

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

17CV11934

6 K.G., an individual proceeding under a) Case No.
7 fictitious name; and H.C., an individual)
8 proceeding under a fictitious name,) **COMPLAINT**
9) (Sexual Battery of a Child/*Respondeat*
10) **Plaintiffs,**) *Superior*; Intentional Infliction of Emotional
11) *Distress/Respondeat Superior*; Negligence;
12) **v.**) Fraud)
13) **BOY SCOUTS OF AMERICA, a**)
14) **Congressionally Chartered Corporation,**)
15) **authorized to do business in Oregon; and**) **JURY TRIAL DEMANDED**
16) **CASCADE PACIFIC COUNCIL, BOY**)
17) **SCOUTS OF AMERICA, an Oregon Non-**) *Not Subject to Mandatory Arbitration*
18) **Profit Corporation,**) **Prayer Amount: \$14,000,000**
19) **Defendants.**)

(Common Allegations)

1.

16 Plaintiff K.G. is an adult male born in the year 1960. Plaintiff H.C. is an adult male born
17 in the year 1960. Plaintiff K.G. and Plaintiff H.C. will hereinafter be referred to collectively as
18 "Plaintiffs." At all times relevant to the acts alleged in this complaint Plaintiffs were
19 unemancipated minors who were invited to participate in meetings, events, and activities
20 promoted or sponsored by Defendants or agents of the Defendants.

2.

22 Defendant Boy Scouts of America ("Defendant BSA") is a congressionally chartered
23 corporation authorized to do business in Oregon. Defendant Cascade Pacific Council, Boy
24 Scouts of America ("Defendant CPC") is an Oregon non-profit corporation. Defendant BSA and
25 Defendant CPC will be referred to collectively as "Defendants." At all times relevant to this
26 Complaint, Defendants invited participation of boys, including Plaintiffs, into their Scouting

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1 program and selected adults to serve as Scout Leaders.

2 3.

3 From at least 1935, Defendants knew that Scout Leader positions were being used by
4 predatory child molesters to victimize children, and that Defendants had an institution-wide or
5 systemic child sexual abuse problem. Based on thousands of internal reports contained in
6 Defendants' "ineligible volunteer files" created prior to Plaintiff's participation in Scouting,
7 Defendants understood: (a) the recidivistic nature of child sexual abuse by Scout Leaders; (b)
8 how Scout Leaders used their positions of trust to groom victims and accomplish the abuse of
9 scouts; and (c) the common indications that abuse was occurring. Based on this knowledge, prior
10 to the selection of Robert Charles Philpott ("Philpott") as a Scout Leader in Portland, Defendants
11 became aware that Scout Leaders were in fact sexually abusing boys.

12 4

13 With the knowledge set out in paragraph 3, Defendants selected Philpott as a Scout
14 Leader in Portland, Oregon from at least 1970 through 1972. At all times relevant to this
15 Complaint, Defendants selected or accepted Philpott for the position of Scoutmaster, or a similar
16 capacity (hereinafter "Scout Leader") for the Boy Scout Troop to which Plaintiffs belonged. As a
17 Scout Leader, Philpott's role was to educate, mentor, befriend, counsel, and train young boys like
18 Plaintiffs in morality, patriotism, and various life skills. As a Scout Leader, Philpott was in a
19 position of trust, confidence, and authority over minors involved in Defendants' programs,
20 including Plaintiffs.

21 5.

22 Defendants authorized and empowered Philpott to perform all the duties of a Scout
23 Leader, including the power to provide instruction, counseling, moral guidance, physical
24 supervision of boys participating in Scouting, the power to enforce the rules governing the boys'
25 participation in Scouting, as well as other duties. Defendants retained the right to control the
26 means and methods used by Scout Leaders like Philpott in fulfilling these duties for Defendants.

