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IN THE CIRCUIT COURT OF THE STATE OF OREGON **17CV22678**
FOR MULTNOMAH COUNTY

Michael Doe, an individual proceeding under
a fictitious name,

Plaintiff,

v.

BOY SCOUTS OF AMERICA, a
Congressionally Chartered Corporation,
authorized to do business in Oregon; and
CASCADE PACIFIC COUNCIL, BOY
SCOUTS OF AMERICA, an Oregon Non-
Profit Corporation,

Defendants.

) Case No.

) **COMPLAINT**

) (Sexual Battery of a Child/*Respondeat*
) *Superior*; Intentional Infliction of Emotional
) *Distress/Respondeat Superior*; Negligence;
) Fraud)

) JURY TRIAL DEMANDED

) *Not Subject to Mandatory Arbitration*

) Prayer Amount: \$7,000,000

(Common Allegations)

1.

Plaintiff is an adult male born in the year 1953. At all times relevant to the acts alleged in this complaint Plaintiff was an unemancipated minor who was invited to participate in meetings, events, and activities promoted or sponsored by Defendants or agents of the Defendants.

2.

Defendant Boy Scouts of America (“Defendant BSA”) is a congressionally chartered corporation authorized to do business in Oregon. Defendant Cascade Pacific Council, Boy Scouts of America (“Defendant CPC”) is an Oregon non-profit corporation. Defendant BSA and Defendant CPC will be referred to collectively as “Defendants.” At all times relevant to this Complaint, Defendants invited participation of boys, including Plaintiff, into their Scouting program and selected adults to serve as Scout Leaders.

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3.

From at least 1935, if not earlier, Defendants knew that Scout Leader positions were being used by predatory child molesters to victimize children, and that Defendants had an institution-wide or systemic child sexual abuse problem. Based on thousands of internal reports contained in Defendants' "ineligible volunteer files" created prior to Plaintiff's participation in Scouting, Defendants understood how Scout Leaders used their positions of trust to select victims and accomplish the abuse of scouts. Based on this knowledge, prior to the selection of Robert "Bob" Booth(e) (hereinafter "Booth") as a Scout Leader in Portland, Defendants became aware that Scout Leaders were in fact sexually abusing boys.

4

With the knowledge set out in paragraph 3, Defendants selected Booth as a Scout Leader in Portland, Oregon from at least 1962 through 1964. At all times relevant to this Complaint, Defendants selected or accepted Booth for the position of Scoutmaster, or a similar capacity (hereinafter "Scout Leader") for the Boy Scout Troop to which Plaintiff belonged. As a Scout Leader, Booth's role was to educate, mentor, befriend, counsel, and train young boys like Plaintiffs in morality, patriotism, and various life skills. As a Scout Leader, Booth was in a position of trust, confidence, and authority over minors involved in Defendants' programs, including Plaintiff.

5.

Defendants authorized and empowered Booth to perform all the duties of a Scout Leader, including the power to provide instruction, counseling, moral guidance, physical supervision of boys participating in Scouting, the power to enforce the rules governing the boys' participation in Scouting, as well as other duties. Defendants retained the right to control the means and methods used by Scout Leaders like Booth in fulfilling these duties for Defendants. Defendants taught and instructed boys, including Plaintiff, to have respect for and obey persons in positions of authority, including Scout Leaders like Booth. Defendants knew that as part of his duties as a

1 Scout Leader, Booth would be in a position of trust, confidence, and authority over the boys
2 involved, including Plaintiff. At all times relevant to this Complaint, Defendants authorized or
3 ratified the conduct of Booth in performing the duties of a Scout Leader.

4 6.

5 While performing duties as a Scout Leader, and for the purpose of furthering his duties
6 required in that role, Booth befriended Plaintiff; gained the trust and confidence of Plaintiff and
7 his family as an instructor, guide, mentor, counselor, and authority figure; and gained the
8 permission, acquiescence, and support of Plaintiff's family to spend substantial periods of time
9 alone with Plaintiff. As a result, Plaintiff was conditioned to trust Booth, to comply with his
10 directions, and to respect Booth as a person of authority in moral and ethical matters. Booth
11 acting as a Scout Leader toward Plaintiff, supervised Plaintiff on Scouting trips and outings, and
12 exercised authority *in loco parentis* over Plaintiff during Scouting events.

