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10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN DIEGO

13 Jane Doe 1, Individually, by and through
14 her Guardian Ad Litem Lauri Twomey; and
15 Jane Doe 2,

16 Plaintiffs,

17 v.

18 RANCHO BERNARDO COMMUNITY
19 PRESBYTERIAN CHURCH, a California
20 corporation; GREGORY STARKEY,
21 individually; AND DOES 1 through 100
22 inclusive

23 Defendants.

CASE NUMBER: _____

COMPLAINT FOR DAMAGES FOR:

1. NEGLIGENCE;
2. NEGLIGENT SUPERVISION/
FAILURE TO WARN;
3. NEGLIGENT HIRING/RETENTION
4. FRAUD;
5. NEGLIGENT FAILURE TO WARN,
TRAIN, OR EDUCATE PLAINTIFF;
6. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS;
7. FRAUD AND DECEIT;
8. SEXUAL BATTERY;
9. SEXUAL HARASSMENT; AND
10. NEGLIGENCE PER SE.

[Demand for Jury Trial]

1 Based upon information and belief available to Plaintiffs, Jane Doe 1 and Jane Doe
2 2, at the time of the filing of this Complaint, Plaintiffs make the following allegations:

3 **PARTIES**

4 1. Plaintiff Jane Doe 1 is a minor female. Plaintiff Jane Doe 1 was born on September
5 9, 1992, and has been a minor at all times material. Jane Doe 1 is not the true name of
6 the Plaintiff, but is instead a fictitious name used to protect the identity of Plaintiff, a minor
7 victim of childhood sexual abuse. At the time of the filing of this complaint, Plaintiff Jane
8 Doe 1 is under the age of 26.

9 1.1. Plaintiff Jane Doe 2 is an adult female. Plaintiff Jane Doe 2 was a minor at all times
10 material. Jane Doe 2 is not the true name of the Plaintiff, but is instead a fictitious name
11 used to protect the identity of Plaintiff, a victim of childhood sexual abuse. At the time of
12 the filing of this complaint, Plaintiff Jane Doe 2 is under the age of 26.

13 2. Defendant Rancho Bernardo Community Presbyterian Church ("Defendant Church")
14 is a California corporation, authorized to conduct business and conducting business in the
15 State of California, with its principal place of business in San Diego, California. Defendant
16 Church employed Defendant Gregory Starkey, and provided Defendant Gregory Starkey
17 with access to Plaintiffs, and allowed Defendant Starkey to perform the acts of sexual
18 misconduct and sexual harassment alleged herein.

19 2.1. Defendant Gregory Starkey (the "Perpetrator") was at all times relevant a choir
20 teacher employed by Defendant Church. During the dates of abuse, the Perpetrator was
21 actively employed as a choir teacher, authority figure and mentor assigned to Defendant
22 Church and Does 1 through 100, and was under the direct supervision, employ and control
23 of Defendant Church and Does 1 through 100. Defendant Starkey committed the acts of
24 sexual abuse, sexual misconduct and sexual harassment alleged herein.

25 3. Defendant Does 1 through 100, inclusive, are individuals and/or businesses or
26 corporate entities incorporated in and/or doing business in California whose true names
27 and capacities are unknown to Plaintiffs who therefore sues such defendants by such
28 fictitious names, and who will amend the Complaint to show the true names and capacities

1 of each such Doe defendant when ascertained. Each such Defendant Doe is legally
2 responsible in some manner for the events, happenings and/or tortious and unlawful
3 conduct that caused the injuries and damages alleged in this Complaint. Defendant
4 Church, Defendant Starkey and Does 1 through 100 are sometimes hereinafter referred to
5 as the "Defendants."

6 4. Each Defendant is the agent, servant and/or employee of other Defendants,
7 and each Defendant was acting within the course and scope of his, her or its authority as
8 an agent, servant and/or employee of the other Defendants. Defendants, and each of
9 them, are individuals, corporations, partnerships and other entities which engaged in,
10 joined in and conspired with the other wrongdoers in carrying out the tortious and unlawful
11 activities described in this Complaint, and Defendants, and each of them, ratified the acts
12 of the other Defendants as described in this Complaint.

