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JUDICIAL CENTER YORK PA

K.F., on behalf of JOHN DOE, a minor	:	IN THE COURT OF COMMON
	:	PLEAS OF YORK COUNTY
Plaintiff,	:	
	:	
vs.	:	CIVIL ACTION - LAW
	:	
YOUNG MEN'S CHRISTIAN	:	
ASSOCIATION OF YORK AND YORK	:	No. 2016-SU-002316-74
COUNTY, PENNSYLVANIA	:	
	:	
Defendant.	:	JURY TRIAL DEMANDED

PLAINTIFF'S PRE-TRIAL MEMORANDUM

AND NOW, comes the Plaintiff, K.F., on behalf of John Doe, a minor, who hereby files the instant Pre-Trial Memorandum in accordance with this Court's January 22, 2019 Order and Pa.R.C.P. 212.2, and states as follows:

I. SUMMARY OF FACTS AND BASIS FOR LIABILITY

During the summer of 2015, John Doe (initials G.M.), then five-years-old, was sexually abused by a 13-year-old boy, initials B.G., at "Camp Spirit," a summer day camp run by Defendant Young Men's Christian Association of York and York County, Pennsylvania (the "York YMCA"). John Doe's abuse was discovered by a Camp Spirit counselor, who witnessed B.G. abusing John Doe under a wooden play structure on July 3, 2015.

This was not the first time the York YMCA became aware of B.G.'s inappropriate sexual conduct at Camp Spirit with another child.

The prior summer, in 2014, B.G. sexually abused an autistic Camp Spirit camper, initials J.M. At the time, J.M. was receiving services from Pennsylvania Comprehensive Behavioral Health (PCBH). PCBH Therapeutic Support Staff person (“TSS”), Anne Borsa, was with J.M. at Camp Spirit in 2014. Shortly after J.M.’s abuse by B.G., J.M. told to Borsa, who immediately informed Camp Spirit’s director (Chelsea Pritchett) of J.M. and B.G.’s sexual incident.

Ms. Pritchett and the York YMCA’s response to Borsa’s report, or the lack thereof, is the crux of John Doe’s case against the York YMCA. In short, Ms. Pritchett and the York YMCA did little to nothing in response to B.G.’s reported sexual behavior with J.M. at Camp Spirit in 2014.

Ms. Pritchett believes she relayed an incident report to York YMCA headquarters, but that report cannot be found. Indeed, Ms. Pritchett and her YMCA supervisors disagree as to whether Ms. Pritchett informed them of B.G.’s conduct in 2014, or if York YMCA’s leadership learned of B.G.’s 2014 sexual behavior only *after* John Doe was abused in 2015. Regardless, B.G.’s conduct in 2014 was not reported to authorities until after Doe’s abuse in 2015, a year too late.

In addition, when B.G. returned to camp in 2015, he was not given extra supervision, nor were Camp Spirit’s 2015 staff informed at all of B.G.’s 2014 sexual behavior. The York YMCA also did not tell John Doe’s mother, K.F., a Camp Spirit counselor in 2015, of B.G.’s sexual conduct in 2014. As such, K.F. had no idea she should worry about B.G.’s friendship with her five-year-old son until the moment B.G.’s sexual abuse of John Doe was discovered.

In sum, had the York YMCA reacted with even minimal diligence to B.G.’s 2014 sexual contact with J.M., John Doe would not have been abused by B.G. in 2015.

II. STATEMENT OF UNDISPUTED FACTS / ADMISSIONS

1. In 2014 and 2015, the York YMCA operated a summer day camp called "Camp Spirit" for children ages five to fifteen.
2. In 2014 and 2015, Chelsea Pritchett was employed by the York YMCA as Camp Spirit's Director.
3. In 2014 and 2015, Doug Markel was employed by the York YMCA as the organization's Youth, Family, and Sports Director, and Camp Spirit's Co-Director.
4. In 2014 and 2015, Larry Richardson was employed by the York YMCA as the organization's Chief Executive Officer.
5. In the summer of 2014, a twelve-year-old boy, initials J.M., attended Camp Spirit.
6. J.M. is autistic, so J.M. was accompanied at Camp Spirit by a therapeutic staff support person named Anne Borsa, who was employed by a company called Pennsylvania Comprehensive Behavioral Health.
7. In the summer of 2014, a twelve-year-old boy, initials B.G., also attended Camp Spirit.
8. During the summer of 2014, J.M. told Anne Borsa, his therapeutic staff support person, about sexual contact between J.M. and B.G. that occurred during camp.
9. Anne Borsa informed Chelsea Pritchett, Camp Spirit Director, of J.M.'s report to her regarding J.M. and B.G.'s sexual contact.
10. In the summer of 2015, B.G., then thirteen-years-old, returned to Camp Spirit.

