

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ESSEX

AJA EVANS

Index No. _____

Plaintiff,

-against-

COMPLAINT

USA BOBSLED AND SKELETON FEDERATION,
UNITED STATES OLYMPIC & PARALYMPIC
COMMITTEE, JONATHAN WILHELM, AND PRO
CHIROPRACTIC

JURY TRIAL DEMANDED

Defendants.

Plaintiff, Aja Evans, by and through the undersigned attorneys, complains of USA Bobsled and Skeleton Federation (hereinafter, “Defendant USA Bobsled”), United States Olympic & Paralympic Committee (hereinafter, “Defendant USOPC”), Defendant Jonathan Wilhelm, and Defendant Pro Chiropractic, and alleges, on personal knowledge as to herself and on information and belief as to all other matters, as follows:

I. PARTIES

1. Aja Evans is a repeat Olympian, All-American track and field athlete, and 14-time world cup medalist. Per Team USA’s own Career and Education announcements, she is “one of the best this country has produced in her sport,”¹ which is currently the sport of bobsledding. She was named as an alternate just last year for the 2022 USA Bobsled Team.

2. Defendant USA Bobsled and Skeleton Federation (“Defendant USA Bobsled”), is a foreign nonprofit corporation formed under the laws of the State of New York with its principal

¹ See Team USA Website, *March 2019 News*, <https://www.teamusa.org/Athlete-Career-and-Education-Program/News/2019/March/22/Copy-A-Force-On-The-Bobsled-Track-Aja-Evans-Is-Finding-The-Tools-To-Become-A-Force-In-Her> (last access July 31, 2023).

place of business and headquarters in Lake Placid, New York. USA Bobsled is headquartered in Lake Placid, New York. Defendant USA Bobsled and Skeleton Federation (“USA Bobsled” herein) is the National Governing Body for the sport of Bobsled in the United States and is recognized as such by the United States Olympic and Paralympic Committee (USOPC). Defendant USA Bobsled is an NGB overseen by the USOPC. Defendant USA Bobsled transacts business in the State of New York, and has at all times relevant, and it may be served with citation by serving its registered agent for service of process: 196 Old Military Road, Lake Placid, NY, 12946.

3. Defendant United States Olympic and Paralympic Committee (“Defendant USOPC” herein) is a not-for-profit corporation headquartered in Colorado and authorized to conduct business throughout the United States, including in the State of New York. The USOPC owns and operates the U.S. Olympic & Paralympic Training Center in Lake Placid, N.Y.² The USOPC’s wrongful conduct primarily took place in the State of New York. Defendant USOPC transacts business in the State of New York, and it may be served with citation by serving its registered agent for service of process: The Prentice-Hall Corporation System, Inc., 80 State Street, Albany, New York 12207.

4. Defendant John Wilhelm (“Defendant Wilhelm”) is an individual residing in Gallatin County, Montana, and who may be served with citation wherever he may be found. At all relevant times alleged in this Complaint, Wilhelm was acting within the scope of his employment or agency with USOPC and USA Bobsled.

5. Defendant Pro Chiropractic is a Montana corporation with its principal place of business in Montana, doing business in the state of Montana and elsewhere. Defendant Pro Chiropractic may be served with citation by serving its registered agent for service of process:

² USOPC, *Lake Placid Olympic & Paralympic Training Center*, <https://www.usopc.org/training-centers/lake-placid> (last access July 27, 2023).

Jonathan M. Wilhelm 8757 N. Jackrabbit Ln. Suite A, Belgrade, Montana 59714. At all relevant times alleged in this Complaint, Defendant Wilhelm was acting within the scope of his employment or agency with Defendant Pro Chiropractic.

II. JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Defendant pursuant to CPLR §§301 and 302, in that Plaintiff's claims arise from the tortious acts of Defendant that were committed in the State of New York.

7. The Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

8. Venue is proper in the County of Essex under CPLR §503 because it is the county in which a substantial part of the events or omissions giving rise to the claim occurred.

9. The federal courts lack jurisdiction over this suit. Plaintiff's claim raises no federal question nor does Plaintiff seek relief under a federal law, statute, regulation, treaty, or the United States Constitution. Accordingly, Plaintiff's right to relief does not depend on the resolution of a substantial question of federal law.

10. This is a civil action for declaratory, injunctive, equitable, and monetary relief for injuries sustained by Plaintiff as a result of the acts and omissions of Defendant USA Bobsled and Defendant USOPC and their respective employees, representatives, and agents, relating to the sexual assault by Defendant Jonathan Wilhelm against Plaintiff.

III. FACTS

11. Systemic sexual abuse can persist for years when athletic institutions such as the United States Olympic and Paralympic Committee ("the USOPC" herein) and the USA Bobsled and Skeleton Federation ("USA Bobsled" herein) protect and enable sexual abusers at the expense of the athletes they purport to serve.

12. Indeed, the USOPC has a shameful history of turning a blind eye to athlete safety, instead allowing athlete after athlete and child after child to be abused by the predator and former sports medicine osteopathic physician, Larry Nassar. The Larry Nassar scandal shined a light on the mentality in US Olympic sports, by the USOPC and National Governing Bodies (NGBs) such as USA Bobsled. The mishandling of the Nassar abuse made clear that these bodies value performance over protection, and medals over mental health and well-being of individual athletes.

13. Plaintiff Aja Evans brings the instant suit to prevent even one more athlete from being abused by Jonathan Wilhelm, and to hold these institutions accountable for their mistreatment.

14. Defendant Wilhelm's "treatment" of Ms. Evans mirrors the abuse perpetuated by Nassar. Ms. Evans endured sexual misconduct and sexual abuse by Defendant Wilhelm during treatment sessions. Defendant Wilhelm touched and groped Ms. Evans' genitals and body in contravention of any applicable medical standards. In addition, he was reported for recording video of and photographing Ms. Evans and others without their permission and in various states of undress during treatment sessions and prior to competition at the USOPC training facility in Lake Placid, New York.

15. Rather than being protected, believed, and taken seriously, Ms. Evans was subjected to investigation and degradation by the USOPC and USA Bobsled governing bodies.