13 **BACKGROUND FACTS APPLICABLE TO ALL COUNTS**

14 5. At all times material, Defendant Church employed choir teachers, including
15 Defendant Gregory Starkey, to teach, mentor and counsel minors who attended Defendant
16 Church. The duties of Defendant Starkey's employment included, but were not restricted
17 to, teaching, counseling and educating impressionable children, providing supervision and
18 maintaining the safety of minor church attendees, providing guidance and counseling, and
19 enhancing his students emotional, spiritual and educational growth. At all times material,
20 Defendant Starkey was a youth choir teacher, employed by and an agent of Defendant
21 Church, and was under its direct supervision, employ and control. During all times
22 relevant, Defendant Starkey acted as a supervisor, counselor and chaperone to children on
23 the premises of Defendant Church, and was under its direct supervision and control. At all
24 times material, Defendant Starkey was an adult at the time of the sexual abuse alleged
25 herein.

26 6. Plaintiff Jane Doe 1 met Defendant Starkey when she was attending Defendant
27 Church and participating in the choir program run by Defendant Church. Defendant
28 Starkey was Jane Doe 1's choir teacher, mentor and supervisor at Defendant Church.

1 Defendant Starkey was born on June 29, 1982, and is ten years and two months older than
2 Jane Doe 1.

3 6.1. Defendant Starkey groomed Jane Doe 1 for sexual contact. Defendant Starkey
4 bombarded Jane Doe 1 with hundreds of emails and text messages, told Jane Doe 1 that
5 she is pretty, that he wanted to be with her, that if he spent time alone with her he would
6 not be able to resist molesting her, that she looked older than her age, and Defendant
7 Starkey engaged in sexual talk with Jane Doe 1.

8 6.2. Plaintiff Jane Doe 2 met Defendant Starkey when she was attending Defendant
9 Church and participating in the choir program run by Defendant Church. Defendant
10 Starkey was Jane Doe 2's choir teacher, mentor and supervisor at Defendant Church.
11 Defendant Starkey was born on June 29, 1982, and is nine years and seven months older
12 than Jane Doe 2.

13 6.3. Defendant Starkey groomed Jane Doe 2 for sexual contact, and engaged in illegal,
14 immoral and wrongful sexual contact with the person of Jane Doe 2.

15 7. Before the abuse of Plaintiffs Jane Doe 1 and Jane Doe 2, Defendant Church had
16 knowledge that another employee in the choir program of Defendant Church (the second
17 abuser) had sexually abused two underage girls.

18 7.1. In the Fall of 2002, a parent of a choir member at Defendant Church reported that
19 her daughter had been sexually assaulted by the second abuser. The second abuser was
20 compelled to apologize to the minor victim, but was retained by Defendant Church as an
21 employee in the Choir Program.

22 7.2. In the Spring or Summer of 2004, another report of sexual abuse by the second
23 abuser was made to Defendant Church. Again, the second abuser was forced to
24 apologize to the victim, but Plaintiffs are informed and believe and on that basis allege that
25 the second abuser was nonetheless retained as an employee by Defendant Church.

26 7.3. Plaintiffs are informed and believe, and on that basis allege that Defendant Church
27 did not adopt any polices or procedures for identifying or responding to potential childhood
28 sexual abuse by adults following these reports that the second abuser had sexually abused

1 minor choir members. Plaintiffs are further informed and believe, and on that basis allege,
2 that Defendant Church did not train its employees about how to identify and respond to
3 potential childhood sexual abuse by adults following these reports that the second abuser
4 had sexually abused minor choir members.

5 7.4 Plaintiffs are informed and believe, and on that basis allege that Defendant Church
6 never reported the allegations made against their employee, the second abuser, to
7 governmental authorities as required by California law.

8 8. Before the abuse of Plaintiffs Jane Doe 1 and Jane Doe 2, Defendant Church,
9 through its employees, had knowledge that Defendant Starkey had sexually abused
10 underage girls participating in the choir program at Defendant Church.

11 8.1. In approximately 2000, M.B. heard rumors that Defendant Starkey, age eighteen at
12 the time, was dating a fourteen year old girl named B.S. In approximately 2003, M.B., who
13 had become a paid choir teacher with Defendant Church, learned that Defendant Starkey
14 had engaged in inappropriate and illegal sexual conduct with a minor female A.L., who was
15 approximately 15 years of age at the time.

16 8.2. Plaintiffs are informed and believe, and on that basis allege, that the Choir Director
17 of Defendant Church learned that Defendant Starkey had been engaging in inappropriate
18 and illegal sexual conduct with minor girls in approximately 2004 or 2005. Defendant
19 Starkey was terminated from his position as a choir teacher, but was subsequently rehired
20 by Defendant Church before he engaged in the sexual misconduct, sexual abuse and
21 sexual harassment alleged herein.