1 Defendants taught and instructed boys, including Plaintiffs, to have respect for and obey persons
2 in positions of authority, including Scout Leaders like Philpott. Defendants knew that as part of
3 his duties as a Scout Leader, Philpott would be in a position of trust, confidence, and authority
4 over the boys involved, including Plaintiffs. At all times relevant to this Complaint, Defendants
5 authorized or ratified the conduct of Philpott in performing the duties of a Scout Leader.

6
7 6.

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

18
19 7.

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

- 25 (a) committed in direct connection and for the purposes of fulfilling his employment
26 and agency with Defendants;
- (b) committed within the time and space limits of his agency as a Scout Leader;
- (c) done initially and at least in part from a desire to serve the interests of Defendants;

- 1 (d) done directly in the performance of his duties as a Scout Leader;
2 (e) consisted generally of actions of a kind and nature which Philpott was required to
3 perform as a Scout Leader; and
4 (f) done at the direction of, and pursuant to, the power vested in him by Defendants.

5 Defendants, through their agents, had a right to control Philpott's Grooming of children in
6 Scouting as a Scout Leader and/or Philpott's interactions with those children as a Scout Leader.
7 Alternatively or in conjunction with the Grooming process, Philpott's authorized actions as a
8 Scout Leader led to and/or resulted in the sexual abuse of Plaintiffs.

9 8.

10 Scoutmaster Philpott engaged in intentional conduct resulting in one or more of the
11 following effects: physical injury, mental injury, rape, sexual abuse, and/or sexual exploitation of
12 Plaintiffs as those terms are used in ORS 12.117. Specifically:

- 13 (a) Scoutmaster Philpott sexually abused and molested Plaintiff K.G. in or around 1971,
14 when Plaintiff K.G. was approximately 11 years old. The sexual abuse included fondling
15 and attempted anal penetration.
16 (b) Scoutmaster Philpott sexually abused and molested Plaintiff H.C. in or around 1971 and
17 1972, when Plaintiff H.C. was approximately 11 to 12 years old. The sexual abuse
18 included fondling and masturbation.

19 9.

20 Prior to the last incident of Plaintiff's abuse, Defendants learned that Philpott engaged in
21 common grooming patterns known to Defendants based on previous reports of sexual abuse.

22 10.

23 As described in paragraphs 3 through 9, above, prior to the last incident of Philpott's
24 sexual abuse of each Plaintiff, Defendants knew: (a) the nature, common circumstances and
25 indicators of sexual abuse in Scouting (based on thousands of prior reports of sexual abuse
26 contained in Defendants "ineligible volunteer files"); and (b) that while working in Plaintiff's

1 troop, Philpott engaged in common grooming behavior known to Defendants to indicate a
2 likelihood of child sexual abuse. From this information, prior to the last incident of each
3 Plaintiff's abuse, Defendants knew that Philpott posed a danger to Scouts. Nonetheless,
4 Defendants allowed Philpott to continue to serve in his position as Scout Leader and/or remain
5 involved with the Scouting program. Defendants' conduct in relation to Philpott was consistent
6 with an internal policy implemented by Defendants called "probation," whereby Defendants
7 knowingly allowed and permitted known predators to continue as Scout Leaders working with
8 children in Defendants care.

9 11.

10 Scoutmaster Philpott's sexual abuse and molestation constituted a sexual and physical
11 battery upon Plaintiffs' persons. As a result of Scoutmaster Philpott's sexual abuse, molestation,
12 and breach of authority, trust, and position as Scout Leader, each Plaintiff suffered non-economic
13 damages as follows:

- 14 (a) Plaintiff K.G. has suffered and/or will suffer in the future the following physical injuries:
15 substance abuse issues and sleep disturbances. In conjunction with or in addition to the
16 aforementioned injuries, and as a further result of the sexual and physical battery by
17 Scoutmaster Philpott, Plaintiff K.G. has suffered and/or will suffer in the future: severe
18 and debilitating mental and emotional injury, including mental and emotional pain and
19 suffering, anxiety, shame, humiliation, depressions, self-esteem issues, trust issues,
20 relationship issues, emotional trauma, and permanent psychological damage. All of the
21 aforementioned injuries have caused and will cause Plaintiff K.G. to incur non-economic
22 damages in the approximate amount of \$5,000,000.00, the exact amount to be proven at
23 trial.
- 24 (b) Plaintiff H.C. has suffered and/or will suffer in the future the following physical injuries:
25 sexual dysfunction. In conjunction with or in addition to the aforementioned injuries, and
26 as a further result of the sexual and physical battery by Scoutmaster Philpott, Plaintiff

1 H.C. has suffered and/or will suffer in the future: severe and debilitating mental and
2 emotional injury, including mental and emotional pain and suffering; emotional trauma;
3 relationship problems, intimacy issues, trust issues, depression, anxiety, substance abuse
4 issues, and permanent psychological damage. All of the aforementioned injuries have
5 caused and will cause Plaintiff H.C. to incur non-economic damages in the approximate
6 amount of \$5,000,000.00, the exact amount to be proven at trial.

7 12.

8 As an additional result and consequence of Scoutmaster Philpott's sexual abuse,
9 molestation, and breach of authority, trust, and position as Scout Leader, each Plaintiff suffered
10 economic damages as follows:

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

17
18 **FIRST CLAIM FOR RELIEF**

19 *Against all Defendants*

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

21 13.

22 Plaintiffs reallege and reincorporate by reference paragraphs 1 through 12, above.

23 14.

24 While acting in the course and scope of his agency for Defendants, Philpott induced and
25 directed Plaintiffs to engage in various sexual acts with Philpott, as set forth in paragraph 8,
26 above. The sexual molestation and abuse described in paragraph 8 constituted harmful and

1 offensive touching of Plaintiffs, to which Plaintiffs did not and could not consent.

2 15.

3 As a result and consequence of Philpott's sexual abuse and breach of authority, trust and
4 position as a Scout Leader to Plaintiffs, Plaintiffs have incurred economic and non-economic
5 damages as detailed in paragraphs 11 and 12, above

6 16.

7 Less than five years before the date of this Complaint, Plaintiff K.G. discovered the
8 causal connection between his abuse, as set forth in paragraph 8 above, and the damages suffered
9 as a result of the abuse, as set forth in paragraphs 11 and 12, above. Plaintiff K.G. did not
10 discover (and could not reasonably have discovered) at an earlier time the causal connection
11 between the abuse and the damages he suffered as a result of the abuse. The psychological
12 effects of the abuse Plaintiff K.G. suffered prevented Plaintiff K.G. from discovering the causal
13 connection between the abuse and the damages he suffered as a result of the abuse.

14 17.

15 Less than five years before the date of this Complaint, Plaintiff H.C. discovered the
16 causal connection between his abuse, as set forth in paragraph 8 above, and the damages suffered
17 as a result of the abuse, as set forth in paragraphs 11 and 12, above. Plaintiff H.C. did not
18 discover (and could not reasonably have discovered) at an earlier time the causal connection
19 between the abuse and the damages he suffered as a result of the abuse. The psychological
20 effects of the abuse Plaintiff H.C. suffered prevented Plaintiff H.C. from discovering the causal
21 connection between the abuse and the damages he suffered as a result of the abuse.

22 18.

23 In molesting Plaintiffs, Philpott acted with malice or a reckless and outrageous
24 indifference to a highly unreasonable risk of harm with a conscious indifference to the health,
25 safety and welfare of Plaintiffs. Punitive damages against an agent are attributable to a principal
26 when conduct in the within the course and scope of agency leads to or results in the tort.

1 Pursuant to ORS 31.725, Plaintiffs hereby give notice to Defendants of their intent to move to
2 add punitive damages against Defendants at any time after the filing of this Complaint.

3
4 **SECOND CLAIM FOR RELIEF**

5 *Against All Defendants*

6 (Intentional Infliction of Emotional Distress/*Respondeat Superior*)

7 19.

