serve the interests of Defendants;
- (d) done directly in the performance of his duties as a Scout Leader;
- (e) consisted generally of actions of a kind and nature which Malone was required to perform as a Scout Leader; and
- (f) done at the direction of, and pursuant to, the power vested in him by Defendants.

1 Defendants, through their agents, had a right to control Malone's Grooming of children in
2 Scouting as a Scout Leader and/or Malone's interactions with those children as a Scout Leader.
3 Alternatively, or in conjunction with the Grooming process, Malone's authorized actions as a
4 Scout Leader led to and/or resulted in the sexual abuse of Plaintiffs.

5 10.

6 Malone, as an adult, engaged in intentional conduct resulting in one or more of the
7 following: physical injury, mental injury, rape, sexual abuse, and/or sexual exploitation of
8 Plaintiffs as those terms are used in ORS 12.117. Specifically:

- 9 (a) Malone sexually abused and molested Plaintiff P.W. in or around 1975, when
10 Plaintiff P.W. was approximately 13 years old. The sexual abuse included
11 fondling P.W.'s genitals.
12 (b) Malone sexually abused and molested Plaintiff R.M. in or around 1975, when
13 Plaintiff R.M. was approximately 11 years old. The sexual abuse included kissing
14 and fondling R.M.'s genitals.
15 (c) Malone sexually abused and molested Plaintiff M.J. in or around the fall of 1974,
16 when Plaintiff M.J. was approximately 10 years old. The sexual abuse included
17 oral sex and anal penetration.

18 11.

19 Prior to the last incident of Plaintiffs' abuse, Defendants learned that Malone continued to
20 engage in common grooming patterns known to Defendants based on previous reports of sexual
21 abuse. Specifically, while acting in the course and scope of his agency relationship with
22 Defendants in Portland, Malone provided Scouts under his supervision with alcohol and/or drugs
23 during Scouting activities and camping trips. On some occasions, Malone and other adult
24 volunteers or Scout Leaders associated with Defendants (hereinafter, "agents") supplied
Plaintiffs and other minor Scouts with alcohol and/or drugs, and would encourage the children to

1 drink to the point of intoxication. Defendants' agents were aware of or participants in this
2 unlawful common grooming activity.

3 12.

4 Prior to the last incident of Plaintiffs' abuse, Defendants also learned of reports that
5 Malone was sexually abusing Scouts within Plaintiffs' Troop in Portland. //

6 13.

7 As described in paragraphs 3 through 12, above, prior to the last incident of Malone's
8 sexual abuse of Plaintiffs between 1974-1976, Defendants knew: (a) the nature, common
9 circumstances, and indicators of sexual abuse in Scouting (based on thousands of prior reports of
10 sexual abuse contained in Defendants' "ineligible volunteer files"); (b) that, while working in
11 Scouting in California, Malone engaged in common grooming behavior known to Defendants,
12 including providing boys in his Scout troop with drugs and/or alcohol; (c) that Malone sexually
13 abused a boy scout in California; (d) that, while working in Plaintiffs' troop, Malone engaged in
14 common grooming behavior known to Defendants, including providing boys in Plaintiffs' Scout
15 troop with drugs and alcohol; and (e) that Malone was sexually abusing Scouts in Portland.
16 Nonetheless, Defendants allowed Malone to continue to serve in his position as Scout Leader
17 and/or remain involved with the Scouting program. Defendants' conduct in relation to Malone
18 was consistent with an internal policy implemented by Defendants called "probation," whereby
19 Defendants knowingly allowed and permitted known predators to continue as Scout Leaders
20 working with children in Defendants' care.

21 14.

22 As a result of Malone's sexual abuse, molestation, and breach of authority, trust, and
23 position as Scout Leader, each Plaintiff suffered non-economic damages as follows:

- 24 (a) Plaintiff P.W. has suffered and/or will suffer in the future the following physical
injuries: substance abuse issues, suicide attempt, and sleep disturbances. In
conjunction with or in addition to the aforementioned injuries, and as a further

1 result of the sexual and physical battery by Malone, Plaintiff P.W. has suffered
2 and/or will suffer in the future: severe and debilitating mental and emotional
3 injury, including mental and emotional pain and suffering, anxiety, shame,
4 humiliation, depressions, self-esteem issues, trust issues, relationship issues,
5 emotional trauma, and permanent psychological damage. All of the
6 aforementioned injuries have caused and will cause Plaintiff P.W. to incur non-
7 economic damages in the approximate amount of \$5,000,000.00, the exact
8 amount to be proven at trial.