22 8.3. In 2007, Defendant Starkey rented a room with the family of T.T, a paid choir
23 teacher with Defendant Church. T.T. quickly became suspicious that Defendant Starkey
24 was sexually abusing Jane Doe 2, and confided this concern to M.B. in December of
25 2007. In the Spring of 2008, T.T. walked into Defendant Starkey's room and found him
26 under the covers of his bed with Jane Doe 2. Jane Doe 2 confided in T.T. that she had
27 engaged in sexual touching with Defendant Starkey.

28 8.4. In approximately the Spring or Summer of 2008, Jane Doe 1's parents reported

1 Defendant Starkey's inappropriate behavior with their underage daughter to the Choir
2 Director at Defendant Church. Also in approximately the Spring or Summer of 2008, Jane
3 Doe 2's father reported Defendant Starkey's inappropriate behavior with his daughter to the
4 Choir Director at Defendant Church. Both Jane Doe 1's parents, and Jane Doe 2's father,
5 in their separate meetings with the Choir Director, were told that there had been previous
6 problems of this nature with Defendant Starkey.

7 9. Defendant Starkey was charged with crimes relating to his unlawful sexual conduct
8 with Plaintiffs. In 2009, Defendant Starkey pled guilty to felony sexual abuse and is now a
9 registered sex offender.

10 10. Defendant Church, through its pastors, employees, agents and volunteers, knew of
11 unlawful sexual conduct by Defendant Starkey with minor girls prior to the molestation of
12 Plaintiffs.

13 10.1. Defendant Church did not warn or advise the parishioners or congregants of
14 Defendant Church of the danger that Defendant Starkey posed to children, or his past
15 history of sexually abusing minors.

16 10.2. Defendant Church, notwithstanding its knowledge of acts of childhood sexual abuse
17 committed by Defendant Starkey, held Defendant Starkey out to the community, including
18 Plaintiffs, as an employee in good standing with Defendant Church. In doing so,
19 Defendant Church represented that Plaintiffs, and other minor parishioners, were safe in
20 Defendant Starkey's care and under his supervision. Defendant Church knew these
21 representations to be false.

22 10.3. Defendant Church had sole knowledge of Defendant Starkey's history of sexually
23 abusing children at Defendant Church. As a result of Defendant Church's affirmative and
24 active conduct in suppressing information relating to Defendant Starkey's sexual abuse of
25 children, such facts were not known or reasonably discoverable to Plaintiffs.

26 10.4. By virtue of its superior knowledge of Defendant Starkey's past history of sexually
27 abusing minors, and active conduct in preventing Plaintiffs from ascertaining similar
28 knowledge, Defendant Church assumed obligations to warn and or disclose the danger

1 posed by Defendant Starkey to Plaintiffs and other parishioners.

2 10.5. Defendant Church, having knowledge of the high rates of recidivism among
3 individuals who commit childhood sexual abuse, and with knowledge that Defendant
4 Starkey had repeatedly engaged in acts of childhood sexual abuse, assigned Defendant
5 Starkey to a position where he had access to children in conscious disregard of the
6 substantial likelihood that minor parishioners would be sexually abused as a result of its
7 actions. Defendant Church fraudulently, intentionally and knowingly breached their
8 obligations by not warning Plaintiffs of the risk posed by Defendant Starkey.

9 11. As a direct result of the wrongful conduct alleged herein, Plaintiffs have suffered,
10 and will continue to suffer great pain of mind and body, shock, emotional distress, physical
11 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
12 humiliation, and loss of enjoyment of life; have suffered and will continue to suffer
13 spiritually; were prevented and will continue to be prevented from performing Plaintiffs'
14 daily activities and obtaining the full enjoyment of life; have sustained and will continue to
15 sustain loss of earnings and earning capacity; and/or have incurred and will continue to
16 incur expenses for medical and psychological treatment, therapy, and counseling.

17 11.1 In doing the things herein alleged, Gregory Starkey acted willfully and with intent to
18 cause injury to Plaintiffs, subjected Plaintiffs to cruel and unjust hardship in conscious
19 disregard of Plaintiffs' rights, and intentionally misrepresented, deceived, and concealed
20 material facts known to Defendant Starkey, thereby depriving Plaintiffs of legal rights and
21 causing injury to Plaintiffs. Defendant Starkey was therefore guilty of malice, oppression,
22 and fraud in conscious disregard of Plaintiffs' rights, and Plaintiffs are therefore entitled to
23 an award of exemplary or punitive damages as against Defendant Starkey.