16. The USOPC and USA Bobsled failed to serve as the oversight they are intended to be, and failed to protect Ms. Evans and other athletes they purport to serve. Their failures and negligence compounded the trauma Ms. Evans experienced, and and silenced Ms. Evans and potentially other victims of Defendant Wilhelm.

17. Worse still, Defendant Wilhelm continues to treat athletes to this day, despite being reported to Defendants' leadership. In fact, Defendant Wilhelm is still active and involved in the

osteopathic care of Olympic athletes at an international level, despite the efforts of Ms. Evans and her teammates to have him removed due to their own reported discomfort and concerns with him.

18. Defendant Wilhelm's sexual abuse of Ms. Evans severely injured Ms. Evans, causing significant pain and suffering, lasting psychological harms, loss of dignity, loss of athletic and physical confidence, loss of job opportunities and income, and invasion of her privacy.

19. Ms. Evans filed this lawsuit to obtain redress for her injuries, and to demonstrate that governing sports bodies can and must be held accountable under the law for allowing sexual abuse and misconduct to continue under their watch.

A. Plaintiff's Olympic Career

20. Plaintiff Aja Evans is an Olympic athlete and bronze medalist in the sport of bobsledding. Prior to the incidents that formed the basis of this lawsuit, Plaintiff loved the sport of bobsledding, and was pursuing her dreams of winning an Olympic gold medal for Team USA.

21. Plaintiff is from a family of athletes and athletic professionals and was also a collegiate athlete. Plaintiff attended the University of Illinois, where she was a 5-time All-American and Big-10 record holder in track and field. As a collegiate athlete, Plaintiff competed in sprints as well as shot put. During her senior year in college, her coach encouraged her to attend the winter sports combine for Team USA. Her coach advised that she would be a good fit for the sport of bobsled. When Plaintiff's track and field career did not pan out, she began training for bobsled and eventually attended the 2012 combine at the Lake Placid Olympic Training Center.

22. Through hard work and dedication, Plaintiff not only made the women's team in 2012, but just two years later, she became an Olympic bronze medalist in the two-woman bobsled.

23. Plaintiff continued to thrive as a push athlete in the sport of bobsled, earning a bronze medal at the World Championships in 2017 and USA Bobsled and Skeleton Federation's 2016-17 Team of the Year Award with her teammate Jamie Greubel Poser.

24. Using that momentum, Plaintiff earned a spot on the 2018 Olympic team, coming in 5th place overall. However, Plaintiff completely stepped away from the sport for a period of time – unsure if she would or could ever return to compete due to the unfair treatment and abuse she had suffered as an athlete.

25. Even still, Plaintiff could not shake the feeling that she had more to accomplish in the sport, especially after not medaling at the last Olympics. Thus, Plaintiff came out of retirement about a year before the 2022 Olympic Winter Games. Determined to make the Olympic team in 2022, Plaintiff trained relentlessly and pushed herself to improve.

26. Unfortunately, all of Plaintiff's hard work came to a sudden halt when, on December 3, 2021, at a track in Germany, Plaintiff crashed during a training session full-force into a wall, causing significant lacerations across her face that required about 30 stitches. Plaintiff lost so much blood that teammates described the amount of blood and the scene of Plaintiff's injury as traumatic for Plaintiff's teammates, and stated that it looked like someone had taken an axe to Plaintiff's face. It was an unbearably painful experience, made more painful by the fact that when Plaintiff came to consciousness, she found herself at the side of her abuser, Defendant Wilhelm, who was beside her and touching her as she came out of her unconsciousness.

27. Plaintiff awoke from unconsciousness on December 3, 2021 with Defendant Wilhelm at her side, and immediately panicked. Plaintiff's physical pain and shock was exacerbated by her panic from Wilhelm's proximity to her while she was in such a vulnerable position, as she tried to determine what was happening to her and exit the vehicle which was rushing her to the hospital for medical care. Such was her instant and panicked desire to get away from Defendant Wilhelm in a moment of extreme helplessness – but she had nowhere to turn, with Defendant Wilhelm having ultimate power in his position as her provider with the USOPC and USA Bobsled. It was a moment of terror for Plaintiff during an already-harrowing experience.

Throughout her suturing and blood loss, Plaintiff recalls that nurses were attempting to get Defendant Wilhelm out of their space, and that Defendant Wilhelm was even interfering with her medical care, and attempting to hold up his phone and snap photos of her with his iphone while she was in such a vulnerable state.

28. After her return to the States, and shortly after undergoing a painful revision surgery as a result of her accident, Plaintiff inadvertently missed an anti-doping drug test. It is of note that both before and after this missed test, Plaintiff never tested positive for any banned substance. In response to the missed test, Plaintiff was subjected to a drawn-out process where the United States Anti-Doping Agency (“USADA”) unnecessarily and severely criticized Plaintiff’s mental health. Notably, the only case USADA cited as support for this disciplinary action was from 2004, before a “whereabouts” requirement even existed. USADA could not cite to a single case in the 13-year history of location and/or whereabouts requirements where an athlete was found to be “negligent,” as they found Plaintiff to be. However, Plaintiff accepted a suspension in lieu of further fighting the “whereabouts” issue and missed test, and because of her exhaustion over the repeated abuse, harassment, mistreatment, and disregard she experienced at the hands of the Olympic Defendants.

B. Sexual Misconduct and Abuse by Defendant Wilhelm

29. Despite her overwhelming drive and talent, Aja Evans was serially molested and abused by Defendant Wilhelm before, during and after trainings and competitions as a Team USA athlete. The abuse and predatory behaviors Plaintiff suffered by Defendant Wilhelm, under the guise of medical treatment, occurred on numerous occasions prior to and after her accident.

30. Defendant John Wilhelm was an osteopathic medical provider for the USA Bobsled Team(s), which operates under the USOPC. Defendant Wilhelm was at all times relevant an Olympic osteopathic provider, and still maintains those and/or similar positions currently.