8 Plaintiffs reallege and incorporate by reference paragraphs 1 through 18, above.

9 20.

10 Philpott, while engaging in the Grooming process, knowingly and intentionally caused
11 severe emotional distress and physical injury to Plaintiffs when Philpott sexually abused
12 Plaintiffs, as described in paragraph 8, above. In the alternative and/or in conjunction with the
13 Grooming, acts committed within the course and scope of Philpott's agency with Defendants led
14 to and/or resulted in Philpott knowingly and intentionally causing severe emotional distress and
15 physical injury to Plaintiffs. Plaintiffs did in fact suffer severe emotional distress and physical
16 injury as a result of this sexual abuse, and the abuse of a child is beyond the bounds of all
17 socially tolerable conduct.

18 21.

19 As a result of Philpott's sexual abuse and breach of authority, trust and position as a
20 Scout Leader to Plaintiffs, Plaintiffs have suffered economic and non-economic damages as
21 detailed in paragraphs 11 and 12, above.

22 22.

23 Less than five years before the date of this Complaint, Plaintiff K.G. discovered the
24 causal connection between his abuse, as set forth in paragraph 8 above, and the damages suffered
25 as a result of the abuse, as set forth in paragraphs 11 and 12, above. Plaintiff K.G. did not
26 discover (and could not reasonably have discovered) at an earlier time the causal connection

1 between the abuse and the damages he suffered as a result of the abuse. The psychological
2 effects of the abuse Plaintiff K.G. suffered prevented Plaintiff K.G. from discovering the causal
3 connection between the abuse and the damages he suffered as a result of the abuse.

4 23.

5 Less than five years before the date of this Complaint, Plaintiff H.C. discovered the
6 causal connection between his abuse, as set forth in paragraph 8 above, and the damages suffered
7 as a result of the abuse, as set forth in paragraphs 11 and 12, above. Plaintiff H.C. did not
8 discover (and could not reasonably have discovered) at an earlier time the causal connection
9 between the abuse and the damages he suffered as a result of the abuse. The psychological
10 effects of the abuse Plaintiff H.C. suffered prevented Plaintiff H.C. from discovering the causal
11 connection between the abuse and the damages he suffered as a result of the abuse.

12 24.

13 In molesting Plaintiffs, Philpott acted with malice or a reckless and outrageous
14 indifference to a highly unreasonable risk of harm with a conscious indifference to the health,
15 safety and welfare of Plaintiffs. Punitive damages against an agent are attributable to a principal
16 when a tort is committed within the course and scope of agency. Pursuant to ORS 31.725,
17 Plaintiffs hereby give notice to Defendants of their intent to move to add punitive damages
18 against Defendants at any time after the filing of this Complaint.

19
20 **THIRD CLAIM FOR RELIEF**
21 *Against All Defendants*
22 *(Negligence)*

23 25.

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

25 26.

26 Defendants created special relationships with each Plaintiff by inviting and encouraging
each Plaintiff to participate in Scouting activities with Scout Leader Philpott. That relationship

1 created a duty on the part of Defendants to ensure that Scouting programs were made as
2 reasonably safe as possible from known dangers. Alternatively or in conjunction with the above,
3 Plaintiffs each had a special relationship with Defendants as young children entrusted to the care
4 and control of Defendants. The special relationship created a duty of care on the part of
5 Defendants to ensure Plaintiffs' safety while participating in Defendants' programs, events or
6 activities.

7 27.

8 Based on the knowledge set out in paragraphs 3 through 10, above, Defendants knew that
9 children (including Plaintiffs) were at risk of sexual abuse in Scouting, including the risk of
10 sexual abuse by Philpott.

11 28.