24 **FIRST CAUSE OF ACTION**

25 **NEGLIGENCE**

26 **(Both Plaintiffs Against Defendant Church and Does 1 through 100)**

27 12. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

28 13. Defendant Church and Does 1 through 100 had a duty to protect the minor Plaintiffs,

1 when they were entrusted to their care by Plaintiffs' parents. Plaintiffs' care, welfare,
2 and/or physical custody were temporarily entrusted to Defendant Church and Does 1
3 through 100. Defendant Church and Does 1 through 100 voluntarily accepted the
4 entrusted care of Plaintiffs. As such, Defendants owed Plaintiffs, minor children, a special
5 duty of care, in addition to a duty of ordinary care, and owed Plaintiffs the higher duty of
6 care that adults dealing with children owe to protect them from harm.

7 14. Defendant Church and Does 1 through 100, by and through their agents, servants
8 and employees, knew or reasonably should have known of Defendant Starkey's dangerous
9 and exploitive propensities and/or that Defendant Starkey was an unfit agent. It was
10 foreseeable that if Defendant Church did not adequately exercise or provide the duty of
11 care owed to children in their care, including but not limited to Plaintiffs, the children
12 entrusted to Defendant Church and Does 1 through 100's' care would be vulnerable to
13 sexual abuse by Defendant Starkey.

14 15. Defendant Church and Does 1 through 100 breached their duty of care to the minor
15 Plaintiffs by allowing Defendant Starkey to come into contact with the minor Plaintiffs
16 without supervision; by failing to adequately hire, supervise, or retain Defendant Starkey,
17 who they permitted and enabled to have access to Plaintiffs; by failing to investigate or
18 otherwise confirm or deny such facts about Defendant Starkey; by failing to tell, or
19 concealing from, Plaintiffs, the parents or guardians of Plaintiffs, or law enforcement
20 officials that Defendant Starkey was, or may have been, sexually abusing minors; by failing
21 to tell or concealing from Plaintiffs' parents, guardians, or law enforcement officials that
22 Plaintiffs were or may have been sexually abused after Defendant Church and Does 1
23 through 100 knew or had reason to know that Defendant Starkey may have sexually
24 abused Plaintiffs, thereby enabling Plaintiffs to continue to be endangered and sexually
25 abused, and/or creating the circumstance where Plaintiffs were less likely to receive
26 medical/mental health care and treatment, thus exacerbating the harm done to Plaintiffs;
27 and/or by holding out Defendant Starkey to Plaintiffs, and their parents or guardians as
28 being in good standing and trustworthy. Defendants cloaked within the facade of normalcy

1 Defendant Church and Does 1 through 100's and/or Defendant Starkey's contact and/or
2 actions with the Plaintiffs and/or with other minors who were victims of Defendant Starkey,
3 and/or disguised the nature of the sexual abuse and contact.

4 16. As a result of the above-described conduct, Plaintiffs have suffered, and will
5 continue to suffer great pain of mind and body, shock, emotional distress, physical
6 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
7 humiliation, and loss of enjoyment of life; have suffered and will continue to suffer
8 spiritually; were prevented and will continue to be prevented from performing Plaintiffs'
9 daily activities and obtaining the full enjoyment of life; have sustained and will continue to
10 sustain loss of earnings and earning capacity; and/or have incurred and will continue to
11 incur expenses for medical and psychological treatment, therapy, and counseling.

12 **SECOND CAUSE OF ACTION**

13 **NEGLIGENT SUPERVISION/FAILURE TO WARN**

14 **(Both Plaintiffs Against Defendant Church and Does 1 through 100)**

15 17. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

16 18. Defendant Church and Does 1 through 100 had a duty to provide reasonable
17 supervision of Defendant Starkey; to use reasonable care in investigating Defendant
18 Starkey; and to provide adequate warning to the Plaintiffs, Plaintiffs' families, and minor
19 church attendees of Defendant Starkey's dangerous propensities and unfitness.

20 19. Defendant Church and Does 1 through 100, by and through their agents, servants
21 and employees, knew or reasonably should have known of Defendant Starkey's dangerous
22 and exploitive propensities and/or that Defendant Starkey was an unfit agent. Despite
23 such knowledge, Defendant Church and Does 1 through 100 negligently failed to supervise
24 Defendant Starkey in the position of trust and authority as a counselor, choir teacher,
25 surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure, where
26 he was able to commit the wrongful acts against Plaintiffs. Defendant Church and Does 1
27 through 100 failed to provide reasonable supervision of Defendant Starkey, failed to use
28 reasonable care in investigating Defendant Starkey, and failed to provide adequate

1 warning to Plaintiffs, and Plaintiffs' families, of Defendant Starkey's dangerous propensities
2 and unfitness. Defendant Church and Does 1 through 100 further failed to take reasonable
3 measures to prevent future sexual abuse.

