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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

DAVID HISER, an individual,

Plaintiff,

v.

**CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS**, a
corporation sole; and **CORPORATION OF
THE PRESIDENT OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY SAINTS
AND SUCCESSORS**, a corporation sole,

Defendants.

CASE NO: _____

COMPLAINT

(Jury Trial Demanded)

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COMPLAINT

COMES NOW the Plaintiff, David Hiser, by and through his attorneys, hereby states
as follows:

PARTIES

1. Plaintiff David Hiser is an adult male, a natural person domiciled in Marion County, Oregon, and a citizen of the State of Oregon.

2. Defendant Corporation of The Presiding Bishop of The Church of Jesus Christ of Latter-Day Saints, is a corporation sole incorporated in the State of Utah, a citizen of the State of Utah, and has its principal place of business in the State of Utah.

3. Defendant Corporation of The President of The Church of Jesus Christ of Latter-Day Saints is a corporation sole incorporated in the State of Utah, a citizen of the State of Utah, and has its principal place of business is the State of Utah.

JURISDICTION AND VENUE

4. Federal diversity jurisdiction exists pursuant to 28 U.S.C. §1332. As set out in paragraphs 1 through 3 above, there is complete diversity of citizenship among the parties. The amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

5. Venue in the Federal District Court of Oregon, Eugene Division, is appropriate pursuant to 28 U.S.C. §1391 because Plaintiff resides within the territory of this Division and a substantial part of the events or omissions giving rise to the claim occurred in Benton County, Oregon.

FACTUAL ALLEGATIONS

6. Plaintiff David Hiser (hereinafter “Hiser” or “Plaintiff”) is an adult male born in the year 1970. At all times relevant to this complaint, Plaintiff David Hiser was an unemancipated minor child who attended religious services, received spiritual instruction and direction from, and participated in youth programs and activities owned, operated, and

administered by LDS Defendants or agents of the LDS Defendants by and through the Corvallis Stake of the Church of Jesus Christ of Latter-day Saints.

7. At all times relevant to this complaint, the Corporation of the President of the Church of Jesus Christ of Latter-Day Saints and Successors, was a religious corporation sole of the Church of Jesus Christ of Latter-day Saints operating in Oregon. At all times relevant to this complaint, the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints, was a religious corporation sole of the Church of Jesus Christ of Latter-day Saints operating in Oregon. The Corporation of the President and Corporation of the Presiding Bishop will be referred to collectively hereinafter as “LDS Church” or “LDS Defendants.” As discussed further below as the part of the LDS Church’s mission and values, LDS Church authorized and selected Youth Seminary Teachers, Sunday School Leaders, and other youth leaders to befriend, educate, counsel and minister to LDS children, including Plaintiff and other children within the congregation known as the Corvallis Stake of the Church of Jesus Christ of Latter-day Saints.

8. At all times relevant to this complaint, the Corvallis Stake of the Church of Jesus Christ of Latter-day Saints (hereinafter “Corvallis Stake”) was a congregation of the LDS Defendants in Corvallis, Oregon, and ministered to members of the LDS Church in the Corvallis area. At all times relevant to this complaint, Defendants owned, operated, and controlled the Corvallis Stake.

9. As part of its ministry, the LDS Defendants selected Seminary Teachers, Sunday School Leaders, and other youth workers to befriend, educate, counsel and minister to LDS children, as further described below.

10. The LDS Church’s “youth seminary” program is a worldwide, four-year religious educational program for youth ages 14 through 18 within the LDS Church. The youth seminary

program dates back to at least 1912. Today, nearly 400,000 youth ages 14 -18 are enrolled in the LDS Church's youth seminary program each year. Youth seminary classes are often held daily. In seminary, students and their teachers meet regularly each week during the school year to study scripture. By the time a student graduates from the LDS Church's youth seminary program, he or she will have spent 720 hours in seminary classes and will have completed the study of all of the standard works of Mormon scripture. Historically, and at all times relevant to this complaint, youth seminary was taught by volunteers from the local LDS congregations selected, supervised, and retained by agents of Defendants.

