

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

JANE DOE 31, a minor,)	
and JANE DOE 32, a minor)	
JANE DOE 33, as next friend and individually)	
)	
PLAINTIFFS,)	
)	
VS.)	JURY TRIAL DEMANDED
)	
)	
)	
WESTSIDE FAMILY CHURCH)	
8500 Woodsonia Drive)	
Lenexa, KS 66227)	
)	
DEFENDANT.)	

PLAINTIFFS' PETITION FOR DAMAGES

COME NOW Plaintiffs and for their causes of action against the Defendant allege as follows:

1. Plaintiffs Jane Doe 31 and Jane Doe 32 bring this lawsuit in order to hold the Defendant responsible for the injuries they suffered due to the sexual abuse perpetrated on them, as children, by Kessler Lichtenegger, while attending Westside Family Church children's programs.
2. At all relevant times, the Church knew of Lichtenegger's extensive past sexual conduct and crimes involving children but nevertheless allowed him to have unsupervised and dangerous access to all children in the congregation.
3. Lichtenegger was criminally prosecuted for his rape and sexual abuse of Plaintiffs, which occurred on church property and was facilitated by the Church. He is now serving a 17-year prison sentence.
4. In 2014, Kessler Lichtenegger was a 17-year-old young man who was an active congregant at the Church. He was also a criminal predator, with a history of sexual crimes. In April 2012, he pleaded guilty to a 2011 sexual assault against a 15-year-old girl with developmental problems. He also pleaded to one other sexual felony prior to his acts against Plaintiffs.

5. Arising out of the 2011 assault, a civil suit was filed against Lichtenegger's parents alleging that prior to the attack, he "had sexually assaulted at least one girl, such that Defendants knew or should have known of his propensity to commit such acts and his need for supervision."

6. In the 2012 criminal sentencing hearing, the father of Lichtenegger's victim read an impact statement that, sadly, foretold the Church's future negligence and the resulting harm to the Plaintiffs. The father said: "This criminal will now have to make a choice between the easy road, where he (with the enabling of others) will try to make all this go away. This choice will most likely end in tragedy for Kessler and those near to him."

7. Statements from Church leaders to the Johnson County Sheriff's Department detective investigating conduct against Plaintiffs show clearly that the Church knew of Lichtenegger's past and was negligent and reckless of its supervision of him. As the 2011 victim's father predicted, the Church enabled Lichtenegger in carrying out further crimes against children.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the causes of action asserted herein and over the parties to this action. Plaintiffs assert claims under Kansas common law.

9. This Court has jurisdiction because the Church is located and operates in Johnson County, Kansas and the sexual abuse occurred there as well.

PARTIES

10. Plaintiff Jane Doe 31 is a minor child and resides in Johnson County, Kansas.

11. Plaintiff Jane Doe 32 is a minor child and resides in Johnson County, Kansas.

12. Plaintiffs' next friend and legal guardian is Jane Doe 33, an adult woman, residing in Johnson County, Kansas. She sues on behalf of Jane Doe 31 and 32 as well as individually.

13. Defendant Westside Family Church is located in Johnson County, Kansas.

14. At all times material, Defendant was and continues to be a corporation doing business in Kansas with its principal place of business located at 8500 Woodsonia Drive, Lenexa, Kansas, 66227.

15. Defendant furnished facilities, instrumentalities and materials to aid and abet Lichtenegger's conduct as alleged hereinafter.

16. At all times relevant, the church and premises were under the direct supervision and control of Defendant.

BACKGROUND FACTS APPLICABLE TO ALL COUNTS

17. Plaintiffs are children who attended Westside Family Church.

18. Plaintiffs' parents believed their children were safe while attending Westside and trusted Defendant to protect their children and not put them in harm's way.

19. Defendant heavily promotes its extensive children's programs, including a summer vacation bible school program called KidsGig.

20. Lichtenegger is an adult male who was allowed to interact with and supervise young children at the Church.

21. Defendant knew that Lichtenegger had an extensive and shocking history of committing sexual abuse against children.

22. Because of this knowledge, Defendant made a condition of Lichtenegger's involvement with children at the Church that he could not be at the Church without the presence of his father, another adult congregant.

23. All key church leaders admitted to law enforcement officers that the Church did not enforce its own protocols meant to prevent Lichtenegger from gaining access to children.

24. In 2014, Lichtenegger raped and sodomized Jane Doe 31 on church property while a children's church service was going on.