12 Despite the knowledge set out in paragraphs 3 through 10, above, Defendants created a
13 foreseeable risk of Scout Leaders abusing children involved in Scouting, including the risk of
14 Philpott abusing Plaintiffs, by failing to undertake reasonable child abuse prevention measures in
15 the following particular ways:

- 16 a. Defendants failed to change their process for selecting, monitoring and
17 supervising Scout Leaders, including Philpott;
- 18 b. Defendants failed to train Scout Leaders, parents, and Scouts in how to recognize,
19 prevent, report and respond to child abuse;
- 20 c. Defendants failed to train Scout Leaders to prevent and exclude individuals
21 suspected of child sexual abuse from interacting with children;
- 22 d. Defendants failed to train Scout Leaders to report allegations of adult volunteers
23 grooming or sexually abusing children to law enforcement;
- 24 e. Defendants failed to warn and/or notify Plaintiff's parents and parents of similarly
25 situated children about the danger posed by Philpott;
- 26 f. Defendants failed to warn parents and Scouts of the risk of child sexual abuse

1 inherent to the Scouting program, including the risk of child sexual abuse by
2 Philpott; and,

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

7 These actions and inactions were a substantial contributing and causal factor to the abuse of
8 Plaintiffs and their resulting injuries.

9 29.

10 Based on Defendants’ aforementioned knowledge of the danger posed by Philpott and the
11 knowledge gleaned from other previous reports of child sexual abuse in Scouting contained in
12 their ineligible volunteer files, Defendants knew with certainty that the failures to undertake
13 reasonable child abuse prevention measures (as set out in paragraph 28, above) would result in
14 children being sexually abused by Scout Leaders while participating in Defendants’ Scouting
15 program and activities. It was foreseeable to Defendants that Plaintiffs and the similarly situated
16 class of children involved in Scouting were in danger of sexual abuse, including abuse by
17 Philpott. Defendants thereby created a foreseeable risk of harm to the safety of children in the
18 care of Defendants, including Plaintiffs.

19 30.

20 Plaintiffs were a member of the class of individuals to be protected by reasonable child
21 abuse prevention measures. Such measures would have protected Plaintiffs from some or all of
22 their abuse. Alternatively, Defendants affirmatively created a dangerous condition by not
23 excluding known pedophiles from participation in Scouting, including not excluding Philpott
24 after learning of Philpott’s grooming of Scouts as set forth in paragraphs 3 through 10, above.

25 31.

26 Given Defendants’ knowledge of the nature, common circumstances and indicators of

1 sexual abuse in Scouting, as well as Defendants' knowledge of Philpott's grooming of Scouts in
2 Plaintiffs' Troop, Defendants knowingly allowed, permitted, or encouraged child abuse pursuant
3 to ORS 12.117 through their conduct set out in paragraphs 25 through 30, above.

4 32.

5 Plaintiffs' interest in being free from sexual molestation is an interest of a kind that the
6 law protects against negligent invasion. Defendants' actions and inactions described in
7 paragraphs 25 through 31, above, were unreasonable in light of the risk posed to minor boys by
8 Scout Leaders, including Philpott. Defendants' actions and inactions described in paragraphs 25
9 through 31 were a direct and foreseeable cause of the molestation and damages suffered by the
10 Plaintiffs, as alleged in paragraphs 8, 11 and 12, above.

11 33.

12 Less than five years before the date of this Complaint, Plaintiff K.G. discovered the
13 causal connection between his abuse, as set forth in paragraphs 8 above, and the damages
14 suffered as a result of the abuse, as set forth in paragraphs 11 and 12, above. Plaintiff K.G. did
15 not discover (and could not reasonably have discovered) at an earlier time the causal connection
16 between the abuse and the damages he suffered as a result of the abuse. The psychological
17 effects of the abuse Plaintiff K.G. suffered prevented Plaintiff K.G. from discovering the causal
18 connection between the abuse and the damages he suffered as a result of the abuse. Furthermore,
19 Plaintiff K.G. did not discover Defendants' negligence as described in paragraphs 25 through 32,
20 above, until less than 5 years prior to filing suit. Specifically, less than five years before filing
21 suit, Plaintiff learned that, prior to the abuse Plaintiff suffered, Defendants already had
22 knowledge about the risk of child sexual abuse in Scouting, including the risk of child sexual
23 abuse by Philpott. Moreover, less than five years before filing suit, Plaintiff learned that, despite
24 this knowledge, Defendants failed to protect Plaintiff from or warn Plaintiff about this risk of
25 sexual abuse in Scouting, including the risk of child sexual abuse by Philpott. Finally, less than
26 five years before filing suit, Plaintiff discovered the Defendants' causal role in the injuries he