9 (b) Plaintiff R.M. has suffered and/or will suffer in the future the following physical
10 injuries: sexual dysfunction and sleep disturbances. In conjunction with or in
11 addition to the aforementioned injuries, and as a further result of the sexual and
12 physical battery by Malone, Plaintiff R.M. has suffered and/or will suffer in the
13 future: severe and debilitating mental and emotional injury, including mental and
14 emotional pain and suffering, anxiety, shame, humiliation, depressions, self-
15 esteem issues, trust issues, relationship issues, emotional trauma, and permanent
16 psychological damage. All of the aforementioned injuries have caused and will
17 cause Plaintiff P.W. to incur non-economic damages in the approximate amount
18 of \$5,000,000.00, the exact amount to be proven at trial.

19 (c) Plaintiff M.J. has suffered and/or will suffer in the future the following physical
20 injuries: sexual dysfunction, panic attacks, and sleep disturbances. In conjunction
21 with or in addition to the aforementioned injuries, and as a further result of the
22 sexual and physical battery by Malone, Plaintiff M.J. has suffered and/or will
23 suffer in the future: severe and debilitating mental and emotional injury, including
24 mental and emotional pain and suffering, anxiety, shame, humiliation,
depressions, post-traumatic stress disorder, self-esteem issues, trust issues,
relationship issues, emotional trauma, and permanent psychological damage. All

1 of the aforementioned injuries have caused and will cause Plaintiff M.J. to incur
2 non-economic damages in the approximate amount of \$5,000,000.00, the exact
3 amount to be proven at trial.

4 15.

5 As an additional result and consequence of Malone's sexual abuse, molestation, and
6 breach of authority, trust, and position as Scout Leader, each Plaintiff suffered economic
7 damages as follows:

8 (a) Plaintiff P.W. incurred and/or will incur in the future, costs for counseling,
9 psychiatric psychological, and medical treatment all to his economic damages in
10 the approximate amount of \$2,000,000.00, the exact amount of which will be
11 proven at the time of trial.

12 (b) Plaintiff R.M. incurred and/or will incur in the future, costs for counseling,
13 psychiatric psychological and medical treatment all to his economic damages in
14 the approximate amount of \$2,000,000.00, the exact amount of which will be
15 proven at the time of trial.

16 (c) Plaintiff M.J. incurred and/or will incur in the future, costs for counseling,
17 psychiatric psychological and medical treatment all to his economic damages in
18 the approximate amount of \$2,000,000.00, the exact amount of which will be
19 proven at the time of trial.

20 **FIRST CLAIM FOR RELIEF**
21 *Against all Defendants*
22 *(Sexual Battery of a Child/Respondeat Superior)*

23 16.

24 Plaintiffs reallege and reincorporate by reference paragraphs 1 through 15, above.

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17.

While acting in the course and scope of his agency for Defendants, Malone induced and directed Plaintiffs to engage in various sexual acts with Malone, as set forth in paragraph 10, above. The sexual molestation and abuse described in paragraph 10 constituted harmful and offensive touching of Plaintiffs, to which Plaintiffs did not and could not consent.

18.

As a result and consequence of Malone's sexual abuse and breach of authority, trust, and position as a Scout Leader to Plaintiffs, Plaintiffs have incurred economic and non-economic damages as detailed in paragraphs 14 and 15, above.

19.

Less than five years before the date of this Complaint, Plaintiff P.W. discovered the causal connection between his abuse and resulting injuries distinct from the abuse itself. Plaintiff P.W. did not discover (and could not reasonable have discovered) at an earlier time the causal connection between the abuse and the damages he suffered as a result of the abuse. The psychological effects of the abuse Plaintiff P.W. suffered prevented Plaintiff P.W. from discovering the causal connection between the abuse and the damages he suffered as a result of the abuse.

20.

Less than five years before the date of this Complaint, Plaintiff R.M. discovered the causal connection between his abuse and resulting injuries distinct from the abuse itself. Plaintiff R.M. did not discover (and could not reasonable have discovered) at an earlier time the causal connection between the abuse and the damages he suffered as a result of the abuse. The psychological effects of the abuse Plaintiff R.M. suffered prevented Plaintiff R.M. from discovering the causal connection between the abuse and the damages he suffered as a result of the abuse.