31. Defendant Wilhelm was appointed as the Traveling and Event Team Sports Chiropractor for USA Bobsled Skeleton. In February 2018, Defendant Wilhelm became one of a select few sports chiropractors to serve the USA Olympic Bobsled Team in Pyeongchang, South Korea, at the XXII Winter Olympic Games. Prior to that appointment, Wilhelm served as one of a few high-performance treatment providers for the USA Bobsled Team at various training and competition events around the country, including at the USOPC training facility for USA Bobsled in Lake Placid, New York.

32. At all times relevant, Defendant Wilhelm acted under the umbrella of Defendant USOPC, Defendant USA Bobsled, and Defendant Pro Chiropractic's employ, operation, and supervision, and was acting in the course and scope of his employment and agency with Defendants.

33. Defendant Wilhelm began working as a treatment provider for Team USA on or about 2012. While a team medical provider for USA Bobsled, Defendant Wilhelm's employment duties included coordinating the care for USA Bobsled at every national and international competition, providing individual care and providing for the physical needs and well-being of participants and members of USA Bobsled (and in accordance with Defendant USOPC policies, procedures, and mandates), and care including but not limited to osteopathic adjustments and kinesiology treatment to participants and members of USA Bobsled, which included Plaintiff. Plaintiff was a participant and member of USA Bobsled, and it is under these circumstances that Plaintiff came to be under the direction and control of Defendant Wilhelm, who used his position of authority and trust to molest and sexually abuse Plaintiff.

34. Plaintiff began treatment with Defendant Wilhelm on or around 2012, and has documented communications about her treatment with Defendant Wilhelm starting in 2016 and well beyond.

35. Defendant Wilhelm was in a position of authority over Plaintiff, as an appointed High Performance Team medical provider in his position with USA Bobsled and the USOPC. Defendant Wilhelm used his experience treating Olympians like Plaintiff to garner business for his personal practice, Pro Chiropractic.

36. Plaintiff's instinct, honed from years of conditioning, discipline, coaching, and structure typical to elite athletes, was to trust her team's coaches and directors, including their medical providers, and follow their recommendations. Plaintiff's approach to Defendant Wilhelm was no different.

37. Defendant Wilhelm took advantage of that trust and the power which the governing bodies of USOPC and USA Bobsled bestowed to him over athletes like Plaintiff and her teammates.

38. At all times relevant, Defendant Wilhelm was repeatedly working with female athletes, including Plaintiff, unsupervised, at Defendants' various facilities and events, under the guise of providing "treatment" and athletic support.

39. Defendant Wilhelm negligently, recklessly, or intentionally misused his position as a team chiropractor to exploit and injure Plaintiff.

40. Defendant Wilhelm repeatedly sexually harassed and sexually assaulted Plaintiff while she was a member of the USA Bobsled team, starting in 2012.

41. During Plaintiff's treatments with Defendant Wilhelm, Defendant Wilhelm would, under the guise of providing treatment, expose and touch her inner genital area and inner groin. Defendant Wilhelm always found reasons to work on or around Plaintiff's adductor muscles, despite no complaints of issues specific to this area. It was well known among the athletes treated by Defendant Wilhelm that he would always find a reason to "go for the adductor."

42. More specifically, Defendant Wilhelm would grope, fondle, and/or touch Plaintiff's entire inner groin area, pubis, along her pelvic bone, and buttocks. Defendant Wilhelm would not obtain consent or otherwise explain his procedure prior to or during treatment, and would instead speak softly to Plaintiff in a manner intended to distract and confuse, asking her intimate and inappropriate questions about her family, romantic life, and other personal topics unrelated to medical treatment. A treatment of sensitive areas of the groin, genitals or buttocks should only be performed after thorough patient education, and only with the complete understanding and full consent of the patient. Defendant Wilhelm failed to conduct patient education or seek athlete consent during the course of his supposed "treatment." Defendant Wilhelm's demeanor and procedure was also inappropriate for medical treatment, as he would often touch or place his bare and ungloved hands on Plaintiff in a caressing manner, particularly on her buttocks and groin area.

43. Defendant Wilhelm would also pull Plaintiff's shorts up and away from her inner groin area, starting from the leg of her shorts, exposing her genitals, and would then touch her uncovered groin and would do so without gloves or proper medical warnings. Plaintiff wore track shorts with a lining that serves as underwear, but after treatment with Defendant Wilhelm, Plaintiff began wearing another layer of underwear underneath her track shorts and lining for additional protection. Defendant Wilhelm repeatedly touched Plaintiff inappropriately, and moved her shorts in a direction that exposed her genitals without consent, explanation, and without draping Plaintiff with a towel or using gloves.

44. Defendant Wilhelm would grope and touch Plaintiff in contravention of appropriate osteopathic standards, and without draping Plaintiff – thus exposing her inner genital area and inner groin.

45. Defendant Wilhelm also photographed Plaintiff and her teammates without consent, which was documented in a complaint letter from Plaintiff and her teammates to Defendant USA Bobsled at the 2016-2017 end of season review. Despite the complaints by Plaintiff and her teammates, Defendant Wilhelm was not investigated after the 2016-2017 end of season review by the USOPC or USA Bobsled. Their complaints were dismissed, and Plaintiff remained confused and afraid to speak out.

46. At the 2018 Olympics in South Korea, Plaintiff was preparing for competition in the start house. Defendant Wilhelm entered the start house as Plaintiff was getting undressed, and propped his phone up where the camera was facing Plaintiff and her teammates, so as to record them as they undressed.

47. In addition to the assaults engaged in hereinabove, Defendant Wilhelm would continuously, obsessively and compulsively photograph Plaintiff, and is believed to possess numerous photos of Plaintiff training, in treatment, in the sauna, and in everyday situations, and it is upon information and belief that Plaintiff believes photographs were likely taken of her while Defendant Wilhelm was sexually abusing her under the guise of treatment. However, on at least three occasions, Defendant Wilhelm was caught photographing Plaintiff and her teammates in ways that they did not consent to and felt uncomfortable with, and these inappropriate behaviors were reported to Defendants.

48. Plaintiff and her teammates went so far as to promote other chiropractic care providers directly to USA Bobsled, and even hired a separate team chiropractor, at their own expense, to avoid treatments and unwanted touching by Defendant Wilhelm.