25. That same year, he also began grooming and soliciting, through social media, Jane Doe 32.

26. Lichtenegger was allowed access to the Church's children and was given opportunities to supervise children during church programs for children. He had access to the children's contact information as a result of his leadership role.

27. Defendant knew and should have known that allowing Lichtenegger access to young children involved an unreasonable risk of causing emotional distress and severe injury to Plaintiffs and other similarly situated individuals.

28. Defendant took care and custody of Plaintiffs and the other minor children at the Church, standing *in loco parentis* to Plaintiffs.

29. Defendant knew or should have known this outrageous behavior would cause physical and bodily injury and emotional distress to Plaintiffs.

30. As direct result of the Defendant's actions, Plaintiffs have been caused to suffer distress, depression and hopelessness. Plaintiffs have suffered and continue to suffer shock, emotional distress, and physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life. Plaintiffs have sustained or will sustain expenses for medical and psychological treatment, therapy and counseling.

31. Plaintiff Jane Doe 33, as parent for the minor children and a member of the congregation, was owed a duty of care by Westside Family Church.

32. Westside Family Church stood in a confidential and / or fiduciary relationship, by virtue of their position of authority and trust with Mr. and Mrs. Doe, encouraging them to entrust their children to Lichtenegger as a representative and employee of the church.

33. Defendant violated that trust, causing Plaintiff Jane Doe 33 harm. Additionally, Plaintiff Jane Doe 33, as custodial parent for the minor children, has incurred medical, psychological and other expenses on behalf of the children which in equity and good conscience should be returned to her.

COUNT I
CHILD SEXUAL ABUSE
(Jane Doe 31 and Jane Doe 32)

34. Plaintiff incorporates paragraphs 1-33 of this Petition as if fully set forth herein.

35. Lichtenegger engaged in sexual conduct and contact upon the person of the minor Plaintiffs.

36. Lichtenegger sexually abused the Plaintiffs while the Plaintiffs were under his supervision and / or had a confidential or special relationship to them.

37. Lichtenegger sexually abused the Plaintiffs while he was operating within the scope of his agency as a volunteer with the church

38. Lichtenegger and the Church engaged in a common scheme or plan of abuse that allowed for the abuse of these minor children. Westside knew Lichtenegger posed a substantial risk of harm to children but continued to allow him to volunteer for KidsGig and other positions

with youth.

39. The sexual conduct, contact and abuse of the Plaintiffs were done with the intention of bringing about a harmful or offensive contact.

40. The sexual touching s were not consented to by minor Plaintiffs who were not of an age to consent to such sexual acts.

41. Defendant knew or should have known that Lichtenegger was sexually abusing children and took no actions to supervise either the priest or the child causing foreseeable harm to the Plaintiffs.

42. Defendant Westside Family Church knowingly, willfully, wantonly or negligently placed Plaintiff in a position in which Plaintiff was substantially certain to be harmed by the actions of Lichtenegger.

43. The Defendant's actions were willful, wanton or reckless for which punitive damages are appropriate.

44. As a result of the above-described acts, Plaintiffs suffered, and continue to suffer anxiety, guilt, depression, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; were prevented and will continue to be prevented from performing daily activities and obtaining the full enjoyment of life; have sustained loss of earnings and earning capacity; and/or have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT II
FAILURE TO SUPERVISE CHILDREN
(Jane Doe 31 and Jane Doe 32)

45. Plaintiff incorporates paragraphs 1-33 of this Petition as if fully set forth herein.

46. Defendant had a duty to protect children, including Plaintiffs, served by their church.

47. Defendant undertook and accepted the care, custody and supervision of the minor Plaintiffs.

48. Defendant owed the Plaintiffs a heightened standard of care because the Plaintiffs were minors in the custody and control of the Defendant, a status the Defendant invited.

49. Lichtenegger presented a known threat to Plaintiffs and that future harm was certain or substantially certain to result without proper supervision.

50. Defendant breached their duty of care by failing to supervise children, including Plaintiffs, appropriately, including failing to supervise the use of the church and/or office and failing to supervise Lichtenegger's activities with children.

51. Defendant's actions and / or inactions were willful, wanton and reckless for which punitive damages are appropriate.

52. As a result of the above-described acts, Plaintiffs have suffered, and continue to suffer anxiety, guilt, depression, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; were prevented and will continue to be prevented from performing their daily activities and obtaining the full enjoyment of life; and/or have incurred lost earnings and earning capacity and may continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT III
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(All Plaintiffs)

53. Plaintiff incorporates paragraphs 1-33 of this Petition as if fully set forth herein.

54. Defendant owed Plaintiffs a duty to control the conduct of Lichtenegger in such a way as to avoid harming the Plaintiffs.