21.

Less than five years before the date of this Complaint, Plaintiff M.J. discovered the causal connection between his abuse and resulting injuries distinct from the abuse itself. Plaintiff M.J. did not discover (and could not reasonable have discovered) at an earlier time the causal connection between the abuse and the damages he suffered as a result of the abuse. The psychological effects of the abuse Plaintiff M.J. suffered prevented Plaintiff M.J. from discovering the causal connection between the abuse and the damages he suffered as a result of the abuse.

22.

In molesting Plaintiffs, Malone acted with malice or a reckless and outrageous indifference to a highly unreasonable risk of harm with a conscious indifference to the health, safety, and welfare of Plaintiffs. Punitive damages against an agent are attributable to a principal when conduct is within the course and scope of agency leads to or results in the tort. Pursuant to ORS 31.725, Plaintiffs hereby give notice to Defendants of his intent to move to add punitive damages against Defendants at any time after the filing of this Complaint.

SECOND CLAIM FOR RELIEF

Against All Defendants

(Intentional Infliction of Emotional Distress/Respondeat Superior)

23.

Plaintiffs reallege and incorporate by reference paragraphs 1 through 22, above.

24.

Malone, by engaging in the Grooming process, knowingly and intentionally caused severe emotional distress and physical injury to Plaintiffs when Malone sexually abused Plaintiffs, as described in paragraph 14, above. In the alternative and/or in conjunction with the Grooming, acts committed within the course and scope of Malone's agency with Defendants led

1 to and/or resulted in Malone knowingly and intentionally causing severe emotional distress and
2 physical injury to Plaintiffs. Plaintiffs did in fact suffer severe emotional distress and physical
3 injury as a result of this sexual abuse, and the abuse of a child is beyond the bounds of all
4 socially tolerable conduct.

5 25.

6 Less than five years before the date of this Complaint, Plaintiff P.W. discovered the
7 causal connection between his abuse and resulting injuries distinct from the abuse itself. Plaintiff
8 P.W. did not discover (and could not reasonable have discovered) at an earlier time the causal
9 connection between the abuse and the damages he suffered as a result of the abuse. The
10 psychological effects of the abuse Plaintiff P.W. suffered prevented Plaintiff P.W. from
11 discovering the causal connection between the abuse and the damages he suffered as a result of
12 the abuse.

13 26.

14 Less than five years before the date of this Complaint, Plaintiff R.M. discovered the
15 causal connection between his abuse and resulting injuries distinct from the abuse itself. Plaintiff
16 R.M. did not discover (and could not reasonable have discovered) at an earlier time the causal
17 connection between the abuse and the damages he suffered as a result of the abuse. The
18 psychological effects of the abuse Plaintiff R.M. suffered prevented Plaintiff R.M. from
19 discovering the causal connection between the abuse and the damages he suffered as a result of
20 the abuse.

21 27.

22 Less than five years before the date of this Complaint, Plaintiff M.J. discovered the
23 causal connection between his abuse and resulting injuries distinct from the abuse itself. Plaintiff
24 M.J. did not discover (and could not reasonable have discovered) at an earlier time the causal
connection between the abuse and the damages he suffered as a result of the abuse. The
psychological effects of the abuse Plaintiff M.J. suffered prevented Plaintiff M.J. from

1 discovering the causal connection between the abuse and the damages he suffered as a result of
2 the abuse.

3 28.

4 In molesting Plaintiffs, Malone acted with malice or a reckless and outrageous
5 indifference to a highly unreasonable risk of harm with a conscious indifference to the health,
6 safety, and welfare of Plaintiffs. Punitive damages against an agent are attributable to a principal
7 when conduct is within the course and scope of agency leads to or results in the tort. Pursuant to
8 ORS 31.725, Plaintiffs hereby give notice to Defendants of his intent to move to add punitive
9 damages against Defendants at any time after the filing of this Complaint.

10 **THIRD CLAIM FOR RELIF**
11 *Against All Defendants*
12 (Negligence)

13 29.

14 Plaintiffs reallege and reincorporate by reference paragraphs 1 through 28, above.

15 30.