49. Notably, Plaintiff had not experienced any groin strain or groin pain that would necessitate undue attention to or treatment in the adductor or groin area.

50. Plaintiff also did not consent to the harmful bodily contact.

51. Plaintiff did not come to terms with Defendant Wilhelm's supposed "treatment" being abuse because she was an athlete who was trained to push through discomfort, and who was coached and taught to defer to her coaches and treatment providers. As is the case with many victims of sexual abuse, Plaintiff doubted her own feelings and felt shame over what was happening for a long period of time. Further, when Plaintiff expressed her discomfort with Defendant Wilhelm, she was met with disbelief and disregarded as dramatic, which increased her discomfort with reporting and enabled the abuse to continue.

52. The abuse was so pervasive, persistent, and common, it is difficult to calculate the exact number of times the abuse occurred, but Plaintiff has continued to recollect and reconstruct the numerous locations and times of her abuse. Multiple occasions of abuse by Defendant Wilhelm under the guise of treating Plaintiff occurred in Lake Placid, New York. During Plaintiff's attendance at the North American Cup in Lake Placid, New York, in December of 2013, Plaintiff was "treated" by Defendant Wilhelm. During Plaintiff's attendance at the World Cup in Lake Placid, New York, also in December of 2013, Plaintiff was "treated" by Defendant Wilhelm. During Plaintiff's attendance at training in Lake Placid, New York, in July of 2022, Plaintiff was "treated" by Defendant Wilhelm. Finally, at the National Push Champs in Lake Placid, New York, in September to October of 2022, Plaintiff was "treated" by Defendant Wilhelm. During training in Lake Placid prior to the 2014 Sochi Olympics, and prior to the 2018 Pyeongchang Olympics, Defendant Wilhelm did treat, abuse, and harass Plaintiff. All of these "treatments" by Defendant Wilhelm to Plaintiff involved Defendant Wilhelm's abuse, groping, and nonconsensual touching.

53. Defendant Wilhelm did “treat” and abuse Plaintiff at team camp after the 2016/2017 season. Plaintiff was given no choice by Defendants but to work with Defendant Wilhelm.

54. Further, and disturbingly, Plaintiff had to work with Defendant after her accident in 2021. After slamming into the wall and becoming injured, Plaintiff had popped a rib out of place. Plaintiff needed adjustment and for the dressings on her face to be changed, and again, had no other choice of treatment provider except for Defendant Wilhelm. After adjustment to Plaintiff’s rib and changing Plaintiff’s dressings, Defendant Wilhelm asked Plaintiff for a hug, which she felt she could not refuse in her vulnerable position. Defendant Wilhelm continued to abuse the position of power and authority he had over Plaintiff, given to him by Defendants.

55. During the 2022 National Push Champs in Lake Placid, New York, Defendant Wilhelm harassed Plaintiff under the guise of performing treatment. Specifically, Defendant Wilhelm attempted to treat Plaintiff by approaching her when she was on the treatment table. Plaintiff had communicated that she did not want to be treated anymore by Wilhelm and when he attempted to treat and lay hands her despite that clear directive, Plaintiff jumped off the treatment table in an attempt to escape Defendant Wilhelm. Further and during this same 2022 event in Lake Placid, Defendant Wilhelm again attempted to video and/or photograph Plaintiff and her teammates without their consent.

56. As a direct and proximate result of Defendants’ acts and omissions, Plaintiff has suffered and will continue to suffer physical pain and suffering, mental anguish, loss of enjoyment of life, emotional distress, anxiety, difficulties with trust and relationships, and has incurred medical expenses.

57. Plaintiff's injuries include among others, shock, humiliation, emotional distress and related physical manifestations thereof, embarrassment, distrust, loss of self-esteem, disgrace, fright, grief, humiliation, loss of enjoyment of life, and has sustained and continues to sustain loss of earnings and earning capacity.

C. The Olympic Defendants' Pattern of Allowing Abuse

58. The USOPC is fully aware of the growing societal awareness of the pervasiveness of sexual abuse in athletic organizations. Since 1982, more than 290 coaches and officials associated with the USOPC sports organizations have been publicly accused of sexual misconduct, according to a *Washington Post* review of sport governing body banned lists, news clips, and court records in several states.³

59. When the 2010 sexual abuse scandal erupted at USA Swimming with an ABC television report detailing numerous relationships between coaches and young swimmers and revealing that 36 coaches had been banned over the previous decade, USA Swimming was caught in a media firestorm.

60. As part of the USOPC's efforts to deal with the USA Swimming scandal, Blackmun hired Malia Arrington to the newly-created position of Director of Ethics and SafeSport in April 2011. The USOPC adopted a Safe Sport standard for the protection amateur athlete on an enterprise level regardless of USOPC or NGB affiliation.

61. In June 2014, the USOPC board approved the plan to create an independent SafeSport entity. The Center for SafeSport ("USCSS") eventually opened in March 2017, almost seven years after the USOPC had formed its initial SafeSport working group. Despite instituting

³ Washington Post, https://www.washingtonpost.com/sports/every-six-weeks-for-more-than-36-years-when-will-sex-abuse-in-olympic-sports-end/2017/11/17/286ae804-c88d-11e7-8321-481fd63f174d_story.html (last access July 31, 2023).

this program, Defendant USOPC maintained its course and culture of ignoring abuse, ignoring its internal policies and procedures, and placing athletes in the way of danger.

62. From the USCSS' launch in 2017 to April 13, 2018, the Center received written and oral reports, complaints, and allegations regarding sexual abuse from 35 of the 48 NGBs. The UCSS, since its inception, has averaged 85 complaints of sexual abuse per month. Although allegations of sexual abuse are generally kept confidential, in recent years, many NGBs have been at the center of public sexual abuse scandals. These scandals have raised concerns about the USOPC and NGBs' ability to adequately oversee the safety of athletes in organized sport.

63. During all the delays in opening the Center for SafeSport, the USOPC did not enact basic protective measures, such as ensuring that the Olympic Training Sites established sufficient athlete safety policies or requiring NGBs to comply with best practices.