13 7.

14 Using his authority and position of trust as a Scout Leader, Booth induced and directed
15 Plaintiff to engage in various sexual acts with Booth. Booth's authorized activities as a Scout
16 Leader led to and resulted in the sexual abuse of the Plaintiff, discussed below. Booth's actions
17 as a Scout Leader to Plaintiff were:

- 18 (a) committed in direct connection and for the purposes of fulfilling his employment
19 and agency with Defendants;
- 20 (b) committed within the time and space limits of his agency as a Scout Leader;
- 21 (c) done initially and at least in part from a desire to serve the interests of Defendants;
- 22 (d) done directly in the performance of his duties as a Scout Leader;
- 23 (e) consisted generally of actions of a kind and nature which Booth was required to
24 perform as a Scout Leader; and
- 25 (f) done at the direction of, and pursuant to, the power vested in him by Defendants.

26 Defendants, through their agents, had a right to control Booth's interactions with those children

1 as a Scout Leader. Booth's authorized actions as a Scout Leader led to and/or resulted in the
2 sexual abuse of Plaintiff.

3 8.

4 Scoutmaster Booth engaged in intentional conduct resulting in one or more of the
5 following effects: physical injury, mental injury, rape, sexual abuse, and/or sexual exploitation of
6 Plaintiffs as those terms are used in ORS 12.117. Specifically Scoutmaster Booth sexually
7 abused and molested Plaintiff in or around 1963, when Plaintiff was approximately 10 years old.
8 The sexual abuse included fondling, masturbation, sexual assault and battery, and attempted oral
9 sodomy.

10 9.

11 Scoutmaster Booth's sexual abuse and molestation constituted a sexual and physical
12 battery upon Plaintiff's person. As a result of Scoutmaster Booth's sexual abuse, molestation,
13 and breach of authority, trust, and position as Scout Leader, Plaintiff has suffered and/or will
14 suffer in the future the following physical injuries: substance abuse issues and sleep disturbances.
15 In conjunction with or in addition to the aforementioned injuries, and as a further result of the
16 sexual and physical battery by Scoutmaster Booth, Plaintiff has suffered and/or will suffer in the
17 future: severe and debilitating mental and emotional injury, including mental and emotional pain
18 and suffering, anxiety, shame, humiliation, depressions, self-esteem issues, trust issues,
19 relationship issues, emotional trauma, and permanent psychological damage. All of the
20 aforementioned injuries have caused and will cause Plaintiff Michael Doe to incur non-economic
21 damages in the approximate amount of \$4,000,000.00, the exact amount to be proven at trial.

22 10.

23 As an additional result and consequence of Scoutmaster Booth's sexual abuse,
24 molestation, and breach of authority, trust, and position as Scout Leader, Plaintiff has incurred
25 and/or will incur in the future, costs for counseling, psychiatric, psychological, and medical
26

1 treatment all to his economic damages in the approximate amount of \$2,000,000.00, the exact
2 amount of which will be proven at the time of trial.

3 **FIRST CLAIM FOR RELIEF**

4 *Against all Defendants*

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

6 11.

7 Plaintiff realleges and reincorporates by reference paragraphs 1 through 10, above.

8 12.

9 While acting in the course and scope of his agency for Defendants, Booth induced and
10 directed Plaintiff to engage in various sexual acts with Booth, as set forth in paragraph 8,
11 above. The sexual molestation and abuse described in paragraph 8 constituted harmful and
12 offensive touching of Plaintiff, to which Plaintiff did not and could not consent.

13 13.

14 As a result and consequence of Booth's sexual abuse and breach of authority, trust and
15 position as a Scout Leader to Plaintiff, Plaintiff incurred economic and non-economic damages
16 as detailed in paragraphs 9 and 10, above

17 14.