11. In the summer of 2015, the minor-Plaintiff, initials G.M., attended Camp Spirit as well.

12. G.M.'s mother, K.F., was also employed by the York YMCA as a Camp Spirit counselor during the summer of 2015.

13. On July 3, 2015, a Camp Spirit counselor, Kelsey Martin, witnessed B.G. sexually abusing the minor-Plaintiff G.M. at the camp.

14. As a result of B.G.'s abuse of G.M., B.G. was adjudicated delinquent in York County Juvenile Court of Involuntary Deviate Sexual Intercourse with a Child and Indecent Assault of a Person Less than 13 years of Age.

III. STATEMENT OF DAMAGES

The minor-Plaintiff John Doe (G.M.) seeks non-economic damages for past and future emotional distress, pain, suffering, and humiliation resulting from his sexual abuse by B.G.

IV. LIST OF LAY WITNESSES AND SUMMARY OF TESTIMONY

1. K.F.
c/o Andreozzi & Associates, P.C.

K.F. is the mother of minor-Plaintiff, John Doe. K.F. will testify regarding her employment at the York YMCA in 2015, her discovery of John Doe's abuse by B.G., how she learned of B.G.'s prior conduct with J.M., and John Doe's treatment and symptoms after the abuse.

2. John Doe/G.M.
c/o Andreozzi & Associates, P.C.

John Doe is the minor-Plaintiff. The parties have agreed that John Doe's CAC interview is admissible under the Tender Years Hearsay Act. In lieu of John Doe's live testimony, the Plaintiff will show the jury John Doe's CAC interview.

3. Anne Borsa
3807 Conewago Rd., Dover, PA 17315-3260

In 2014, Anne Borsa was employed as a TSS for Pennsylvania Comprehensive Behavioral Health. She was assigned to J.M., who reported sexual abuse by B.G. to Ms. Borsa while at Camp Spirit in the summer of 2014. Ms. Borsa immediately informed York YMCA staff regarding B.G.'s conduct toward J.M.

4. Kelsey Martin
552 N Shippen St., Lancaster, PA 17602-2329

Kelsey Martin was a Camp Spirit counselor in 2015. Ms. Martin caught B.G. abusing John Doe/G.M. at the camp and will testify as such.

5. Douglas Markel
c/o Marshall Dennehey Warner Coleman & Goggin, P.C.

Doug Markel was the co-director of Camp Spirit at the relevant period. Mr. Markel will testify as to the operations of Camp Spirit and the York YMCA, and he and Chelsea Pritchett's communications or lack thereof regarding B.G.'s sexual conduct at the camp, and any action or inaction resulting therefrom.

6. Chelsea Pritchett
2005 Marian Way, York, PA 17408

Chelsea Pritchett was camp director for Camp Spirit during the relevant period. She will testify as to the operations of the York YMCA and Camp Spirit. She will also testify as to her learning of B.G.'s sexual conduct in 2014 and 2015, and she and the York YMCA's actions and inactions in response.

7. Adam Richardson
2406 Opal Rd., York, PA 17408-4414

Adam Richardson was the assistant director for Camp Spirit in 2014 and will testify as to operations of the camp at that time. Mr. Richardson also spoke briefly to J.M.'s TSS regarding B.G.'s sexual conduct with J.M.

8. Caroline Linde (Vining)
1655 Freysville Rd., York, PA 17406-7736

Caroline Linde was a counselor at Camp Spirit in 2014 and 2015. In 2014, she was assigned to J.M. and B.G.'s group.

9. Larry Richardson
c/o Marshall Dennehey Warner Coleman & Goggin, P.C.

Larry Richardson was, and remains, the CEO of the York YMCA. He will testify as to York YMCA policies, procedures, and practices as they related to this case, how he learned of B.G.'s sexual conduct in 2014 and 2015, action and inaction on the York YMCA's part in response and will testify as to the York YMCA's financial position for purposes of Plaintiff's punitive damages claim.