64. Between 2010 and 2017, the USOPC failed to update its own processes for handling complaints. The USOPC continued its practice of declining to intervene at the level of individual complaints and, at the same time, remained largely in the dark with respect to NGB- level complaint processes. Many NGBs lacked employees with expertise in handling complaints of abuse, and some athletes and other participants feared that making a complaint directly to the NGB for their sport would result in retaliation and permanent harm to their athletic careers, such as Plaintiff. Athletes who did report to their NGB, like Plaintiff, were often dismissed out of hand and proper procedures were not followed.

65. Outside of the formal complaint process, prior to the creation of the Center for SafeSport, complaints raised by athletes alleging misconduct were routinely rerouted back to the associated NGB. Sadly, even that did not happen for Plaintiff. Instead, Plaintiff and her teammates' complaints were wholly ignored and Defendant Wilhelm was still selected by the USOPC and

USA Bobsled to treat the U.S. Women's Bobsled Team (sometimes as the only treatment provider), even after clear complaints of concerning behavior and discomfort by athletes were reported in writing to officials and leadership.

66. Given the history of sexual assault in Olympic sports, it is even more egregious that Defendant Wilhelm continues to treat athletes in any sport after multiple reports of his inappropriately photographing team members, multiple reports of team members' discomfort with his treatment, and multiple reports of his sexually harassing and abusive behavior.

67. Defendants USOPC and USA Bobsled knew or should have known that Defendant Wilhelm had a history of sexually inappropriate behavior with athletes, and had committed acts of sexual assault and invasion of privacy in photographing athletes without their consent, and that Defendant Wilhelm posed significant risks to the athletes on their teams and in their programs, including Plaintiff.

68. Defendants USA Bobsled and the USOPC failed to inform Plaintiff or other athletes of the information it had about the propensities and prior history of Defendant Wilhelm, which would have alerted them to the risk of harm Defendant Wilhelm posed to Plaintiff and other athletes.

69. As a direct and proximate result of Defendants' acts and omissions, Plaintiff no longer felt safe to pursue her passion of winning an Olympic gold medal with Team USA Bobsled. The sexual abuse and harassment Plaintiff experienced via Defendant Wilhelm precipitated and indeed directly led to Plaintiff's attempted retirement in 2018. The abuse also exacerbated her injuries and caused her undue panic and fear during and after her 2021 accident. Finally, despite Plaintiff's efforts to report the abuse and treatment by Wilhelm, Plaintiff has been dismissed,

disregarded, and otherwise not taken seriously by Defendants, leading to her re-traumatization, self-doubt, and mental and emotional trauma.

D. Unequal Treatment of Women of Color in Olympic Sports

70. The disparate treatment and minimization of discomfort that Plaintiff suffered is sadly not uncommon for women of color in Olympic sports and beyond. The story of track star Sha'Carri Richardson made headlines when she was suspended from the U.S. Olympic team after failing a marijuana test in Oregon, despite marijuana being legal in Oregon.⁴

71. Richardson's suspension brought to light the discrimination black athletes are forced to face in comparison to white athletes in Olympic sport. The banned substance list is typically reserved for substances that will enhance an athlete's performance or give them an unfair advantage, such as steroids. However, Richardson's treatment and suspension was treated with the same seriousness, and more, as athletes who cheat and abuse steroids.⁵ Worse still, Richardson was treated with more severity than athletes facing credible accusations of sexual assault.⁶ The number and times and places black women are tested appear comparatively more strenuous – given Plaintiff's, Richardson's, and undoubtedly others experiences. Plaintiff, like Richardson, faced a higher level of scrutiny in her investigation and suspension over a simple missed test, despite years and years of negative testing.

72. On the same day that Sha'Carri Richardson was suspended, Olympic and WNBA basketball player Sue Bird announced a partnership with a CBD brand meant to help athletes, but

⁴ CNBC, "*Track Star Sha'Carri Richardson Suspended from U.S. Olympic Team after failing marijuana test,*" <https://www.cnbc.com/2021/07/02/shacarri-richardson-suspended-from-us-olympic-team-for-marijuana.html> (last access July 31, 2023).

⁵New York Times, "<https://www.nytimes.com/2022/02/13/sports/olympics/shacarri-richardson-kamila-valieva-doping.html>" (last access July 31, 2023).

⁶The Guardian, <https://www.theguardian.com/sport/2021/jul/26/shacarri-richardson-alen-hadzic-olympics-suspensions-fencing> (last access July 31, 2023).

faced no consequences. The post has since been deleted, but it highlights the differences in treatment and perception of black and white athletes. A black athlete gets banned from the Olympics for using THC, which is a cannabinoid, while a white athlete gets paid to use and post about CBD, which is also a cannabinoid.⁷

73. The disregard towards the mental health and wellbeing of black women athletes has been at the forefront of the Olympic conversation. Athletes like Naomi Osaka and Simone Biles faced backlash for choosing to prioritize their mental health and protect their bodies first, even when no one else was willing to do so for them.⁸ Similarly, USADA used Plaintiff's mental health struggles as a sword to attempt to slash her credibility and struggles.

74. USA Bobsled is no exception to the mistreatment of women of color and athletes in general face: in fact, it appears to be a part of the USA Bobsled culture. USA Bobsled advertises its indifference to athlete wellbeing, stating on its website "Some of our athletes have slept in cars for the opportunity to train at an Olympic Training Center," as a point of pride.⁹ This statement fits into the culture of mistreatment and silence created by USA Bobsled: that athletes should undergo discomfort for success without complaint, and that athletes' wellbeing are not among the Team's priorities.

75. The USOPC recently investigated USA Bobsled for "management concerns" described as "high performance practices relating to the treatment of athletes and responding to athlete concerns, mental health resources, financial management and allocation of equipment and

⁷Oberlin Review, <https://oberlinreview.org/24415/sports/shacarri-richardson-ban-is-unfair/> (last access July 31, 2023).

⁸ACLU, <https://www.aclu.org/news/racial-justice/simone-biles-shacarri-richardson-and-how-the-olympics-failed-black-women> (last access July 31, 2023).

⁹USABS Foundation Website, <https://www.usabsfoundation.com/> (last access July 31, 2023).

resources, and selection procedures.” Based on the findings of the investigation, the USOPC issued a Demand for Immediate Reform to USA Bobsled.