4 20. As a result of the above-described conduct, Plaintiffs have suffered, and will
5 continue to suffer great pain of mind and body, shock, emotional distress, physical
6 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
7 humiliation, and loss of enjoyment of life; have suffered and will continue to suffer
8 spiritually; were prevented and will continue to be prevented from performing Plaintiffs'
9 daily activities and obtaining the full enjoyment of life; have sustained and will continue to
10 sustain loss of earnings and earning capacity; and/or have incurred and will continue to
11 incur expenses for medical and psychological treatment, therapy, and counseling.

12 **THIRD CAUSE OF ACTION**

13 **NEGLIGENT HIRING/RETENTION**

14 **(Both Plaintiffs Against Defendant Church and Does 1 through 100)**

15 21. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

16 22. Defendant Church and Does 1 through 100 had a duty to not hire and/or retain
17 Defendant Starkey, given Defendant Starkey's dangerous and exploitive propensities.

18 23. Defendant Church and Does 1 through 100, by and through their agents, servants
19 and employees, knew or reasonably should have known of Defendant Starkey's dangerous
20 and exploitive propensities and/or that Defendant Starkey was an unfit agent. Despite
21 such knowledge, Defendant Church and Does 1 through 100 negligently hired and/or
22 retained Defendant Starkey in the position of trust and authority as a counselor, choir
23 teacher, surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure,
24 where he was able to commit the wrongful acts against the Plaintiffs. Defendant Church
25 and Does 1 through 100 failed to use reasonable care in investigating Defendant Starkey
26 and failed to provide adequate warning to Plaintiffs, and Plaintiffs' families, of Defendant
27 Starkey's dangerous propensities and unfitness. Defendant Church and Does 1 through
28 100 further failed to take reasonable measures to prevent future sexual abuse.

1 24. As a result of the above-described conduct, Plaintiffs have suffered, and will
2 continue to suffer great pain of mind and body, shock, emotional distress, physical
3 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
4 humiliation, and loss of enjoyment of life; have suffered and will continue to suffer
5 spiritually; were prevented and will continue to be prevented from performing Plaintiffs'
6 daily activities and obtaining the full enjoyment of life; have sustained and will continue to
7 sustain loss of earnings and earning capacity; and/or have incurred and will continue to
8 incur expenses for medical and psychological treatment, therapy, and counseling.

9
10 **FOURTH CAUSE OF ACTION**

11 **FRAUD**

12 **(Both Plaintiffs Against all Defendants)**

13 25. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

14 26. Defendant Church, Defendant Starkey and Does 1 through 100 knew and/or had
15 reason to know of the sexual misconduct of Defendant Starkey.

16 27. Defendant Church, Defendant Starkey, and Does 1 through 100 misrepresented,
17 concealed or failed to disclose information relating to the sexual misconduct of Defendant
18 Starkey as described herein, and that Defendant Church, Defendant Starkey, and Does 1
19 through 100 continued to misrepresent, conceal, and fail to disclose information relating to
20 sexual misconduct of Defendant Starkey as described herein.

21 28. Defendant Church, Defendant Starkey, and Does 1 through 100 knew that they
22 misrepresented, concealed or failed to disclose information relating to sexual misconduct
23 of Defendant Starkey.

24 29. Plaintiffs justifiably relied upon Defendant Church, Defendant Starkey, and Does 1
25 through 100 for information relating to sexual misconduct of Defendant Starkey.

26 30. Defendant Church, Defendant Starkey, and Does 1 through 100, with the intent to
27 conceal and defraud, did misrepresent, conceal or fail to disclose information relating to the
28 sexual misconduct of Defendant Starkey.

31. As a direct result of Defendants' fraud, Plaintiffs have suffered, and will continue to

1 suffer great pain of mind and body, shock, emotional distress, physical manifestations of
2 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
3 enjoyment of life; have suffered and will continue to suffer spiritually; were prevented and
4 will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full
5 enjoyment of life; have sustained and will continue to sustain loss of earnings and earning
6 capacity; and/or have incurred and will continue to incur expenses for medical and
7 psychological treatment, therapy, and counseling.