10. Any witness called or identified by the Defendant.

11. Any witness necessary for impeachment.

V. LIST OF EXPERT WITNESSES AND SUMMARY OF TESTIMONY

1. Dr. Steven Berkowitz | Director, Stress Trauma & Adversity Research and treatment Center, Department of Psychiatry, University of Colorado School of Medicine

Dr. Berkowitz is a respected child psychiatrist who evaluated the minor-Plaintiff on two occasions and authored a forensic report regarding the impact of B.G.'s abuse on the minor-Plaintiff. Dr. Berkowitz will testify, in part, that the minor-Plaintiff has significant Post-Traumatic Stress Disorder and associated difficulties resulting from his sexual abuse at Camp Spirit. Dr. Berkowitz will also rebut testimony from York YMCA's expert, Dr. Barbara Ziv. Expert reports for Dr. Berkowitz and Dr. Ziv have been exchanged by the parties.

VI. STATUS OF DISCOVERY

Discovery is complete.

VII. LIST OF EXHIBITS WITH BRIEF DESCRIPTION

1. John Doe's July 14, 2015 Child Advocacy Center Interview
2. Documents Subpoenaed from the Northeastern Regional Police Department

3. Documents Subpoenaed from the Springettsbury Twp. Police Department
4. Preliminary Hearing Transcript in *Com. v. Larry M. Richardson*
5. B.G.'s Juvenile Case Information
6. Defendant York YMCA's responses to written interrogatories
7. Defendant York YMCA's produced documents, including, but not limited to:
 - o York YMCA 08/05/15 Incident Report re J.M. and B.G.
 - o York YMCA 07/03/15 Incident Report re G.M. and B.G.
 - o Pritchett July 2015 Handwritten Note re B.G., G.M., and J.M.
 - o Pritchett Typed Notes re August 2014 and August 11, 2015
 - o 2014 Camp Spirit Staff Schedule
 - o 2014 Camp Spirit Attendee List
 - o Camp Spirit Registration(s)
 - o Camp Spirit Training Outline
 - o Camp Spirit Brochure(s)
8. Deposition Transcript and Video of Adam Richardson
9. Deposition Transcript and Video of Larry Richardson
10. Deposition Transcript and Video of Anne Borsa
11. Deposition Transcript and Video of Caroline Linde
12. Deposition Transcript and Video of Chelsea Pritchett
13. Deposition Transcript and Video of Douglas Markel
14. Deposition Transcript and Video of Kelsey Martin
15. Deposition Transcript and Video of K.F.
16. Expert report(s) and CV(s) of Dr. Steven Berkowitz
17. Expert report(s) and CV(s) of Dr. Barbara Ziv
18. Audio Recording of Dr. Barbara Ziv's DME of G.M. and K.F.
19. Picture(s) of G.M.
20. G.M.'s drawing(s) and writing(s)
21. G.M.'s educational records and correspondence therefrom
22. G.M.'s medical records, including those from York Hospital, the York YWCA, the TLC Clinic, and Thomas Hart Family Practice
23. Any document produced by the Parties during this matter
24. Any document received pursuant to a subpoena in this matter
25. Any document or thing necessary for impeachment
26. Any document or thing listed or used by the Defendant in this matter

VIII. LEGAL ISSUES INVOLVED

None from Plaintiff.

IX. REQUESTS FOR STIPULATIONS NOT AGREED TO

None from Plaintiff.

X. SPECIAL REQUESTS

None from Plaintiff.

XI. LIST OF APPLICABLE STANDARD JURY INSTRUCTIONS

- 1.10 (Civ) Welcome, Duty to Serve as Jurors, and Explanation of the Nature of the Case
- 1.20 (Civ) Excusing Jurors for Personal Reasons Based on Length of Trial
- 1.30 (Civ) Introduction of Parties, Lawyer, and Potential Witnesses
- 1.40 (Civ) Number of Jurors to be Selected and Procedure for Voir Dire
- 1.50 (Civ) Oath Prior to Voir Dire
- 1.60 (Civ) Miscellaneous General Remarks While Lawyer Selects Jury
- 1.70 (Civ) Voir Dire – Introduction of Process
- 1.80 (Civ) Conclusion of Voir Dire Selection of Jury – General
- 1.90 (Civ) Seating of Jury and Excusing the Balance of the Jury Panel After Jury Selection
- 1.100 (Civ) Importance of Alternates
- 1.110 (Civ) Oath Administered to Jury
- 1.130 (Civ) Formal Welcome
- 1.150 (Civ) Role of Judge and Jury
- 1.160 (Civ) Bench Conferences and Recesses
- 1.170 (Civ) Outline of Trial
- 1.180 (Civ) Rules Governing Juror Conduct During Trial
- 1.190 (Civ) Evidence
- 1.200 (Civ) Ruling on Evidentiary Objections
- 1.260 (Civ) Note-Taking by Jurors
- 2.50 (Civ) Stipulations of Fact
- 3.00 (Civ) Deposition Testimony and Videotaped Testimony
- 4.00 (Civ) Direct and Circumstantial Evidence
- 4.20 (Civ) Believability of Witnesses Generally
- 4.30 (Civ) Conflicting Testimony
- 4.40 (Civ) Intentionally False Testimony
- 4.50 (Civ) Impeachment or Corroboration of Witness by Prior Inconsistent or Consistent Statement
- 4.80 (Civ) Expert Testimony
- 4.100 (Civ) Weighing Conflicting Expert Testimony
- 5.00 (Civ) Burden of Proof and Preponderance of Evidence