18 Less than five years before the date of this Complaint, Plaintiff Michael Doc discovered
19 the causal connection between his abuse, as set forth in paragraph 8 above, and the damages
20 suffered as a result of the abuse, as set forth in paragraphs 9 and 10, above. Plaintiff did not
21 discover (and could not reasonably have discovered) at an earlier time the causal connection
22 between the abuse and the damages he suffered as a result of the abuse. The psychological
23 effects of the abuse Plaintiff suffered prevented Plaintiff from discovering the causal connection
24 between the abuse and the damages he suffered as a result of the abuse.

25 15.

26 In molesting Plaintiff, Booth acted with malice or a reckless and outrageous indifference

1 to a highly unreasonable risk of harm with a conscious indifference to the health, safety and
2 welfare of Plaintiff. Punitive damages against an agent are attributable to a principal
3 when conduct within the course and scope of agency leads to or results in the tort. Pursuant to
4 ORS 31.725, Plaintiff hereby gives notice to Defendants of his intent to move to add punitive
5 damages against Defendants at any time after the filing of this Complaint.

6 **SECOND CLAIM FOR RELIEF**

7 *Against All Defendants*

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

9 16.

10 Plaintiff realleges and incorporates by reference paragraphs 1 through 15, above.

11 17.

12 Acts committed within the course and scope of Booth's agency with Defendants led to
13 and/or resulted in Booth knowingly and intentionally causing severe emotional distress and
14 physical injury to Plaintiff. Plaintiff did in fact suffer severe emotional distress and physical
15 injury as a result of this sexual abuse, and the abuse of a child is beyond the bounds of all
16 socially tolerable conduct.

17 18.

18 As a result of Booth's sexual abuse and breach of authority, trust and position as a Scout
19 Leader to Plaintiff, Plaintiff suffered economic and non-economic damages as detailed in
20 paragraphs 9 and 10, above.

21 19.

22 Less than five years before the date of this Complaint, Plaintiff discovered the causal
23 connection between his abuse, as set forth in paragraph 8 above, and the damages suffered as a
24 result of the abuse, as set forth in paragraphs 9 and 10, above. Plaintiff did not discover (and
25 could not reasonably have discovered) at an earlier time the causal connection between the abuse
26 and the damages he suffered as a result of the abuse. The psychological effects of the abuse

1 Plaintiff suffered prevented Plaintiff from discovering the causal connection between the abuse
2 and the damages he suffered as a result of the abuse.

3 20.

4 In molesting Plaintiff, Booth acted with malice or a reckless and outrageous indifference
5 to a highly unreasonable risk of harm with a conscious indifference to the health, safety and
6 welfare of Plaintiff. Punitive damages against an agent are attributable to a principal when a tort
7 is committed within the course and scope of agency. Pursuant to ORS 31.725, Plaintiff hereby
8 gives notice to Defendants of his intent to move to add punitive damages against Defendants at
9 any time after the filing of this Complaint.

10 **THIRD CLAIM FOR RELIEF**
11 *Against All Defendants*
12 (Negligence)

13 21.

14 Plaintiff realleges and reincorporates by reference paragraphs 1 through 20, above.

15 22.

16 Defendants created special relationships with Plaintiff by inviting and encouraging
17 Plaintiff to participate in Scouting activities with Scout Leader Booth. That relationship created
18 a duty on the part of Defendants to ensure that Scouting programs were made as reasonably safe
19 as possible from known dangers. Alternatively or in conjunction with the above, Plaintiff had a
20 special relationship with Defendants as a young child entrusted to the care and control of
21 Defendants. The special relationship created a duty of care on the part of Defendants to ensure
22 Plaintiff's safety while participating in Defendants' programs, events or activities.

23 23.

24 Based on the knowledge set out in paragraphs 3 through 7, above, Defendants knew that
25 children (including Plaintiff) were at risk of sexual abuse in Scouting, including the risk of sexual
26 abuse by Booth.

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24.