8 32. In addition, when Plaintiffs finally discovered the fraud of Defendants, and
9 continuing thereafter, Plaintiffs experienced recurrences of the above-described injuries. In
10 addition, when Plaintiffs finally discovered the fraud of Defendants, and continuing
11 thereafter, Plaintiffs experienced extreme and severe mental and emotional distress that
12 Plaintiffs had been the victim of the Defendants' fraud; that Plaintiffs had not been able to
13 help other minors being molested because of the fraud; and that Plaintiffs had not been
14 able because of the fraud to receive timely medical treatment needed to deal with the
15 problems Plaintiffs have suffered and will continue to suffer as a result of the molestation.

16 **FIFTH CAUSE OF ACTION**

17 **NEGLIGENT FAILURE TO WARN, TRAIN, OR EDUCATE PLAINTIFF**

18 **(Both Plaintiffs Against Defendant Church and Does 1 through 100)**

19 33. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

20 34. Defendant Church and Does 1 through 100 breached their duty to take reasonable
21 protective measures to protect Plaintiffs and other minor church attendees from the risk of
22 childhood sexual abuse by Defendant Starkey, such as the failure to properly warn, train,
23 or educate Plaintiffs and other minor church attendees about how to avoid such a risk,
24 pursuant to Juarez v. Boy Scouts of America, Inc., 97 Cal. Rptr. 2d 12, 81 Cal. App. 4th
25 377 (2000).

26 35. As a result of the above-described conduct, Plaintiffs have suffered and will continue
27 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
28 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of

1 enjoyment of life; have suffered and will continue to suffer spiritually; were prevented and
2 will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full
3 enjoyment of life; have sustained and will continue to sustain loss of earnings and earning
4 capacity; and/or have incurred and will continue to incur expenses for medical and
5 psychological treatment, therapy, and counseling.

6 **SIXTH CAUSE OF ACTION**

7 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

8 **(Both Plaintiffs Against all Defendants)**

9 36. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

10 37. Defendant Church, Defendant Starkey and Does 1 through 100's conduct was
11 extreme and outrageous and was intentional or done recklessly.

12 38. As a result of Defendant Church, Defendant Starkey and Does 1 through 100's
13 conduct, Plaintiffs have experienced and will continue to experience severe emotional
14 distress resulting in bodily harm.

15 39. As a result of the above-described conduct, Plaintiffs have suffered and will continue
16 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
17 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
18 enjoyment of life; have suffered and will continue to suffer spiritually; were prevented and
19 will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full
20 enjoyment of life; have sustained and will continue to sustain loss of earnings and earning
21 capacity; and/or have incurred and will continue to incur expenses for medical and
22 psychological treatment, therapy, and counseling.

23 **SEVENTH CAUSE OF ACTION**

24 **FRAUD AND DECEIT**

25 **(Both Plaintiffs Against All Defendants)**

26 40. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

27 41. Defendant Starkey held himself out to Plaintiffs as a counselor, choir teacher,
28 surrogate parent, spiritual mentor, emotional mentor, and/or other authority figure.

1 Defendant Starkey represented to Plaintiffs, and Plaintiffs' parents that he would counsel
2 and guide Plaintiffs with her educational needs.

3 42. These representations were made by Defendant Starkey with the intent and for the
4 purpose of inducing Plaintiffs and Plaintiffs' parents to entrust the educational, spiritual and
5 physical well being of Plaintiffs with Defendant Starkey.

6 43. Defendant Starkey misrepresented, concealed or failed to disclose information
7 relating to his true intentions to Plaintiffs and Plaintiffs' parents when they entrusted
8 Plaintiffs to his care, which were to sexually molest and abuse Plaintiffs. Plaintiffs
9 justifiably relied upon Defendant Starkey's representations.

10 44. Defendant Starkey was an employee, agent, and/or representative of Defendant
11 Church, and Does 1 through 100. At the time he fraudulently induced Plaintiffs and
12 Plaintiffs' parents to entrust the care and physical welfare of Plaintiffs to Defendant
13 Starkey, Defendant Starkey was acting within the course and scope of his employment with
14 Defendant Church and Does 1 through 100.

15 45. Defendant Church and Does 1 through 100 are vicariously liable for the fraud and
16 deceit of Defendant Starkey.

17 46. As a result of the above-described conduct, Plaintiffs have suffered and will continue
18 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
19 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
20 enjoyment of life; have suffered and will continue to suffer spiritually; were prevented and
21 will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full
22 enjoyment of life; have sustained and will continue to sustain loss of earnings and earning
23 capacity; and/or have incurred and will continue to incur expenses for medical and
24 psychological treatment, therapy, and counseling.