11. The LDS Church also utilizes a "Sunday School" program. Under the authority and applicable policies and practices of the LDS Church, leadership within an LDS Stake selects (i.e. extends "a calling" to) an adult male to serve as the local Sunday School President. Under the leadership from the LDS Stake, the Sunday School President oversees the youth Sunday School program. Under the authority and applicable policies and practices of the LDS Church, the Sunday School President is usually supported by two "counselors" and a "secretary" – all of whom are also selected by leadership within an LDS Stake. Other adults within the Stake will serve as instructors in the various Sunday School classes. The position of an adult who helps to oversee, administer, or instruct within the LDS Sunday School program will hereinafter be referred to as "Sunday School leader."

12. The Sunday School, Youth Seminary, and other youth programs and activities owned, operated, administered, and authorized by LDS Defendants will hereinafter be referred to collectively as the "LDS Youth Program" and "LDS youth activities."

13. At all times relevant to this Complaint, LDS Defendants offered the LDS Youth Program by, with, and through the Corvallis Stake to LDS youth living near Corvallis (including

Plaintiff). LDS Defendants created a special relationship with Plaintiff by inviting and encouraging Plaintiff to allow LDS Defendants to exercise *in loco parentis* responsibilities over Plaintiff while participating in LDS youth activities. Alternatively, or in conjunction with this special relationship, LDS Defendants took upon themselves, as their core mission, the protection of Plaintiff's emotional and physical well-being while Plaintiff participated in LDS youth activities, and therefore had a non-delegable duty to take reasonable steps to protect Plaintiff during his participation in LDS youth activities.

14. At all times relevant to the allegations in this complaint, LDS Defendants selected, approved, and retained Ronald Kerlee (hereinafter "Kerlee") as a Seminary Teacher, Sunday School Leader, and youth leader (hereinafter referred to collectively as "LDS Youth Leader") within the LDS Youth Program. As a Youth Leader for LDS Defendants, Kerlee acted as the agent of LDS Defendant, agreeing to act on LDS Defendant's behalf and under its control, and with LDS Defendant's assent to Kerlee acting on their behalf. As a Youth Leader for LDS Defendants, Kerlee was empowered to befriend, educate, counsel and minister to LDS children, including Plaintiff. Kerlee provided these services to Plaintiff and his family on behalf of LDS Defendants, including offering such services to Plaintiff and other LDS minor youth within Kerlee's home.

15. LDS Defendants empowered Kerlee to perform all duties of a Youth Leader, including befriending, mentoring, counseling, and providing moral guidance and religious instruction to participants in the LDS Youth Program, including Plaintiff and members of his family, and to perform any other duties of an LDS Youth Leader not specifically mentioned. LDS Defendants knew that as part of his duties as an LDS Youth Leader, Kerlee would be in a position of trust, confidence, respect, and authority over LDS members in the Corvallis Stake

and their children, including the Plaintiff in this case. At all times relevant to this complaint, LDS Defendants retained the right to control the means and methods used by Kerlee in fulfilling his duties as an LDS Youth Leader. LDS Defendants also approved, authorized, acquiesced to, and/or ratified Ronald Kerlee provision of LDS Youth Program activities and services at Kerlee's private residence. In addition, or in the alternative, LDS Church Defendants caused Plaintiff to believe that LDS Defendants consented to having Kerlee act on their behalf, and, in all of Plaintiff's interactions with Kerlee, Plaintiff reasonably relied upon his belief that the LDS Church Defendants consented to having Kerlee act on their behalf. The service of Kerlee for and to LDS Defendants made him an agent and/or apparent agent of LDS Defendants.

16. While serving youth in the Corvallis Stake, and at least in part for the purpose of furthering his duties as an LDS Youth Leader for LDS Defendants, Kerlee befriended Plaintiff and his family, gained the trust and confidence of Plaintiff and his family as a trustworthy mentor, counselor, instructor, and authority figure. As such, Kerlee gained the permission, acquiescence, and support of Plaintiff's family to spend substantial periods of time alone with the Plaintiff. For the purpose of furthering his duties as an LDS Youth Leader, Kerlee also sought and gained the trust, friendship, admiration and obedience of the Plaintiff. As a result, Plaintiff was conditioned to trust Kerlee, to comply with his directions, and to respect him as a person of authority in spiritual, moral, and ethical matters. This course of conduct is referred to in this Complaint as "Grooming."

17. Kerlee, while acting within the course and scope of his actual or apparent agency for LDS Defendants, and using the authority and position of trust as an LDS Youth Leader – through the Grooming process – induced and directed Plaintiff, a minor, to engage in various sexual acts with Kerlee. As set out further below, this sexual contact amounted to battery,

invasion of Plaintiff's personal privacy, false imprisonment of Plaintiff, and infliction of emotional distress upon Plaintiff.