16 Defendants created special relationships with each Plaintiff by inviting and encouraging
17 each Plaintiff to participate in Scouting activities with Scout Leader Malone. That relationship
18 created a duty on the part of Defendants to ensure that Scouting programs were made as
19 reasonably safe as possible from known dangers. Alternatively or in conjunction with the above,
20 Plaintiffs each had a special relationship with Defendants as a young child entrusted to the care
21 and control of Defendants. The special relationship created a duty of care on the part of
22 Defendants to ensure Plaintiffs' safety while participating in Defendants' programs, events, or
23 activities.

31.

Based on the knowledge set out in paragraphs 3 through 13, above, Defendants knew that children (including Plaintiffs) were at risk of sexual abuse in Scouting, including the risk of sexual abuse by Malone.

32.

Despite the knowledge set out in paragraphs 3 through 13, above, Defendants created a foreseeable risk of Scout Leaders abusing children involved in Scouting, including the risk of Malone abusing Plaintiffs, by failing to undertake reasonable child abuse prevention measures in the following particular ways:

- (a) Defendants failed to screen or exclude Malone from contact with children in Scouting;
- (b) Defendants failed to change their process for selecting, monitoring, and supervising Scout Leaders, including Malone;
- (c) Defendants knowingly allowed pedophiles to continue as Scout Leaders working with children in Defendants' care;
- (d) Defendants failed to train Scout Leaders, parents, and Scouts in how to recognize, prevent, report, and respond to child abuse;
- (e) Defendants failed to train Scout Leaders to report allegations of an adult volunteer sexually abusing or providing alcohol to an underage child to law enforcement;
- (f) Defendants failed to train Scout Leaders to report allegations of an adult volunteer sexually abusing or providing alcohol to an underage child to law enforcement;
- (g) Defendants failed to warn and/or notify Plaintiffs' parents and parents of similarly situated children about Malone's history of abuse and dangerousness;
- (h) Defendants failed to warn parents and Scouts of the risk of child sexual abuse inherent to the Scouting program, including the risk of child sexual abuse by Malone;

- 1
- 2 (i) Defendants failed to report Malone to law enforcement; and
- 3 (j) Defendants failed to implement and/or enforce reasonable policies to prevent
- 4 child abuse – such as a “zero tolerance” rule regarding allegations of child abuse,
- 5 or a rule against any adult Scout Leader participating in activities alone with
- 6 individual children in Scouting (i.e., no “one-on-one”).

7 These actions and inactions were a substantial contributing and causal factor to the abuse of

8 Plaintiffs and their resulting injuries.

9 33.

10 Based on Defendants’ aforementioned knowledge of both Malone and other previous

11 reports of child sexual abuse in Scouting contained in their ineligible volunteer files, Defendants

12 knew with certainty that the failures to undertake reasonable child abuse prevention measures (as

13 set out in paragraph 32, above) would result in children being sexually abused by Scout Leaders

14 while participating in Defendants’ Scouting program and activities, including sexual abuse by

15 Malone. It was foreseeable to Defendant that Plaintiffs and the similarly situated class of

16 children involved in Scouting were in danger of sexual abuse, including abuse by Malone, and

17 that pedophile Scout Leaders (including Malone) would likely molest additional children if

18 permitted to remain a Scout Leader. Defendants thereby created a foreseeable risk of harm to the

19 safety of children in the care of Defendants, including Plaintiffs.

20 34.

21 Plaintiffs were a member of the class of individuals to be protected by reasonable abuse

22 prevention measures. Such measures would have protected Plaintiffs from some or all of their

23 abuse. Alternatively, Defendants affirmatively created a dangerous condition by not excluding

24 known pedophiles from participation in Scouting, including not excluding Malone after learning

of Malone’s grooming and sexual abuse of Scouts as set forth in paragraphs 3 through 13 above.

1
2 35.

3 Given Defendants' knowledge of the nature, common circumstances, and indicators of
4 sexual abuse in Scouting, as well as Defendants' knowledge of Malone's prior abuse of a Scout
5 and Malone's continued grooming and sexual abuse of Scouts in Plaintiffs' Troop, Defendants'
6 conduct set out in paragraphs 29-34, above, knowingly allowed, permitted, or encouraged child
abuse pursuant to ORS 12.117.

7 36.