Despite the knowledge set out in paragraphs 3 through 7, above, Defendants created a foreseeable risk of Scout Leaders abusing children involved in Scouting, including the risk of Booth abusing Plaintiff, by failing to undertake reasonable child abuse prevention measures in the following particular ways:

- a. Defendants failed to change their process for selecting, monitoring and supervising Scout Leaders, including Booth;
- b. Defendants failed to train Scout Leaders, parents, and Scouts in how to recognize, prevent, report and respond to child abuse;
- c. Defendants failed to train Scout Leaders to prevent and exclude individuals suspected of child sexual abuse from interacting with children;
- d. Defendants failed to train Scout Leaders to report allegations of adult volunteers grooming or sexually abusing children to law enforcement;
- e. Defendants failed to warn and/or notify Plaintiff's parents and parents of similarly situated children about the danger posed by Booth;
- f. Defendants failed to warn parents and Scouts of the risk of child sexual abuse inherent to the Scouting program, including the risk of child sexual abuse by Booth; and,
- g. Defendants failed to implement and/or enforce reasonable policies to prevent child abuse – such as a “zero tolerance” rule regarding allegations of child abuse, or a rule against any adult Scout Leader participating in activities alone with individual children in Scouting (i.e., no “one-on-one”).

These actions and inactions were a substantial contributing and causal factor to the abuse of Plaintiff and his resulting injuries.

25.

Based on Defendants' aforementioned knowledge gleaned from reports of child sexual

1 abuse in Scouting contained in their ineligible volunteer files, Defendants knew with certainty
2 that the failures to undertake reasonable child abuse prevention measures (as set out in paragraph
3 24, above) would result in children being sexually abused by Scout Leaders while participating in
4 Defendants' Scouting program and activities. It was foreseeable to Defendants that Plaintiff and
5 the similarly situated class of children involved in Scouting were in danger of sexual abuse,
6 including abuse by Booth. Defendants thereby created a foreseeable risk of harm to the safety of
7 children in the care of Defendants, including Plaintiff.

8 26.

9 Plaintiff was a member of the class of individuals to be protected by reasonable child
10 abuse prevention measures. Such measures would have protected Plaintiff from some or all of
11 his abuse.

12 27.

13 Given Defendants' knowledge of the nature, common circumstances and indicators of
14 sexual abuse in Scouting, Defendants knowingly allowed, permitted, or encouraged child abuse
15 pursuant to ORS 12.117 through their conduct set out in paragraphs 21 through 26, above.

16 28.

17 Plaintiff's interest in being free from sexual molestation is an interest of a kind that the
18 law protects against negligent invasion. Defendants' actions and inactions described in
19 paragraphs 21 through 27, above, were unreasonable in light of the risk posed to minor boys by
20 Scout Leaders, including Booth. Defendants' actions and inactions described in paragraphs 21
21 through 27 were a direct and foreseeable cause of the molestation and damages suffered by the
22 Plaintiff, as alleged in paragraphs 8, 9 and 10, above.

23 29.

24 Less than five years before the date of this Complaint, Plaintiff discovered the causal
25 connection between his abuse, as set forth in paragraph 8 above, and the damages suffered as a
26 result of the abuse, as set forth in paragraphs 9 and 10, above. Plaintiff did not discover (and

1 could not reasonably have discovered) at an earlier time the causal connection between the abuse
2 and the damages he suffered as a result of the abuse. The psychological effects of the abuse
3 Plaintiff suffered prevented Plaintiff from discovering the causal connection between the abuse
4 and the damages he suffered as a result of the abuse. Furthermore, Plaintiff did not discover
5 Defendants' negligence as described in paragraphs 21 through 28, above, until less than 5 years
6 prior to filing suit. Specifically, less than five years before filing suit, Plaintiff learned that, prior
7 to the abuse Plaintiff suffered, Defendants already had knowledge about the risk of child sexual
8 abuse in Scouting. Moreover, less than five years before filing suit, Plaintiff learned that, despite
9 this knowledge, Defendants failed to protect Plaintiff from or warn Plaintiff about this risk of
10 sexual abuse in Scouting, including the risk of child sexual abuse by Booth. Finally, less than
11 five years before filing suit, Plaintiff discovered the Defendants' causal role in the injuries he
12 suffered as described in paragraphs 8, 9, and 10, above. Plaintiff did not learn about Defendants'
13 negligence nor its causal role in the injuries Plaintiff suffered more than five years before filing
14 suit, and a reasonable inquiry by a child victim of sexual abuse would not have revealed this
15 information more than five years before filing suit. Accordingly, Plaintiff's claims are timely.