76. The Demand for Immediate Reform included several recommendations proposed by USOPC to USA Bobsled. Among the “recommendations relating to management concerns” proposed by the USOPC was the following recommendation and investigative findings concerning racial biases and racism:

“The investigation revealed that the USABS Board and staff consist of almost all white individuals. The investigation did not uncover evidence that the Board and staff are selected in an explicitly racially biased manner, as prohibited by the Act¹¹ and other anti-discrimination laws. The investigation did, however, reveal that a significant portion of Black athletes, and some White athletes, perceive racial bias toward athletes of color and that athletes view leadership as a “good ol’ boys club.” To continue to build trust in USABS’s commitment to reflecting the diversity of the sports in its leadership, and to ensure unconscious racial bias plays no role in USABS’s recruiting and hiring processes, at both the Board and staff level, USABS should build on its efforts to foster diversity by recruiting more diverse candidates for open Board, management, and staff positions and giving diverse candidates a more meaningful opportunity for selection...USABS should avoid goals, however, that are merely a “check-the-box” exercise in which diverse applicants are encouraged to apply or are interviewed without any real intention of considering them.”¹⁰

77. While in some sports the USOPC may be more separate from a national governing body such as USA Bobsled, in the sport of bobsledding much of the sport IS the Olympics and

¹⁰ USOPC Letter to USA Bobsled entitled “*Re: Demand for Immediate Reform*,” dated May 19, 2023.

Team USA-related training and events. Bobsledding events outside of the Olympic sphere/Team USA events of influence are less important. Thus, in the case of the US Women’s Bobsled Team, the USOPC and USA Bobsled are more frequently one and the same. It is clear that both the USOPC and USA Bobsled have indeed been proceeding as a “good ‘ol boys club.” It is also clear that these Defendants proceeded with a “check-the-box” mentality when it comes to athlete safety and particularly in valuing the voices of and believing women of color when they reported clear problems with a treatment provider.

78. Winning medals off the backs of athletes whose safety and wellbeing were ignored cannot be the legacy that Team USA wants. Disregarding certain voices causes harm to athletes like Plaintiff, and makes it more difficult and less likely that they will report abuse and sexual violence.

79. Further, disregarding athletes and women of color is a tool of oppression. Pushing aside their pain, voices, and reports makes it that much harder to root out systemic abuse and systemic racism.

IV. CLAIMS FOR RELIEF

COUNT 1:

SEXUAL ASSAULT AND BATTERY AS TO DEFENDANT JON WILHELM

77. Plaintiff restates all allegations above as though set forth fully herein.

78. Defendant Wilhelm committed battery against Plaintiff when he sexually abused/assaulted and groped her.

79. Defendant Wilhelm groped and abused Plaintiff, and without her consent, to satisfy his own sexual desires. Defendant Wilhelm’s physical contact with Plaintiff was offensive and wrong.

80. This resulted in Plaintiff suffering emotional and other harm. Defendant Wilhelm's conduct was criminal in nature, in violation of New York Penal Code §130.52 – "One person touches the intimate or sexual parts of another person to receive sexual satisfaction or, even, for no viable reason at all without consent. One person grabs, pinches, or squeezes the intimate or sexual parts of another person without consent."

81. Defendant Wilhelm battered Plaintiff when he sexually assaulted her by forcibly touching her body without her consent.

82. Defendant Wilhelm acted carelessly, recklessly and/or intentionally, and knew that his actions against Plaintiff constituted assault, causing her apprehension of harmful or offensive contact.

83. Defendant's Wilhelm's assault and battery of Plaintiff caused her to suffer emotional and psychological distress, physical injury, mental anguish, loss of enjoyment of life, humiliation, embarrassment, pain and suffering, and economic damages.

84. Defendant Wilhelm's sexual assault and battery of Plaintiff has the character of outrage associated with crime, entitling her to an award of punitive damages.

85. Defendants USOPC, USA Bobsled, and Pro Chiropractic are vicariously liable for Defendant Wilhelm's sexual assault and battery of Plaintiff because Wilhelm was an employee acting within the scope of his employment at the time of the assaults; i.e., his intentionally tortious conduct was generally foreseeable due to the many documented reports made by Plaintiff and her teammates. Defendant Wilhelm's actions fall within the scope of his employment because he was one of Plaintiff's treatment providers, and he assaulted her while he was generally engaged in providing treatment, which was the purported business of his employer(s).

86. Defendants are therefore vicariously liable for compensatory and punitive damages for Defendant Wilhelm's actions.

87. Defendants USOPC, USA Bobsled, and Pro Chiropractic, through their employees and agents, upon information and belief, ratified and/or condoned this misconduct of Defendant Wilhelm and/or failed to take action to protect Plaintiff and other athletes from Defendant Wilhelm's sexual misconduct.

88. Thus, Defendants are liable to Plaintiff for all of her consequential damages.

89. Plaintiff's claims are timely brought under New York law. The Adult Survivors Act, CPLR § 214-j ("ASA") revives every civil claim alleging intentional or negligent acts or omissions by a person for psychological injury suffered due to a sexual offense as defined in article 130 of the penal law, committed against someone age 18 or older, even if the applicable period of limitation has expired. The assaults detailed herein are qualifying offenses under the ASA, and Defendants' actions constitute qualifying intentional and/or negligent acts and/or omissions for psychological injury suffered due to those offenses under the ASA. Defendants' claims are not subject to dismissal on the grounds that they are time-barred.

COUNT 2:
NEGLIGENCE AND RESPONDEAT SUPERIOR AS TO ALL DEFENDANTS

90. Plaintiff restates all allegations above as though set forth fully herein.

91. At all times material to this action, Plaintiff was a participant and member of USA Bobsled and the USOPC and was under their control, dominion, supervision, coaching, and treatment.

92. At all times material to the allegations set forth in this lawsuit, Defendant Wilhelm owed a duty to use ordinary care to protect the safety and well-being of the athletes treated on the USA Bobsled team.