8 Plaintiffs' interest in being free from sexual molestation is an interest of a kind that the
9 law protects against negligent invasion. Defendants' actions and inactions described in
10 paragraphs 29 through 34, above, were unreasonable in light of the risk posed to minor boys by
11 Scout Leaders, including Malone. Defendants' actions and inactions described in paragraphs 29
12 through 34 were a direct and foreseeable cause of the molestation and damages suffered by the
Plaintiff, as alleged in paragraphs 10, 14, and 15 above.

13 37.

14 Less than five years before the date of this Complaint, Plaintiff P.W. discovered: (a) the
15 causal connection between the abuse he suffered and his injuries distinct from the abuse; and (b)
16 Defendants' negligence as described in paragraphs 29-34, above. Plaintiff P.W. did not discover
17 (and could not reasonably have discovered) at an earlier time the causal connection between the
18 abuse and the damages he suffered as a result of the abuse. The psychological effects of the
19 abuse Plaintiff P.W. suffered prevented Plaintiff P.W. from discovering the causal connection
20 between the abuse and the damages he suffered as a result of the abuse. Furthermore, Plaintiff
21 P.W. did not discover Defendants' negligence as described in paragraphs 29 through 34, above,
22 until less than 5 years prior to filing suit. Specifically, less than five years before filing suit,
23 Plaintiff P.W. learned that prior to the abuse Plaintiff suffered, Defendants already had
24 knowledge about the risk of sexual abuse in Scouting, including the risk of child sexual abuse by
Malone. Finally, less than five years before filing suit, Plaintiff P.W. discovered the Defendants'

1 causal role in the injuries he suffered as described in paragraphs 10, 14, and 15, above. Plaintiff
2 did not learn about Defendants' negligence nor its causal role in the injuries Plaintiff suffered
3 more than five years before filing suit, and a reasonable inquiry by a child victim of sexual abuse
4 would not have revealed this information more than five years before filing suit. Accordingly,
5 Plaintiff's claims are timely.

6 38.

7 Less than five years before the date of this Complaint, Plaintiff R.M. discovered: (a) the
8 causal connection between the abuse he suffered and his injuries distinct from the abuse; and (b)
9 Defendants' negligence as described in paragraphs 29-34, above. Plaintiff R.M. did not discover
10 (and could not reasonably have discovered) at an earlier time the causal connection between the
11 abuse and the damages he suffered as a result of the abuse. The psychological effects of the
12 abuse Plaintiff R.M. suffered prevented Plaintiff R.M. from discovering the causal connection
13 between the abuse and the damages he suffered as a result of the abuse. Furthermore, Plaintiff
14 R.M. did not discover Defendants' negligence as described in paragraphs 29 through 34, above,
15 until less than 5 years prior to filing suit. Specifically, less than five years before filing suit,
16 Plaintiff R.M. learned that prior to the abuse Plaintiff suffered, Defendants already had
17 knowledge about the risk of sexual abuse in Scouting, including the risk of child sexual abuse by
18 Malone. Finally, less than five years before filing suit, Plaintiff R.M. discovered the Defendants'
19 causal role in the injuries he suffered as described in paragraphs 10, 14, and 15, above. Plaintiff
20 R.M. did not learn about Defendants' negligence nor its causal role in the injuries Plaintiff
21 suffered more than five years before filing suit, and a reasonable inquiry by a child victim of
22 sexual abuse would not have revealed this information more than five years before filing suit.
23 Accordingly, Plaintiff's claims are timely.

24 39.

Less than five years before the date of this Complaint, Plaintiff M.J. discovered: (a) the
causal connection between the abuse he suffered and his injuries distinct from the abuse; and (b)

1 Defendants' negligence as described in paragraphs 29-34, above. Plaintiff M.J. did not discover
2 (and could not reasonably have discovered) at an earlier time the causal connection between the
3 abuse and the damages he suffered as a result of the abuse. The psychological effects of the
4 abuse Plaintiff M.J. suffered prevented Plaintiff M.J. from discovering the causal connection
5 between the abuse and the damages he suffered as a result of the abuse. Furthermore, Plaintiff
6 M.J. did not discover Defendants' negligence as described in paragraphs 29 through 34, above,
7 until less than 5 years prior to filing suit. Specifically, less than five years before filing suit,
8 Plaintiff M.J. learned that prior to the abuse Plaintiff suffered, Defendants already had
9 knowledge about the risk of sexual abuse in Scouting, including the risk of child sexual abuse by
10 Malone. Finally, less than five years before filing suit, Plaintiff M.J. discovered the Defendants'
11 causal role in the injuries he suffered as described in paragraphs 10, 14, and 15, above. Plaintiff
12 did not learn about Defendants' negligence nor its causal role in the injuries Plaintiff suffered
13 more than five years before filing suit, and a reasonable inquiry by a child victim of sexual abuse
14 would not have revealed this information more than five years before filing suit. Accordingly,
15 Plaintiff's claims are timely.