55. Defendant furthered owed the Plaintiffs a duty to act in their best interest.

56. Defendant furthered owed the minor Plaintiffs a duty to protect them while they were in their custody and/or under their supervision.

57. Lichtenegger presented a known threat to the Plaintiffs and that future harm was certain or substantially certain to result without proper supervision.

58. As a result of the above described conduct, Plaintiffs suffered, and continue to suffer shock, emotional distress, physical manifestations of emotional distress that is medically diagnosable and significant, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; were prevented and will continue to be prevented from performing their daily activities and obtaining the full enjoyment of life; have sustained loss of earnings and earning capacity; and/or have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

59. Defendant's actions and / or inactions were willful, wanton and reckless for which punitive damages are appropriate.

COUNT IV
NEGLIGENT SUPERVISION, RETENTION AND FAILURE TO WARN
(All Plaintiffs)

60. Plaintiff incorporates paragraphs 1-33 of this Petition as if fully set forth herein.

61. At all times material, Defendant Westside supervised Lichtenegger.

62. Defendant Westside owed Plaintiffs a heightened standard of care because Plaintiffs Jane Doe 31 and 32 were minors in the custody and control of the Defendant, a status

the Defendant invited.

63. Defendant Westside owed Plaintiff Jane Doe 33 a standard of care because it stood in a confidential or fiduciary relationship to Jane Doe 33.

64. Defendant Westside knew or reasonably should have known of the dangerous and exploitative propensity of Lichtenegger and admits to having knowledge sufficient to introduce protocols of behavior for him, without ever enforcing those protocols.

65. Defendant Westside knew or reasonably should have known that Lichtenegger was an unfit volunteer and / or agent for Westside, but despite that knowledge, negligently retained and / or failed to supervise Lichtenegger in his position of trust, allowing him to commit acts of sexual abuse against the minor children.

66. Defendant Westside knew or reasonably should have known that Lichtenegger presented a substantial risk of harm to children but failed to warn, notify or report this knowledge to anyone with authority, including the authorities or Jane Doe 33.

67. But for the failure to warn, Jane Doe 33 would not have allowed contact with Lichtenegger.

68. Defendant failed to provide reasonable supervision of Lichtenegger, failed to use reasonable care in investigating, hiring and retaining Lichtenegger and failed to provide adequate warning to plaintiffs of Lichtenegger's dangerous propensities.

69. Defendant breached its duty of care by failing to remove Lichtenegger, failing to report Lichtenegger, and failing to protect the minor plaintiffs. Defendant also breached its duty of care to Jane Doe 33 by failing to fulfill its own protocols, failing to report Lichtenegger to authorities, and failing to warn Jane Doe 33 of the danger he posed.

70. Defendant breached their duty of care by failing to supervise Lichtenegger appropriately, including failing to supervise his activities with children, allowing him to have access to children after the defendant had reason to know of his dangerousness.

71. Defendant breached their duty of care by accepting the custody of the plaintiffs, and then actually increasing the likelihood that the Plaintiff would be harmed by placing a pedophile in their presence.

72. Defendant disregarded the known risk of sexual abuse.

73. Defendant's actions caused injury to all plaintiffs.

74. As a result of the above described conduct, the minor plaintiffs have suffered and continue to suffer great pain of mind and body, shock emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; were prevented and will continue to be prevented from performing their daily activities and obtaining full enjoyment of life; have sustained loss of earnings and earning capacity. Jane Doe 33 has incurred substantial costs of past, present and future medical and counseling expenses on behalf of herself and her minor children.

COUNT V
INTENTIONAL FAILURE TO SUPERVISE CLERGY

75. Plaintiffs incorporate paragraphs 1-33 of this Petition as if fully set forth herein.

76. At all times material, Defendant was the supervisor of Lichtenegger.

77. The Defendant was aware of previous sexual misconduct by Lichtenegger.

78. Defendant disregarded the known risk of sexual abuse.

79. Defendant's actions caused injury to the plaintiffs.

80. Despite the risk posed by Lichtenegger, Defendant continued to place him in positions in which he would have contact with minor children.