93. Defendant Wilhelm breached his duty in numerous ways, including but not limited to the following:

- a. Failed to maintain appropriate boundaries and a level of professionalism with the athletes that he treated, including Plaintiff;
- b. Knowing that engaging in boundary violations was wrong, and would result in significant harm to his athletes, including Plaintiff, but proceeded regardless;
- c. Took advantage of his position of authority over athletes, including Plaintiff, and used it to generate harm and injury for his own sexual gratification or purposes.

94. Defendant Wilhelm knew or should have known that his acts or omissions involved an unreasonable risk of injury or harm to Plaintiff. A reasonably prudent person, in the exercise of ordinary care, would not have committed such acts or omissions.

95. As a direct and proximate result of Defendant Wilhelm's negligence, Plaintiff suffered personal physical injuries and damages, as set forth more fully below.

96. At all times relevant to the allegations contained in this Complaint, Defendant Wilhelm was an employee and/or agent of Defendants USOPC, USA Bobsled, and Pro Chiropractic.

97. At the time of the injuries complained of herein at all times relevant, Defendant Wilhelm was acting in the course and scope of his employment agency with Defendants USOPC, USA Bobsled, and Pro Chiropractic.

98. Therefore, Defendants are liable for any wrongful act or omission of Defendant Wilhelm related to the injuries suffered by Plaintiff.

COUNT 3:
NEGLIGENT HIRING, INVESTIGATION, RETENTION, TRAINING, EDUCATION,
AND SUPERVISION AS TO ALL DEFENDANTS

99. Plaintiff restates all allegations above as though set forth fully herein.

100. Defendant Wilhelm was recruited, hired, retained, supervised, and employed by Defendants USOPC, USA Bobsled, and Pro Chiropractic, despite information available to these employers and organizations, and well known in the community, about Defendant Wilhelm's unfitness to serve in any capacity as a high performance medical provider to Olympic athletes.

101. Defendants USOPC, USA Bobsled, and Pro Chiropractic either undertook no investigation of Defendant Wilhelm's qualifications to coach young women, undertook an insufficient investigation, or actually knew of Defendant Wilhelm's prior history of abuse, inappropriate behavior, inappropriate treatment, sexual harassment, and/or indiscretions coaching women.

102. Under any scenario, Defendants USOPC, USA Bobsled, and Pro Chiropractic breached their duties of care to Plaintiff.

103. Defendants USOPC, USA Bobsled, and Pro Chiropractic knew or should have known through the exercise of reasonable care when recruiting, hiring, and employing Defendant Wilhelm that he would be placed in a position of great authority over minor and adult women, would be spending many hours unsupervised with women athletes, and would otherwise be in a position to inflict serious harm if he was not an appropriate, fit, qualified, and trustworthy employee or agent.

104. Defendants USOPC, USA Bobsled, and Pro Chiropractic knew or should have known through the exercise of reasonable care that Defendant Wilhelm was not an appropriate, fit, qualified, and trustworthy employee or agent, particularly for a position of authority over women athletes.

105. Defendants USOPC, USA Bobsled, and Pro Chiropractic knew or should have known through the exercise of reasonable care that their acts or omissions involved an unreasonable risk of injury or harm to Plaintiff. A reasonably prudent organization, in the exercise of ordinary care, would not have committed such acts or omissions.

106. Defendants USOPC, USA Bobsled, and Pro Chiropractic further failed to act as a reasonably prudent organization would have to train and supervise Defendant Wilhelm, given that he was placed in a position of great authority over female athletes, would be spending many hours unsupervised with female athletes, and would otherwise be in a position to inflict serious harm if he was not an appropriate, fit, qualified, and trustworthy employee or agent.

107. Defendants USOPC, USA Bobsled, and Pro Chiropractic further failed to act as a reasonably prudent organizations would have when they continued to retain Defendant Wilhelm despite reports, and continued to fail to provide any supervision or training despite their knowledge of reports and allegations that Defendant Wilhelm was not an appropriate, fit, qualified, and trustworthy employee or agent and was engaging in sexually inappropriate and harassing behavior toward female athletes.

108. Defendants USOPC, USA Bobsled, and Pro Chiropractic further breached their duties to Plaintiff by failing to enact and enforce sufficient policies to prevent Defendant Wilhelm from injuring Plaintiff and other female athletes under their supervision and control.

109. As a direct and proximate result of Defendants USOPC, USA Bobsled, and Pro Chiropractic's breaches of duty in the hiring, retention, and supervision of Defendant Wilhelm, Plaintiff has suffered personal physical injuries and damages, as set forth more fully below.

COUNT 4:
PREMISES LIABILITY AS TO DEFENDANT USOPC

110. Plaintiff restates all allegations above as though set forth fully herein.

111. Defendant USOPC owned, occupied, controlled, or possessed the premises where Plaintiff trained, practiced, and participated as a member of USA Bobsled, and where Defendant Wilhelm provided treatment to Plaintiff and thus had access to and abused Plaintiff.

112. Defendant USOPC owed Plaintiff a duty to ensure that the premises were reasonably safe and free from risk of harm.

113. Defendant USOPC knew or should have known that Defendant Wilhelm posed a significant risk of harm to Plaintiff and other female athletes when he was allowed to spend time unsupervised with Plaintiff and other female athletes on these premises.

114. Defendant USOPC breached their duties to Plaintiff by failing to take reasonable precautions to render the premises safe for Plaintiff and other female athletes and by failing to warn Plaintiff and other athletes of the dangers posed on the premises.

115. As a direct and proximate result of Defendant's breach of duty, Plaintiff has suffered personal physical injuries and damages, as set forth more fully below.

COUNT 5:
NEGLIGENT FAILURE TO WARN OR PROTECT AS TO DEFENDANTS USOPC
AND USA BOBSLED

116. Plaintiff restates all allegations above as though set forth fully herein.

117. Given the direct or indirect knowledge of sexual abuse in sports and particularly in the treatment of athletes by chiropractic care, it was reasonably foreseeable that sexual abuse of female athletes may occur if proper procedures were not taken by USOPC and its Officers and Directors.

118. USOPC knew or should have known that Defendant Wilhelm posed a risk of harm to Plaintiff or those in Plaintiff's situation.