16 40.

17 In acting or failing to act as alleged in paragraphs 29 through 34, above, Defendants acted
18 with malice or reckless and outrageous indifference to a highly unreasonable risk of harm and
19 with a conscious indifference to the health, safety, and welfare of children in Scouting, including
20 Plaintiffs. Plaintiffs hereby provide notice of their intent to move to add allegations of punitive
21 damages against Defendants at any time after the filing of this Complaint.
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1
2 **FOURTH CLAIM FOR RELIEF**
3 *Against All Defendants*
4 (Fraud)

5 41.

6 Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 40, above.

7 42.

8 At all times relevant to this Complaint, Defendants invited and encouraged Plaintiffs to
9 participate in the Scouting program that they administered and controlled, all the while
10 promoting their program as being safe and beneficial for boys, physically, emotionally, and
11 spiritually. This invitation created a special, fiduciary relationship (as described above), wherein
12 Plaintiffs and their parents relied upon Defendants' expertise and judgment in selecting morally
upright men to lead, supervise, and instruct boys in Scouting programs, including within
Plaintiffs' Scout Troop.

13 43.

14 Despite the Defendants' knowledge set out in paragraphs 3 through 13, above, at all times
15 relevant to this Complaint, Defendants misrepresented, failed to disclose, and/or actively
16 concealed the danger of child molestation in Scouting (set forth in paragraphs 1 through 40). In
17 the alternative or in conjunction with the above, Defendants affirmatively represented that its
18 program and Scout Leaders (including Malone) were safe and trustworthy (set forth in
19 paragraphs 1 through 40). As such, these assertions, misrepresentations, non-disclosures,
20 concealment, silence, and related conduct will be collectively referred to as "representations"
throughout the remainder of this Complaint.

21 44.

22 Defendants' representations were false and misleading because:

- 23 1. Defendants had a duty to disclose known threats to the health and safety of the
24 minors involved with their organization;

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2. Defendants' invitation to Plaintiffs to participate in Scouting upon payment of a fee required Defendants to disclose all matters material to entering into the transaction, and the danger that Plaintiffs would be molested in Scouting would have been particularly material to Plaintiffs' decision to enter into or remain in the transaction with Defendants; and
 3. Defendants actively concealed the danger of child molestation by Scout Leaders.

45.

Defendants' knowledge of and representations regarding the danger of child molestation in Scouting are material because, had Plaintiffs known or been given prior warning of the substantial risks of abuse and danger within Scouting, such information would have influenced Plaintiffs' conduct in relation to Scouting. Specifically, if they had been aware of these facts, each Plaintiff would not have entered into or continued to be in a relationship with Defendants or their agents (including Malone), would not have participated or remained in the Scouting program, and would have been on guard against abuse by Defendants' agents (including Malone).

46.

Based on Defendants' knowledge set out in paragraph 3 through 13, above, Defendants knew that their conduct and representations regarding the safety of Scouting and Scout Leaders were false, misleading, unfounded, and/or were made with reckless disregard for the truth. Defendants knew that their conduct and representations created a false impression that obscured, covered up, and/or removed an opportunity that might have led Plaintiffs or other similarly situated individuals to discover the type of material facts set forth in paragraphs 3 through 13, above.

47.

Defendants' conduct and representations were made with the intent of inducing Plaintiffs (and other similarly situated children), Plaintiffs' parents (and other similarly situated parents

1 and guardians), and the community at large to rely on such representations and thereby continue
2 to trust and be involved with Defendants, their agents (including Malone), and the Scouting
3 program.

4 48.