81. Despite the risk posed by Lichtenegger, Defendant Diocese ratified his actions of being alone with young children.

82. Defendant's actions and / or inactions were willful, wanton and reckless.

83. As a result of the Defendant's failure to properly supervise Lichtenegger, all plaintiffs were injured and have suffered and continue to suffer pain of mind, and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; incurred past present and will incur future medical and counseling expenses for medical and psychological treatment, therapy and counseling.

COUNT VI
BREACH OF FIDUCIARY DUTY
(ALL PLAINTIFFS)

84. Plaintiff incorporates Paragraphs 1-33 of this petition as if fully set forth herein.

85. As a result of the close and confidential relationship of all plaintiffs to the defendant, plaintiffs reposed trust and confidence in Westside as the institutional authority for the salvation of their souls and protection of their bodies.

86. As a fiduciary to the plaintiffs, defendant had a duty to obtain and disclose information relating to sexual misconduct and other inappropriate behavior of Defendant's agents, including Lichtenegger. Further, as their caretaker and fiduciary, Defendant owed Plaintiffs the duty of trust and loyalty, and the duty to work solely for their benefit.

87. Defendant breached their fiduciary duties to the plaintiffs and abused their

position of trust and confidence for their own personal gain, including without limitation, the following:

a) Defendant kept a known pedophile in the presence of children such that he would be allowed to rape, molest and abuse the minor plaintiffs.

b) Defendant hid the fact of the previous abuse from any individuals that might intervene, including parents, state authorities and the congregation members.

c) Defendant failed to provide a safe environment for the children who relied upon them for the care, nurturance and support.

d) Failed to abide by their own internal, secular policies and procedures concerning removal, sanction, discipline and supervision of their agents and volunteers, known the individuals whom they serve, including these plaintiffs, relied upon those rules, policies and procedures.

e) Ratifying the abuse of Lichtenegger by allowing contact with children to continue.

88. As a direct result of Defendant's breach of its fiduciary duties, and / or confidential relationship with all plaintiffs, all plaintiffs were injured and have suffered and continue to suffer pain of mind, and body.

89. Shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; incurred past present and will incur future medical and counseling expenses for medical and psychological treatment, therapy and counseling.

COUNT VII
OUTRAGEOUS CONDUCT
(All Plaintiffs)

90. Plaintiff incorporates paragraphs 1-33 of this Petition as if fully set forth herein.

91. At all times relevant, Defendant engaged in extreme and outrageous conduct, intended to cause or committed in reckless disregard of the probability of causing emotional distress and harm.

92. Defendant engaged in unconscionable conduct beyond all possible bounds of decency and utterly intolerable in a civilized society. Defendant's conduct caused all plaintiffs severe emotional distress of such a nature that no reasonable person in a civilized society could be expected to endure it.

93. Plaintiffs suffered medically significant and diagnosable distress as a result of Defendant's actions as set forth in the Background Facts Applicable to all Counts.

94. As a result of the above-described conduct, all plaintiffs were injured and have suffered and continue to suffer pain of mind, and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; incurred past present and will incur future medical and counseling expenses for medical and psychological treatment, therapy and counseling

UNJUST ENRICHMENT

93. Plaintiff Jane Doe 33 hereby incorporates by this reference each and every allegation heretofore pleaded.

94. Plaintiffs state that as a direct result of the actions and omissions of Defendant, they have obligated themselves necessary medical, psychiatric and surgical care of the injuries of Jane Doe 31 and Jane Doe 32., and will in the future be required to expend and/or obligate themselves further for

further medical, psychiatric, and hospital care for their injuries all to their damage.

WHEREFORE, Plaintiffs' Parents pray for damages in a sum in excess of the jurisdictional amount together with costs and such other and further relief as the Court deems just and proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs asks that this Court award judgment against Defendant as follows:

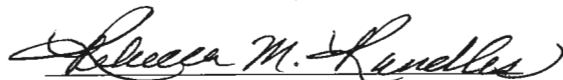
- A. Awarding compensatory, statutory and punitive damages in favor of Plaintiffs against Defendant for damages sustained as a result of the wrongdoings of Defendant, together with interest thereon;
- B. Awarding Plaintiffs their costs and expenses incurred in this action, including reasonable allowance of fees for Plaintiffs' attorneys, experts, and reimbursement of Plaintiffs' and counsel expenses;
- C. Granting such other and further relief as the Court deems appropriate and just.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury on all issues triable in this case.

Respectfully Submitted:

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