25 47. In addition, when Plaintiffs finally discovered the fraud of Defendants, and
26 continuing thereafter, Plaintiffs experienced recurrences of the above-described injuries. In
27 addition, when Plaintiffs finally discovered the fraud of Defendants, and continuing
28 thereafter, Plaintiffs experienced extreme and severe mental and emotional distress that

1 Plaintiffs had been the victim of the Defendants' fraud; that Plaintiffs had not been able to
2 help other minors being molested because of the fraud; and that Plaintiffs had not been
3 able because of the fraud to receive timely medical treatment needed to deal with the
4 problems Plaintiffs have suffered and will continue to suffer as a result of the molestations.

5 **EIGHTH CAUSE OF ACTION**

6 **SEXUAL BATTERY**

7 **(Plaintiff Jane Doe 2 Against All Defendants)**

8 48. Plaintiff Jane Doe 2 incorporates all paragraphs of this Complaint as if fully set forth
9 herein.

10 49. From approximately 2007 through approximately 2008, Defendant Starkey engaged
11 in unpermitted, harmful and offensive sexual contact upon the person of Plaintiff Jane Doe
12 2, and Defendant Church and Does 1 through 100 ratified or approved of that sexual
13 contact.

14 50. As a result of the above-described conduct, Plaintiff Jane Doe 2 has suffered and
15 will continue to suffer great pain of mind and body, shock, emotional distress, physical
16 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
17 humiliation, and loss of enjoyment of life; has suffered and will continue to suffer spiritually;
18 was prevented and will continue to be prevented from performing Plaintiff Jane Doe 2's
19 daily activities and obtaining the full enjoyment of life; has sustained and will continue to
20 sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur
21 expenses for medical and psychological treatment, therapy, and counseling. Pursuant to
22 Civil Code § 1708.5(c), Plaintiff Jane Doe 2 is also entitled to injunctive relief for this cause
23 of action, in which Defendant Starkey is enjoined from committing further acts of sexual
24 battery.

25
26
27 ///

28 **NINTH CAUSE OF ACTION**

1 **SEXUAL HARASSMENT**

2 **(All Plaintiffs Against all Defendants)**

3 51. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

4 52. During Plaintiff Jane Doe 1's time as a church member, student and choir member
5 at Defendant Church, Defendant Starkey intentionally, recklessly and wontonly made
6 sexual advances, sexual solicitations, sexual comments and sexual requests and engaged
7 in other visual, verbal or physical conduct of a sexual nature based on Plaintiff Jane Doe
8 1's gender that were unwelcome, pervasive and severe, including but not limited to
9 engaging in sexual talk with Jane Doe 1, telling Jane Doe 1 that she is attractive and that
10 Defendant Starkey was in love with her, bombarding Jane Doe 1 with emails and text
11 messages and telling Jane Doe that he would not be able to control himself if they were
12 alone together, all while Defendant Starkey was acting in the course and scope of his
13 agency with Defendant Church and Does 1 through 100.
14

15
16 53. During Plaintiff Jane Doe 2's time as a church member, student and choir member
17 at Defendant Church, Defendant Starkey intentionally, recklessly and wontonly made
18 sexual advances, sexual solicitations, sexual comments and sexual requests and engaged
19 in other visual, verbal or physical conduct of a sexual nature based on Plaintiff Jane Doe
20 2's gender that were unwelcome, pervasive and severe, including but not limited to
21 engaging in sexual talk with Jane Doe 2 and inappropriate and illegal sexual touching of
22 Jane Doe 2's person, all while Defendant Starkey was acting in the course and scope of
23 his agency with Defendant Church and Does 1 through 100.
24
25

26 54. The incidents of sexual misconduct and sexual harassment outlined herein took
27 place while Plaintiff Jane Doe 1 was under the control of Defendant Starkey, in his capacity
28 as a choir teacher at Defendant Church and while specifically acting on behalf of the

1 Defendant Church and Does 1 through 100.

2
3 55. The incidents of sexual misconduct and sexual harassment outlined herein took
4 place while Plaintiff Jane Doe 2 was under the control of Defendant Starkey, in his capacity
5 as a choir teacher at Defendant Church and while specifically acting on behalf of the
6 Defendant Church and Does 1 through 100.