18. Kerlee, an adult, engaged in intentional conduct that resulted in some or all of the following: physical injury, mental injury, sexual abuse, and sexual exploitation of Plaintiff, a minor, as those terms are used in ORS 12.117. Specifically, Kerlee sexually abused and molested Plaintiff, a minor, approximately 20 to 30 times in connection with LDS youth activities. This sexual abuse consisted of LDS Youth Leader Kerlee groping Plaintiff's genitals, masturbating Plaintiff, performing oral sex on Plaintiff, and digitally penetrating Plaintiff's anus. Kerlee would also show Plaintiff video recordings of Kerlee's sexual abuse of other boys. On information and belief, Kerlee, on some instances, also video recorded his abuse of Plaintiff. The abuse occurred over the course of several years. The last acts of abuse occurred when Plaintiff was approximately 16 years old in 1986. All of the instances of abuse at issue in this complaint occurred in the context of LDS youth activities (immediately before, after, during or in transit to or from such activities). (This complaint does not seek damages for any other incidents of abuse that occurred within the context of activities affiliated with the Boy Scout troop sponsored by the Corvallis Stake.)

19. Kerlee used the Grooming process to accomplish his acts of sexual molestation of the Plaintiff. Kerlee's Grooming was (1) committed in direct connection and for the purposes of fulfilling Kerlee's for LDS Defendants; (2) committed within the time and space limits of his agency as an LDS Youth Leader; (3) done initially and at least in part from a desire to serve the interests of LDS Defendants; (4) done directly in the performance of his duties as an LDS Youth Leader; (5) consisted generally of actions of a kind and nature which Kerlee was required to perform as an LDS Youth Leader; and (6) was done at the direction of, and pursuant to, the

power vested in him by the LDS Defendants. LDS Defendants had the right and ability to control Kerlee's grooming of youth affiliated with the LDS Church, and his interactions with those youth. In the alternative, acts within the course and scope of Kerlee's agency as an LDS Youth Leader led to or resulted in the sexual abuse of Plaintiff.

20. As a result of Kerlee's sexual abuse, molestation, and breach of authority, trust and position as Youth Leader and authority figure, Plaintiff David Hiser has suffered and continues to suffer from: sexual dysfunction, addiction issues, and physical symptoms of stress and anxiety. In addition to the aforementioned physical injuries, and as a further result of Kerlee's battery, invasion of Plaintiff's privacy, false imprisonment of Plaintiff, and infliction of emotional distress upon Plaintiff, Plaintiff suffered and will suffer in the future: severe and debilitating mental and emotional injury, including but not limited to pain and suffering, emotional trauma, shame, guilt, anxiety, stress, low self-esteem, depression, suicidal ideation, social isolation, embarrassment, avoidance, denial, obsessive behaviors, anger, issues with authority, and distrust of others. All of the aforementioned injuries have caused and will cause Plaintiff non-economic damages in the approximate amount of \$5,000,000, the exact amount to be proven at trial.

21. As an additional result and consequence of Kerlee's sexual abuse, molestation, breach of authority, trust and position as an LDS Youth Leader and authority figure to the Plaintiff, Plaintiff has incurred and/or will incur in the future, costs for psychotherapy, psychological evaluations, psychiatric care, substance abuse treatment and similar medical treatment. All of the aforementioned injuries have caused and will cause Plaintiff economic damages in the approximate amount of \$500,000, the exact amount of which will be proven at the time of trial.

22. Less than five years before filing this complaint, Plaintiff David Hiser discovered the causal connection between his abuse, as set forth in paragraphs 17 and 18 above, and the damages suffered as a result of the abuse, as set forth in paragraphs 20 and 21 above. Prior to that time, Plaintiff did not discover, and could not reasonably have discovered, the causal connection between the abuse and the damages he suffered as a result of the abuse. Prior to that time, the psychological effects of the abuse Plaintiff suffered prevented Plaintiff from discovering the causal connection between the abuse and the damages he suffered as a result of the abuse. Accordingly, Plaintiff's claims are timely pursuant to ORS 12.117. Alternatively, Plaintiff's claims are timely as the result of tolling and/or delayed accrual.