119. Defendant USOPC had direct and/or constructive knowledge as to the dangerous conduct of Defendant Wilhelm, and failed to act reasonably and responsibly in response.

120. Defendant USOPC knew or should have known that Defendant Wilhelm previously committed sexual harassment, assault, abuse, and molestation and/or was continuing to engage in such conduct.

121. USOPC and its Officers and Directors had a duty to warn or protect the USO Bobsled Team, Plaintiff (its member) and others in Plaintiff's situation against the risk of injury by Defendant Wilhelm.

122. The duty to disclose this information arose by the special, trusting, confidential, and fiduciary relationship between Defendant Wilhelm in his capacity as employee, agent, and/or representative of Defendant USOPC and Defendant USA Bobsled.

123. Defendant USOPC breached said duty by failing to warn Plaintiff and/or by failing to take reasonable steps to protect the Plaintiff and others from Defendant Wilhelm.

124. After a major sexual abuse scandal hit the headlines in 2010, the USOPC and its Officers and Directors recognized that it was their duty to implement safeguards to prevent sexual violence against athletes on a nationwide enterprise level and regardless of the athlete's affiliation with the USOPC or one of its NGBs.

125. The USOPC wrongfully failed to implement its nationwide plan on an enterprise level, which would have protected all United States athletes from sexual violence, until 2017.

126. Defendants failed to warn its members about prior complaints regarding Defendant Wilhelm.

127. Defendants breached its duties to protect Plaintiff by failing to detect and/or uncover evidence of sexual abuse and sexual assault, investigate Defendant Wilhelm, adjudicate

and suspend and/or ban Defendant Wilhelm from USOPC affiliation and USOPC-sanctioned events.

128. Defendants failed to adequately screen, counsel and/or discipline Defendant Wilhelm for physical and/or mental conditions that might have rendered him unfit to discharge the duties and responsibilities of a physician in his capacity as an employee, agent, and/or representative of Defendant USOPC and Defendant USA Bobsled, resulting in violations of the Plaintiff.

129. Defendants willfully refused to notify, give adequate warning, and implement appropriate safeguards to protect Plaintiff from Defendant Wilhelm's conduct.

130. As a direct and/or proximate result of Defendants' negligent failure to warn or protect, Plaintiff suffered and continues to suffer pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, fright, grief, humiliation, and enjoyment of life, was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life, and has sustained and will continue to sustain loss of earnings and earning capacity; and has required and will continue to require treatment, therapy, counseling, and hospitalization to address the mental anguish and despair caused by Defendants' actions.

COUNT 6:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AS TO DEFENDANT JON WILHELM

131. Plaintiff restates all allegations above as though set forth fully herein.

132. Defendant Wilhelm's conduct of sexually harassing, abusing, and assaulting Plaintiff as alleged above was extreme and outrageous in nature, in that it was so outrageous in

character and so extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized society.

133. Defendant Wilhelm's conduct as alleged above was intentional or in reckless disregard of Plaintiff.

134. As a direct and proximate result of Defendant Wilhelm's conduct as alleged, Plaintiff has suffered significant, extreme, and severe mental distress, which no reasonable person should be expected to endure.

COUNT 7:
PUNITIVE DAMAGES AS TO ALL DEFENDANTS

135. Plaintiff restates all allegations above as though set forth fully herein.

136. Defendants' actions and omissions were grossly negligent, reckless, malicious, willful, wanton, and/or in conscious indifference to the life and well-being of Plaintiff Jane Doe. Plaintiff is entitled to punitive damages.

COUNT 8:
DAMAGES

137. Plaintiff restates all allegations above as though set forth fully herein.

138. As a direct and/or proximate result of Defendants' conduct, actions and/or inactions, Plaintiff suffered and continues to suffer discomfort in treatment (both during and after the assaults), pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, fright, grief, humiliation, and enjoyment of life. Plaintiff was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life, and has sustained and continues to sustain loss of earnings and earning capacity; and has required and will continue to require

treatment, therapy, counseling, and hospitalization to address the mental anguish and despair caused by Defendants' actions.

139. As a direct and proximate result of Defendants' acts and omissions as alleged above, Plaintiff has sustained severe personal injuries and damages. As such, Plaintiff brings this action seeking recovery of the following damages:

- a. Past and future physical pain and suffering of Plaintiff;
- b. Past and future mental anguish of Plaintiff;
- c. Past and future medical expenses of Plaintiff;
- d. Past and future loss of enjoyment of life of Plaintiff;
- e. Loss of earning capacity in the future of Plaintiff;
- f. Court costs;
- g. Pre-judgment and post-judgment interest;
- h. Exemplary and/or punitive damages as deemed appropriate, having regard to the nature and enormity of the wrong and the mitigating or aggravating circumstances attending the wrongful acts and negligence as stated; and
- i. Any and all other damages, both general and special, at law and in equity, to which Plaintiff may be justly entitled.

IV. PRESERVATION OF EVIDENCE

140. Plaintiff hereby requests and demands that Defendants and its agents, attorneys, and insurers preserve and maintain all evidence pertaining to any claim or defense to the incident made the basis of this suit, or the damages resulting therefrom, including but not limited to photographs; videotapes; audiotapes; recordings; business records; memoranda; files; facsimiles; e-mails; voicemails; text messages; sales receipts; invoices; commission records; tax records; telephone messages; telephone calling card transactions; calendar entries; diary entries; any incident report; and any electronic image, data or information related to the referenced incident. Failure to maintain such items will constitute a "spoliation" of the evidence and may subject

Defendants to sanctions.

V. JURY DEMAND

141. Plaintiff does hereby demand judgment against Defendants in an amount to be determined by a jury upon the trial of this action, plus costs and disbursements.

VI. PRAYER

WHEREFORE, Plaintiff prays that Defendants be cited to appear and answer herein and that upon final trial and hearing hereof Plaintiff recovers damages from Defendants in an amount sufficient to compensate her for all injuries and damages suffered, together with all punitive damages, costs of the suit, or other forms of compensation or recovery deemed just and proper.

Dated: September 20, 2023

Respectfully submitted,

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