1 suffered as described in paragraphs 8, 11 and 12, above. Plaintiff did not learn about
2 Defendants' negligence nor its causal role in the injuries Plaintiff suffered more than five years
3 before filing suit, and a reasonable inquiry by a child victim of sexual abuse would not have
4 revealed this information more than five years before filing suit. Accordingly, Plaintiff's claims
5 are timely.

6 34.

7 Less than five years before the date of this Complaint, Plaintiff H.C. discovered the
8 causal connection between his abuse, as set forth in paragraphs 8 above, and the damages
9 suffered as a result of the abuse, as set forth in paragraphs 11 and 12, above. Plaintiff H.C. did
10 not discover (and could not reasonably have discovered) at an earlier time the causal connection
11 between the abuse and the damages he suffered as a result of the abuse. The psychological
12 effects of the abuse Plaintiff H.C. suffered prevented Plaintiff H.C. from discovering the causal
13 connection between the abuse and the damages he suffered as a result of the abuse. Furthermore,
14 Plaintiff H.C. did not discover Defendants' negligence as described in paragraphs 25 through 32,
15 above, until less than 5 years prior to filing suit. Specifically, less than five years before filing
16 suit, Plaintiff learned that, prior to the abuse Plaintiff suffered, Defendants already had
17 knowledge about the risk of child sexual abuse in Scouting, including the risk of child sexual
18 abuse by Philpott. Moreover, less than five years before filing suit, Plaintiff H.C. learned that,
19 despite this knowledge, Defendants failed to protect Plaintiff from or warn Plaintiff about this
20 risk fo sexual abuse in Scouting, including the risk of child sexual abuse by Philpott. Finally,
21 less than five years before filing suit, Plaintiff H.C. discovered the Defendants' causal role in the
22 injuries he suffered as described in paragraphs 8, 11 and 12, above. Plaintiff H.C. did not learn
23 about Defendants' negligence nor its causal role in the injuries Plaintiff H.C. suffered more than
24 five years before filing suit, and a reasonable inquiry by a child victim of sexual abuse would not
25 have revealed this information more than five years before filing suit. Accordingly, Plaintiff
26 H.C.'s claims are timely.

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1 35.

2 In acting or failing to act as alleged in paragraphs 25 through 34, above, Defendants acted
3 with malice or reckless and outrageous indifference to a highly unreasonable risk of harm and
4 with a conscious indifference to the health, safety and welfare of children in Scouting, including
5 Plaintiffs. Plaintiffs hereby provide notice of their intent to move to add allegations of punitive
6 damages against Defendants at any time after the filing of this Complaint.

7
8 **FOURTH CLAIM FOR RELIEF**
9 *Against All Defendants*
10 (Fraud)

11 36.

12 Plaintiffs hereby reallege and incorporate by reference paragraphs 1 through 35, above.

13 37.

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

21 38.

22 Despite the Defendants' knowledge set out in paragraphs 3 through 10, above, at all times
23 relevant to this Complaint, Defendants misrepresented, failed to disclose, and/or actively
24 concealed the danger of child molestation in Scouting (as set forth in paragraphs 1 through 35,
25 above). In the alternative or in conjunction with the above, Defendants affirmatively represented
26 that its program and Scout Leaders (including Philpott) were safe and trustworthy (as set forth in
paragraphs 1 through 35, above). As such, these assertions, misrepresentations, non-disclosures,

1 concealment, silence and related conduct will be collectively referred to as “representations”
2 throughout the remainder of this Complaint.