FIRST CLAIM FOR RELIEF

Negligence

23. Plaintiff realleges and incorporates by reference paragraph 1 through 22, above.

24. LDS Defendants created a special relationship with Plaintiff by inviting and encouraging him to participate in LDS youth activities with Kerlee and/or by acting *in loco parentis* over Plaintiff while Plaintiff participated in LDS youth activities. This special relationship created a duty of care on the part of Defendants to ensure that LDS youth activities were made as safe as reasonably possible from known dangers. Alternatively, or in conjunction with the above, LDS Defendants affirmatively created a dangerous condition in the LDS Youth Program at the Corvallis Stake by not excluding Kerlee from participation after learning of Kerlee's molestation of youth as described in paragraphs 25 through 26 below.

25. Prior to the last incident of sexual abuse that Plaintiff suffered, LDS Defendants knew that Kerlee posed a danger of sexually abusing children. Specifically:

- a. On information and belief, in the late 1970s, at least one agent of LDS

Defendants (a Bishop within the Corvallis Stake) was aware of concerns about suspected child sexual abuse by Kerlee, and as a result, that agent warned his own son to stay away from Kerlee;

- b. On information and belief, in the early 1980s, at least one of LDS Defendants' agents (a Bishop within the Corvallis Stake) learned that Kerlee was alleged to have sexually abused a child, different than the child referenced in subparagraph (a);
- c. On information and belief, around 1982 or 1983, one or more of LDS Defendants' agents in leadership within the Corvallis Stake learned of allegations that Kerlee was caught sexually abusing a boy within the Corvallis Stake;
- d. On information and belief around 1982 or 1983, other of LDS Defendants' agents in leadership within the Corvallis Stake were informed of the allegations that Kerlee was caught sexually abusing a boy within the Corvallis Stake when Kerlee was subjected to church disciplinary procedures;
- e. On information and belief, at some point in 1982 or 1983, one or more of LDS Defendants' agents in leadership within the Corvallis Stake learned that Kerlee was criminally investigated and prosecuted by the State of Oregon on criminal charges for child sexual abuse; and
- f. On information and belief, around November of 1983, one or more agents of LDS Defendants learned that Kerlee was convicted of Sodomy III (Class C Felony) for sexual abuse of a child.

26. The LDS Defendants' various instances of gained knowledge about Kerlee's danger to children set out in paragraph 25 above will hereinafter be referred to collectively as the "Repeated Notices."

27. In conjunction with the Repeated Notices about Kerlee, on information and belief, from at least the 1960s, if not earlier, LDS Defendants knew that LDS Youth Leader positions across the United States were being used by predatory child molesters to gain access to and victimize children and that LDS Defendants had an institution-wide or systemic child abuse problem. Agents of the LDS Church documented this knowledge, including in individual "Red Flags," "annotations," or other documents within or related to perpetrators' LDS church membership files and elsewhere. This documentation comprised a body of specialized knowledge known to LDS Defendants regarding both the extent of the problem of sexual abuse by LDS Youth Leaders, but also the methods by which predatory child molesters used Youth Leader positions and the LDS Youth Program to accomplish their abuse of children (hereinafter "the Specialized Knowledge"). Based on the Specialized Knowledge, LDS Defendants knew of the risk posed by trusted agents, volunteers, and/or employees in the absence of appropriate reforms to the LDS Youth Program, policies, practices, procedures, and training.

28. Despite LDS Defendants' Specialized Knowledge about sexual abuse within the LDS Youth Program, LDS Defendants failed to warn parents and youth of the risk of child molestation inherent to the LDS Youth Program, failed to implement reasonable child abuse prevention measures, and failed to change their process for selecting and monitoring Youth Leaders. Defendants knew that such failures would reasonably lead to at least some number of other boys being abused by Youth Leaders while participating in the LDS Youth Programs.

29. Taken together, the Repeated Notices about Kerlee along with LDS Defendants'

Specialized Knowledge of abuse within the LDS Youth Program put Defendants on notice of the foreseeable risk that without reasonable precautions, Corvallis Stake youth would be sexually abused. Despite this knowledge, Defendants created a foreseeable risk of Kerlee abusing Youth, including Plaintiff, by failing to take reasonable precautions to prevent abuse, including:

- a. In failing to investigate or otherwise reasonably and adequately respond to warning signs indicating that LDS Defendants' agent Kerlee was grooming or abusing youth affiliated with the Corvallis Stake;
- b. In failing to properly supervise or restrict Kerlee's agency upon learning of warning signs indicating his grooming or abuse of youth affiliated with Corvallis Stake;
- c. In failing to exclude Kerlee as an LDS Youth Leader upon learning of warning signs indicating his grooming or abuse of with youth affiliated with Corvallis Stake;
- d. In failing to warn participants in LDS Defendants' youth programs and their parents, including Plaintiff and his family, about Kerlee's history and pattern of abuse and dangerousness;
- e. In failing to immediately report Kerlee to law enforcement;
- f. In failing to warn participants in the LDS Youth Program and their parents, including Plaintiff and his family, about the known danger of abuse by trusted LDS Youth Leaders generally;
- g. In failing to adequately train employees, volunteers, and/or representatives of LDS Defendants to adequately and appropriately identify and respond to warning signs indicating grooming or abuse of youth participating in LDS youth activities;

and,

- h. In failing to implement reasonable youth protection policies that would have prevented Kerlee from isolating, grooming, and abusing Plaintiff on numerous occasions.

These acts and failures to act were the substantial contributing and causal factors to the abuse of Plaintiff.

30. On information and belief, in light of the knowledge Defendant had of warning signs indicating grooming and abuse by Kerlee, the repeated notices, in addition to and in conjunction with LDS Defendants' specialized knowledge of many prior instances of LDS Youth Leaders sexually abusing LDS youth, it was foreseeable to LDS Defendants that Kerlee would engage in sexual abuse of youth participating in LDS youth activities, including Plaintiff.

31. Plaintiff was a member of the class of individuals (LDS youth) to be protected by proper warnings, child abuse prevention policies, and screening and/or monitoring of individuals working with youth. Such warnings, policies, practices, and procedures would have protected Plaintiff from the sexual abuse he suffered by Kerlee.

32. Defendants' continued retention of Kerlee as a Youth Leader after learning of Kerlee's abuse of boys and in light of LDS Defendants' specialized knowledge, created a foreseeable risk of harm to the safety of children in the care of LDS Defendants, including Plaintiff.

33. Defendants knowingly allowed, permitted, and encouraged child abuse. Plaintiff's interest in being free from sexual molestation is the kind of interest of a kind that the law protects against negligent invasion.

34. Defendants' failures to undertake reasonable child abuse prevention measures as

set forth in paragraph 29(a) through (h) were unreasonable in light of the known risks of abuse by LDS Youth Leaders (generally) and the known risk posed by Kerlee (specifically) to Corvallis Stake youth, including Plaintiff. These failures were direct and foreseeable causes of some or all of Plaintiff's molestation and damages as alleged above.

35. Less than five years before filing suit, Plaintiff learned that: (a) prior to the abuse he suffered LDS Defendants knew of the institution-wide problem of sexual abuse in the LDS Youth Program by LDS Youth Leaders; (b) that LDS Defendants failed to protect Plaintiff or warn him about the risk of sexual abuse in LDS youth activities (generally) or by Kerlee (specifically); and (c) discovered LDS Defendants' casual role in the injuries he suffered as described above. Plaintiff did not learn about either LDS Defendant's negligence or its causal role in the injuries Plaintiff suffered more than five years before filing suit, nor could a reasonable inquiry by a victim of child sexual abuse have revealed this information more than five years before Plaintiff filed suit.

36. Less than five years before filing suit, Plaintiff discovered the causal connection between the sexual abuse he suffered and his injuries distinct from the abuse. Moreover, less than five years before filing suit, Plaintiff discovered the LDS Defendants' negligence, as set out herein at paragraphs 23 through 35, above. Finally, less than five years before filing suit, Plaintiff discovered LDS Defendants' causal role in the injuries he suffered as set out herein at paragraphs 23 through 35, above. Accordingly, Plaintiff's claims are timely under ORS 12.117.

37. In light of LDS Defendants' knowledge of Kerlee's dangerousness and knowledge that predatory child molesters were using LDS Youth Leader positions as a means to access victims, LDS Defendant's failure to exclude Kerlee from LDS youth activities and failure to implement reasonable child abuse prevention policies as set forth in paragraph 29, above, were

actions undertaken with a reckless and outrageous indifference to a highly unreasonable risk of harm and with a conscious indifference to the health, safety, and welfare of others, including Plaintiff. Plaintiff is therefore entitled to punitive damages against LDS Defendants in an amount to be determined by a jury.