16 30.

17 In acting or failing to act as alleged in paragraphs 21 through 29, above, Defendants acted
18 with malice or reckless and outrageous indifference to a highly unreasonable risk of harm and
19 with a conscious indifference to the health, safety and welfare of children in Scouting, including
20 Plaintiff. Plaintiff hereby provides notice of his intent to move to add allegations of punitive
21 damages against Defendants at any time after the filing of this Complaint.

22 **FOURTH CLAIM FOR RELIEF**
23 *Against All Defendants*
24 (Fraud)

25 31.

26 Plaintiff hereby realleges and incorporates by reference paragraphs 1 through 30, above.

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32.

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

33.

Despite the Defendants' knowledge set out in paragraphs 3 through 7, above, at all times relevant to this Complaint, Defendants misrepresented, failed to disclose, and/or actively concealed the danger of child molestation in Scouting (as set forth in paragraphs 1 through 30, above). In the alternative or in conjunction with the above, Defendants affirmatively represented that its program and Scout Leaders (including Booth) were safe and trustworthy (as set forth in paragraphs 1 through 30, above). As such, these assertions, misrepresentations, non-disclosures, concealment, silence and related conduct will be collectively referred to as "representations" throughout the remainder of this Complaint.

34.

Defendants' representations were false and misleading because:

1. Defendants had a duty to disclose known threats to the health and safety of the minors involved with their organization;
2. Defendants' invitation to Plaintiff to participate in Scouting upon payment of a fee required Defendants to disclose all matters material to entering into the transaction, and the danger that Plaintiff would be molested in Scouting would have been particularly material to Plaintiff's decision to enter into or remain in the transaction with Defendants; and

1 the same policies and procedures for the Scouting program, and reasonably believed that
2 Scouting and Scout Leaders (including Booth) did not pose a known danger to children. The
3 reliance of Plaintiff and his parents was justified because they did not know, nor could they have
4 known, of the danger of child sexual abuse by Scout Leaders (including Booth) or Defendants'
5 knowledge of such. Plaintiff and his parents relied to their detriment in allowing Plaintiff to
6 participate in Scouting and Plaintiff was harmed as a result of this reliance.

7 39.

8 As a direct consequence of Defendants' fraud as described in paragraphs 31 through 38,
9 Plaintiff suffered the damages described in paragraphs 9 and 10, above.

10 40.

11 Less than two years before the date of this Complaint, Plaintiff discovered Defendant's
12 fraud, as set forth in paragraphs 9 and 10, above. Plaintiff did not discover (and could not
13 reasonably have discovered) at an earlier time Defendant's fraud or its' causal role in the
14 damages he suffered as a result of the fraud. A reasonable inquiry by a child abuse victim would
15 not have revealed this information. Accordingly, Plaintiff's fraud claim is timely.

16 41.

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

22

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

- 24 1. Non-economic damages in the amount of \$4,000,000.00, the exact amount to be
25 determined by the jury at the time of trial;
- 26 2. Economic damages in the amount of \$2,000,000.00, the exact amount to be

1 determined by the jury at the time of trial;

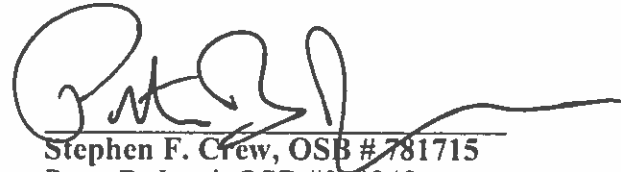
2 3. For his costs and disbursements incurred; and

3 6. For any other relief this Court deems just and equitable.

4
5 DATED this 5th day of June, 2017.

6 **CREW JINCI LLP**

7
8
9 **Trial Attorney:**



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