7
8 56. During Plaintiff Jane Doe 2's time as a church member, student and choir member
9 at Defendant Church, Defendant Starkey intentionally, recklessly and wontonly did acts
10 which resulted in harmful and offensive contact with intimate parts of Plaintiff Jane Doe 2's
11 person, including but not limited to, using his position as a choir teacher to require Plaintiff
12 Jane Roe 2 to give into his sexual suggestions, and used his authority and position of trust
13 to exploit Jane Doe 2 physically and emotionally.

14
15 57. Because of Plaintiff Jane Doe 1's relationship with Defendant Starkey, Plaintiff Jane
16 Doe 1's young age as a minor choir student, Plaintiff Jane Doe 1's inexperience, Plaintiff
17 Jane Doe 1 was emotionally unable to terminate the contact she had with Defendant
18 Starkey.

19
20 58. Because of Plaintiff Jane Doe 2's relationship with Defendant Starkey, Plaintiff Jane
21 Doe 2's young age as a minor choir student, Plaintiff Jane Doe 2's inexperience, Plaintiff
22 Jane Doe 2 was emotionally unable to terminate the contact she had with Defendant
23 Starkey.

24
25 59. Because of Defendant Starkey's position of authority over Plaintiff Jane Doe 1,
26 Plaintiff Jane Doe 1's mental and emotional state, and Plaintiff Jane Doe 1's young age
27 under the age of consent, Plaintiff Jane Doe 1 was unable to, and did not, give meaningful
28 consent to such acts.

1 60. Because of Defendant Starkey's position of authority over Plaintiff Jane Doe 2,
2 Plaintiff Jane Doe 2's mental and emotional state, and Plaintiff Jane Doe 2's young age
3 under the age of consent, Plaintiff Jane Doe 2 was unable to, and did not, give meaningful
4 consent to such acts.
5

6 61. Even though Defendant Church and Does 1 through 100 knew or should have
7 known of these activities by Defendant Starkey, Defendant Church and Does 1 through
8 100 did nothing to investigate, supervise or monitor Defendant Starkey to ensure the safety
9 of the minor students and choir members.
10

11 62. Defendants' conduct was a breach of their duties to Plaintiffs.

12 63. As a result of the above-described conduct, Plaintiffs have suffered and will continue
13 to suffer great pain of mind and body, shock, emotional distress, physical manifestations of
14 emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of
15 enjoyment of life; have suffered and will continue to suffer spiritually; were prevented and
16 will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full
17 enjoyment of life; have sustained and will continue to sustain loss of earnings and earning
18 capacity; and/or have incurred and will continue to incur expenses for medical and
19 psychological treatment, therapy, and counseling.
20
21

22 **TENTH CAUSE OF ACTION**

23 **NEGLIGENCE PER SE**

24 **(All Plaintiffs Against The Defendants)**

25 63. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

26 64. At all times or sometimes herein mentioned, there was in full force and effect Penal
27 Code §§ 32; 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2);
28

1 288a(c); 289(h), (l) & (j); 647.6; or any prior laws of California of similar effect at the time
2 these acts described herein were committed. These laws made unlawful certain acts
3 relating to the sexual abuse of minors.

4
5 65. At the times mentioned herein, Defendants were in violation of the aforesaid
6 statutes in doing the acts set forth herein.

7 66. Plaintiffs were within the class of persons to be protected by Penal Code §§ 32;
8 11166; 273a; 266j; 285; 286(b)(1) & (2); 286(c); 288(a) & (b); 288a(b)(1) & (2); 288a(c);
9 289(h), (l) & (j); 647.6; or any prior laws of California of similar effect at the time these acts
10 described herein were committed.


11
12 67. As a result of the above-described conduct, Plaintiffs have suffered, and will
13 continue to suffer great pain of mind and body, shock, emotional distress, physical
14 manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace,
15 humiliation, and loss of enjoyment of life; have suffered and will continue to suffer
16 spiritually; were prevented and will continue to be prevented from performing Plaintiffs'
17 daily activities and obtaining the full enjoyment of life; have sustained and will continue to
18 sustain loss of earnings and earning capacity; and/or have incurred and will continue to
19 incur expenses for medical and psychological treatment, therapy, and counseling.

20
21 WHEREFORE, Plaintiffs pray for damages; punitive damages against Defendant Starkey;
22 injunctive relief; costs; interest; attorneys' fees; statutory/civil penalties according to law;
23 and such other relief as the court deems appropriate and just.

24
25 **JURY DEMAND**

Plaintiffs demand a jury trial on all issues so triable.

26
27 DATE: May 10, 2010

By: 
Irwin M. Zalkin, Esq.
Attorney for Plaintiffs,
Jane Doe 1 and Jane Doe 2