5 Plaintiffs and their parents relied on Defendants' representations in allowing Plaintiffs to
6 engage in a trust relationship with Defendants and their agents. Plaintiffs and their parents
7 reasonably relied on Defendants' representations, as well as Defendants' conduct in maintaining
8 the same policies and procedures for the Scouting program, and reasonably believed that
9 Scouting and Scout Leaders did not pose a known danger to children. The reliance of Plaintiffs
10 and their parents was justified because they did not know, nor could they have known, of the
11 danger of child sexual abuse by Scout Leaders or Defendants' knowledge of such. Plaintiffs and
12 their parents relied to their detriment in allowing Plaintiffs to participate in Scouting and
13 Plaintiffs were harmed as a result of this reliance.

14 49.

15 As a direct consequence of Defendants' fraud as described in paragraphs 41 through 48,
16 Plaintiffs suffered the damages described in paragraphs 14 and 15, above.

17 50.

18 Less than two years before filing suit, Plaintiff P.W. discovered Defendants' fraud, as
19 described in paragraphs 41 through 48, above. Plaintiff P.W. did not learn of Defendants' fraud
20 or their causal role in the injuries Plaintiff P.W. suffered until less than two years before filing
21 suit, and a reasonable inquiry by a child victim of sexual abuse would not have revealed this
22 information. Plaintiff P.W. also did not discover the causal connection between his abuse and
23 injuries until a date less than five years before filing suit. Accordingly, Plaintiff's fraud claim is
24 timely.

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51.

Less than two years before filing suit, Plaintiff R.M. discovered Defendants' fraud, as described in paragraphs 41 through 48, above. Plaintiff R.M. did not learn of Defendants' fraud or their causal role in the injuries Plaintiff R.M. suffered until less than two years before filing suit, and a reasonable inquiry by a child victim of sexual abuse would not have revealed this information. Plaintiff R.M. also did not discover the causal connection between his abuse and injuries until a date less than five years before filing suit. Accordingly, Plaintiff's fraud claim is timely.

52.

Less than two years before filing suit, Plaintiff M.J. discovered Defendants' fraud, as described in paragraphs 41 through 48, above. Plaintiff M.J. did not learn of Defendants' fraud or their causal role in the injuries Plaintiff M.J. suffered until less than two years before filing suit, and a reasonable inquiry by a child victim of sexual abuse would not have revealed this information. Plaintiff M.J. also did not discover the causal connection between his abuse and injuries until a date less than five years before filing suit. Accordingly, Plaintiff's fraud claim is timely.

53.

In committing the aforementioned fraud, Defendants acted with malice or a reckless and outrageous indifference to a highly unreasonable risk of harm and with a conscious indifference to the health, safety, and welfare in children in Scouting, including Plaintiffs. Plaintiffs hereby provide notice of their intent to move to add punitive damages against Defendants at any time after the filing of this Complaint.


WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

1. Non-economic damages for Plaintiff R.M. in the amount of \$5,000,000.00, the exact amount to be determined by the jury at the time of trial;

2. Economic damages for Plaintiff R.M. in the amount of \$2,000,000.00, the exact amount to be determined by the jury at the time of trial;
3. Non-economic damages for Plaintiff P.W. in the amount of \$5,000,000.00, the exact amount to be determined by the jury at the time of trial;
4. Economic damages for Plaintiff P.W. in the amount of \$2,000,000.00, the exact amount to be determined by the jury at the time of trial;
5. Non-economic damages for Plaintiff M.J. in the amount of \$5,000,000.00, the exact amount to be determined by the jury at the time of trial;
6. Economic damages for Plaintiff M.J. in the amount of \$2,000,000.00, the exact amount to be determined by the jury at the time of trial;
7. For Plaintiffs' costs and disbursements incurred; and
8. For any other relief this Court deems just and equitable.

DATED this 4th of October, 2017.

CREW Janci LLP


Stephen F. Crew, OSB No. 781715
Peter Janci, OSB No. 074249
CREW Janci LLP
1650 NW Naito Parkway, Suite 125
Portland, OR 97209
Tel: 503-306-0224
steve@crewjanci.com
peter@crewjanci.com
Of Attorneys for Plaintiffs

Randall Vogt, OSB No. 773813
Barbara C. Long, OSB No. 122428
VOGT & LONG PC
1314 NW Irving Street, Suite 207
Portland, OR 97209
Tel: 503-228-9858
vogt4me1@icloud.com
blong.law@gmail.com
Of Attorneys for Plaintiffs