SECOND CLAIM FOR RELIEF

Sexual Abuse of a Child/Battery (*Respondeat Superior*)

38. Plaintiff realleges and incorporates by reference paragraph 1 through 37, above.

39. The acts of molestation that Plaintiff suffered at the hands of Kerlee constituted an intentional harmful or offensive touching of Plaintiff, to which Plaintiff did not and legally could not consent.

40. Acts within the course and scope of Kerlee's agency for LDS Defendants, described in paragraphs 16-19 above, led to or resulted in Kerlee's battery to Plaintiff.

41. As a result of Kerlee's battery, Plaintiff has suffered and continues to suffer damages as set out in paragraphs 21 and 22 above.

42. In battering Plaintiff, Kerlee acted with malice, or showed a reckless and outrageous indifference to a highly unreasonable risk of harm, and acted with a conscious indifference to the health, safety, and welfare of others, including Plaintiff. Plaintiff is therefore entitled to punitive damages against LDS Defendants in the amount to be determined by a jury. LDS Defendants are liable for these punitive damages, as actions that were within the course and scope of Kerlee's agency with LDS Defendants were causally connected to and in fact led to the battery of Plaintiff.

THIRD CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress)

43. Plaintiff realleges and incorporates herein as though set forth in full paragraphs 1 through 42 above.

44. Kerlee knowingly and intentionally caused severe emotional distress to Plaintiff when he engaged Plaintiff in sexual contact. Plaintiff did in fact suffer severe emotional distress as a result of this sexual contact, and the sexual touching of a minor by a trusted authority figure is beyond the bounds of all socially tolerable conduct.

45. Acts within the course and scope of Kerlee's agency, described in paragraphs 16-19 above led to or resulted in Kerlee's intentional infliction of emotional distress against Plaintiff when Kerlee sexually molested and abused Plaintiff as described in paragraphs 17 and 18 above.

46. As a result of Kerlee's intentional infliction of emotional distress, Plaintiff has suffered and continues to suffer damages as set out in paragraphs 21 and 22 above.

47. In his intentional infliction of emotional distress upon Plaintiff, Kerlee acted with malice, or showed a reckless and outrageous indifference to a highly unreasonable risk of harm, and acted with a conscious indifference to the health, safety, and welfare of others, including Plaintiff. Plaintiff is therefore entitled to punitive damages against LDS Defendants in an amount to be determined by a jury. LDS Defendants are liable for these punitive damages, as actions that were within the course and scope of Kerlee's agency with the LDS Defendants were causally connected to and in fact led to the infliction of emotional distress upon Plaintiff.

FOURTH CLAIM FOR RELIEF

Invasion of Privacy (Respondeat Superior)

48. Plaintiff realleges and incorporates by reference paragraphs 1 through 47, above.

49. While acting in the course and scope of his agency for LDS Defendants, Kerlee knowingly or recklessly intruded upon Plaintiff's solitude, seclusion, private affairs, and

concerns. Specifically, on information and belief, Kerlee utilized cameras to view, observe, watch and film Plaintiff in various states of undress and while engaged in sexual conduct. These acts constituted an invasion of Plaintiff privacy to which he did not and could not consent.

50. Acts within the course and scope of Kerlee's agency for LDS Defendants led to or resulted in the invasion of Plaintiff's privacy, as set forth in Paragraphs 16-19, above. The invasion of privacy by LDS Defendants' agent Kerlee was of such a nature as to be highly offensive to a reasonable person.

51. As a result and consequence of Kerlee's invasion of privacy, Plaintiff suffered the injuries and incurred damages alleged in paragraphs 21 and 22 above.

52. In his invasion of Plaintiff's privacy, Kerlee acted with malice, or showed a reckless and outrageous indifference to a highly unreasonable risk of harm, and acted with a conscious indifference to the health, safety, and welfare of others, including Plaintiff. Plaintiff is therefore entitled to punitive damages against LDS Defendants in an amount to be determined by a jury. LDS Defendants are liable for these punitive damages, as actions that were within the course and scope of Kerlee's agency with LDS Defendants were causally connected to and in fact led to the invasion of Plaintiff's privacy.

FIFTH CLAIM FOR RELIEF

Fraud

53. Plaintiff hereby realleges and incorporates by reference paragraphs 1 through 52 above.

54. LDS Defendants invited and encouraged Plaintiff to participate in LDS youth activities they administered and controlled, promoting LDS youth activities and programs as safe and beneficial for children, physically, emotionally, and spiritually. This invitation created

special fiduciary relationships, set out at Paragraph 13, above.