- 5.60 (Civ) Spoliation of Evidence
- 6.00 (Civ) Agency – General Introduction
- 6.20 (Civ) Principal’s Vicarious Liability – No Dispute as to Scope of Employment
- 7.00 (Civ) Damages
- 7.10 (Civ) Lump Sum Damages
- 7.90 (Civ) Other Contributing Causes
- 7.130 (Civ) Past and Future – Noneconomic Loss
- 7.240 (Civ) Damages – Life Expectancy
- 8.00 (Civ) Punitive Damages – General Instructions
- 8.10 (Civ) Punitive Damages Against a Principal
- 8.20 (Civ) Punitive Damages – Amount of Award
- 12.00 (Civ) Concluding Instructions Generally
- 12.30 (Civ) Post-Deliberation Communications
- 13.00 (Civ) Issues in the Case
- 13.10 (Civ) Negligence
- 13.20 (Civ) Factual Cause
- 13.260 (Civ) Instruction Summarizing Issues for Jury
- 18.120 (Civ) Negligence – Failure to Prevent Intentional Harm to Business Invitees

XII. LIKELIHOOD OF SETTLEMENT, BEST SETTLEMENT AUTHORIZED

The parties have agreed to attempt resolution of this matter at mediation, likely in late June or July. Plaintiff’s most recent settlement demand was \$3,000,000, to which the York YMCA has not responded.

XIII. ESTIMATED NUMBER OF TRIAL DAYS

Four - Five Days.

ANDREOZZI & ASSOCIATES, P.C.

Date: March 27, 2019

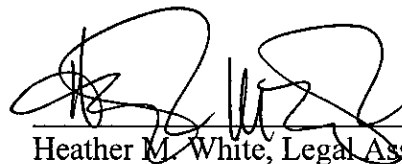
Benjamin D. Andreozzi, Esq. (PA ID 89271)
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CERTIFICATE OF SERVICE

I, Heather M. White, of the law firm of Andreozzi & Associates, P.C. hereby certify that I served the foregoing document on the individual as listed below via email.

Christopher M. Reeser, Esq.
Marshall Dennehey Warner Coleman & Goggin
100 Corporate Center Drive, Suite 201
Camp Hill, PA 17011

Date: March 27, 2019



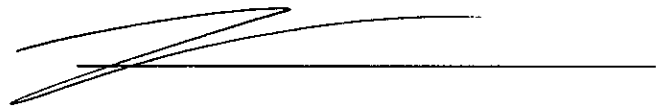
Heather M. White, Legal Assistant

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CERTIFICATION REGARDING CONFIDENTIAL INFORMATION

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: March 27, 2019

A handwritten signature in black ink, consisting of a series of overlapping loops and a long horizontal stroke at the end.

Nathaniel L. Foote

ANDREOZZI & ASSOCIATES, P.C.

ATTORNEYS AT LAW

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VIA FEDERAL EXPRESS

March 27, 2019

York County Prothonotary
York County Judicial Center
45 North George Street
York, PA 17401

**Re: K.F., on behalf of JOHN DOE, a minor v. Young Men's Christian
Association of York and York County, Pennsylvania
No. 2016-SU-002316-74**

Dear Prothonotary:

Enclosed please find for filing the original and one copy of Plaintiff's Pre-trial Memorandum.
Please file the original and return a time-stamped copy in the envelope I have enclosed.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to
contact this office.

Sincerely,



Heather M. White, Legal Assistant to
Benjamin D. Andreozzi, Esq. and
Nathaniel L. Foote, Esq.
heather@victimscivilattorneys.com

Enclosures

cc: Honorable Richard Renn (w/encl.; via regular mail)
Christopher Reeser, Esq. (w/encl.; via email)

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