3 39.

4 Defendants’ representations were false and misleading because:

- 5 1. Defendants had a duty to disclose known threats to the health and safety of the
6 minors involved with their organization;
- 7 2. Defendants’ invitation to Plaintiffs to participate in Scouting upon payment of a
8 fee required Defendants to disclose all matters material to entering into the
9 transaction, and the danger that Plaintiffs would be molested in Scouting would
10 have been particularly material to each Plaintiff’s decision to enter into or remain
11 in the transaction with Defendants; and
- 12 3. Defendants actively concealed the danger of child molestation by Scout Leaders.

13 40.

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

22 41.

23 Based on Defendants knowledge set out in paragraph 3 through 10, above, Defendants
24 knew that their conduct and representations regarding the safety of Scouting and Scout Leaders
25 were false, misleading, unfounded and/or were made with reckless disregard for the truth.
26 Defendants knew that their conduct and representations created a false impression which

1 obscured, covered up, and/or removed an opportunity that might have led Plaintiffs or other
2 similarly situated individuals to discover the type of material facts set forth in paragraphs 3
3 through 10, above.

4 42.

5 Defendants' conduct and representations were made with the intent of inducing Plaintiffs
6 (and other similarly situated children), Plaintiffs' respective parents (and other similarly situated
7 parents and guardians), and the community at large to rely on such representations and thereby
8 continue to trust and be involved with Defendants, their agents (including Philpott), and the
9 Scouting program.

10 43.

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

20 44.

21 As a direct consequence of Defendants' fraud as described in paragraphs 36 through 43,
22 Plaintiffs suffered the damages described in paragraphs 11 and 12, above.

23 45.

24 Less than two years before filing suit, Plaintiff K.G. discovered Defendants' fraud, as
25 described in paragraphs 36 through 44, above. Plaintiff K.G. did not learn of Defendants' fraud
26 or their causal role in the injuries Plaintiff K.G. suffered until less than two years before filing

1 suit, and a reasonable inquiry by a child victim of sexual abuse would not have revealed this
2 information. Plaintiff K.G. also did not discover the causal connection between his abuse and
3 injuries until a date less than five years before filing suit. Accordingly, Plaintiff's fraud claim is
4 timely.

5 46.

6 Less than two years before filing suit, Plaintiff H.C. discovered Defendants' fraud, as
7 described in paragraphs 36 through 44, above. Plaintiff H.C. did not learn of Defendants' fraud
8 or their causal role in the injuries Plaintiff H.C. suffered until less than two years before filing
9 suit, and a reasonable inquiry by a child victim of sexual abuse would not have revealed this
10 information. Plaintiff H.C. also did not discover the causal connection between his abuse and
11 injuries until a date less than five years before filing suit. Accordingly, Plaintiff's fraud claim is
12 timely.

13 47.

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

19
20 **WHEREFORE**, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

- 21 1. Non-economic damages for Plaintiff K.G. in the amount of \$5,000,000.00, the
22 exact amount to be determined by the jury at the time of trial;
- 23 2. Economic damages for Plaintiff K.G. in the amount of \$2,000,000.00, the exact
24 amount to be determined by the jury at the time of trial;
- 25 3. Non-economic damages for Plaintiff H.C. in the amount of \$5,000,000.00, the
26 exact amount to be determined by the jury at the time of trial;


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- 1 4. Economic damages for Plaintiff H.C in the amount of \$2,000,000.00, the exact
- 2 amount to be determined by the jury at the time of trial;
- 3 5. For Plaintiffs' costs and disbursements incurred; and
- 4 6. For any other relief this Court deems just and equitable.

5
6 DATED this 22nd day of March, 2017.

7 CREW JANCI LLP

8
9
10 **Trial Attorney:**


11 **Stephen F. Crew, OSB # 781715**
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