55. Plaintiff and his parents relied upon Defendants' expertise and judgment in selecting safe, moral, and trustworthy adults to lead LDS youth activities and programs.

56. On information and believe, no later than the 1960s, LDS Defendants knew that some adult volunteers were using Youth Leader positions within LDS Church entities across the United States to gain access to and sexually victimize LDS youth. Based on this information, LDS Defendants knew that LDS Youth activities and programs posed a danger to LDS Youth, including Plaintiff.

57. In addition to the knowledge set out in paragraph 56, prior to the last incident of sexual abuse Plaintiff suffered, LDS Defendants knew from the Repeated Notices set out at Paragraph 25, above, that Ron Kerlee posed a specific danger to LDS youth because he was known to have previously sexually abused children.

58. LDS Defendants had a duty to disclose known threats to the health and safety of the minors involved in their organization.

59. In the first alternative, LDS Defendants' invitation to Plaintiff's family as tithing members of the LDS Church for Plaintiff to participate in LDS youth activities required Defendants to disclose all matters material to Plaintiff and his parents, including material risks. Material risks would have included the widespread and repeated occurrence of child molestation by LDS Youth Leaders and the specific dangerousness of Kerlee. These risks would have materially altered Plaintiff's decision to participate in LDS youth activities and programs. Plaintiff also would not have entered into a relationship with LDS Defendants, the LDS youth program, Kerlee, or any other of LDS Defendants' agents had he or his parents been aware of these facts.

60. In the second alternative, on information and belief, LDS Defendants actively concealed the widespread and repeated occurrence of child molestation by LDS Youth Leaders as well as the specific dangerousness of Kerlee.

61. No duty to disclose is required to state a claim for fraud.

62. On information and belief, LDS Defendants' knowledge of the use of LDS Youth Program by child molesters, including Kerlee, and LDS Defendants' failure to change their youth program, policies, or procedures frequently used by molesters including Kerlee, to harm boys amounted to knowingly allowing, permitting, or encouraging child abuse within the meaning of ORS 12.177.

63. On information and belief, LDS Defendants fraudulently misrepresented and failed to disclose, and/or actively concealed the dangers and prevalence of child molesters with the LDS youth program, as well as the specific dangerousness of Youth Leader Ron Kerlee ("Omissions").

64. On information and belief, LDS Defendants knew the Omissions were false representations or, alternatively, LDS Defendants made the Omissions with a reckless disregard for the truth, with the intent of inducing Plaintiff (and other similarly situated children), Plaintiff's parents (and other similarly situated parents and guardians), and the community at large to rely on the Omissions for their financial gain.

65. Plaintiff and his parents relied on the Omissions in allowing Plaintiff to engage in a trust relationship with Defendants and their agents. On information and belief, this reliance was justified because Plaintiff and his parents did not know, nor could they have known, that LDS Defendants had concealed: (a) a history of adults using Youth Leader positions within LDS Church to gain access to and victimize LDS youth; and (b) the known danger of Youth Leader

Kerlee sexually abusing LDS youth.

66. Plaintiff and his parents reasonably relied on the Omissions, as well as on LDS Defendants' conduct in maintaining the same policies and procedures for the LDS Youth Program, and reasonably believed neither the LDS Youth Program nor Kerlee posed a known danger to LDS youth. Plaintiff and his parents relied on these representations to their detriment and allowed Plaintiff to participate in LDS youth activities based on this reliance.

67. As a direct consequence of LDS Defendants' Omissions as described in paragraphs 53 through 66 above, Plaintiff suffered the molestation and damages as alleged above.

68. LDS Defendants, in their Omissions, 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 of others, including Plaintiff. Plaintiff is therefore entitled to punitive damages against LDS Defendants in an amount to be determined by a jury.

WHEREFORE, Plaintiff prays for judgment against LDS Defendants, and each of them, as follows:

1. Non-economic damages for Plaintiff 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 in the amount of \$500,000.00, the exact to be determined by the jury at the time of trial;
3. Punitive damages against LDS Defendants for an amount to be determined by the jury at the time of trial;

4. For Plaintiff's costs and disbursements incurred; and
5. For any other relief this Court deems just and equitable.

DATED this 23rd day of February, 2021.

CREW Janci LLP

s/ Peter B. Janci

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