

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Doe 29,

Case Type: Personal Injury

Court File No.:

Plaintiff,

vs.

AMENDED COMPLAINT

The National Boy Scouts of America
Foundation d/b/a The Boy Scouts of America,
Northern Star Council Boy Scouts of America,
River Hills United Methodist Church in
Dakota County, and Peter Stibal,

Defendants.

Plaintiff, for his cause of action against Defendants, alleges that:

PARTIES

1. Plaintiff Doe is an adult male resident of the State of California. In the interests of protecting Plaintiff's privacy, the identity of Plaintiff has been disclosed under separate cover to Defendants.

2. At all times material, Defendant National Boy Scouts of America Foundation d/b/a The Boy Scouts of America (hereinafter "BSA") was and continues to be a congressionally chartered corporation, authorized to conduct business and conducting business in Minnesota, with its headquarters in Irving, Texas and a principal place of business, and agent for service, located at 2218 County Highway 10, Mounds View, Minnesota 55112.

3. At all times material, Defendant Northern Star Council Boy Scouts of America (hereinafter "NSC") was and continues to be a non-profit corporation authorized to conduct business and conducting business in the State of Minnesota, and with its principal place of business

at 393 Marshall Avenue, St. Paul, Minnesota 55102. Defendant NSC is a wholly owned subsidiary of Defendant BSA.

4. At all times material, River Hills United Methodist Church (hereinafter “River Hills”) was and continues to be a non-profit corporation authorized to conduct business and conducting business in the State of Minnesota with its principal place of business at 11100 River Hills Drive, Burnsville, Minnesota 55337.

5. At all times material, Defendant Peter Stibal served as scoutmaster of Boy Scout Troop 3650 in Burnsville, Minnesota. At all times material, Stibal was an agent of Defendants BSA, NSC and River Hills and under the direct supervision, employ and control of Defendants.

FACTS

6. Upon information and belief, from approximately 2003 to 2009, Peter Stibal was an adult leader and scoutmaster of Boy Scout Troop 3650 in Burnsville, Minnesota.

7. At all times material, Defendant River Hills was the chartered organization for Boy Scout Troop 3650. Defendant River Hills, as the sponsoring organization, worked in partnership with Defendants Boy Scouts of America and Northern Star Council to select and supervise scout leaders, implement Boy Scouts of America and Northern Star Council’s mandated policies and procedures and facilitate the activities of the troop.

8. Plaintiff was a member of Boy Scout Troop 3650 from approximately 2002 to 2008. Through his participation in the Boy Scouts, Plaintiff developed great admiration and respect for scouting and came to know and trust Defendant Peter Stibal as his scoutmaster, mentor and an authority figure.

9. By holding Stibal out as a competent and trustworthy supervisor, scout leader, mentor and authority figure, and placing him in positions where he had access to children,

Defendants represented that Stibal was safe to work with children. By undertaking the custody, supervision of, and/or care of Plaintiff, Defendants entered into a fiduciary relationship with Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the then vulnerable minor Plaintiff, Defendants held a position of empowerment over Plaintiff.

10. Defendants, by establishing, staffing, and/or operating a Boy Scout troop and holding themselves out as providing a safe environment for children, solicited and/or accepted this position of empowerment. This empowerment prevented the then minor Plaintiff from effectively protecting himself.

11. By soliciting Plaintiff's involvement in the troop, Defendants voluntarily took custody of the minor Plaintiff under circumstances in which the Plaintiff was deprived of the normal opportunity for self-protection that was otherwise afforded by his parents.

12. Between approximately 2002 and 2005, when Plaintiff was approximately 12 to 15 years old, Defendant Peter Stibal engaged in harmful, offensive and unpermitted sexual contact with Plaintiff on multiple occasions.

13. Defendant Peter Stibal was criminally charged and convicted by a jury of two counts of criminal sexual conduct in the first degree and two counts of criminal sexual conduct in the second degree for his sexual exploitation and abuse of Plaintiff and was sentenced to the Minnesota Correctional Facility – St. Cloud on June 24, 2011.

14. Each Defendant owed Plaintiff a duty of reasonable care because each had superior knowledge about the risk that Stibal posed to Plaintiff, the risk of abuse in general in its programs and/or the risks that its facilities posed to minor children.

15. Defendants owed Plaintiff a duty of reasonable care because each solicited youth and parents for participation in its youth programs; encouraged youth and parents to have youth participate in its programs; undertook custody of the minor children, including Plaintiff; promoted its facilities and programs as being safe for children; held its agents including Stibal out as safe to work with children; encouraged parents and children to spend time with its agents; and/or encouraged its agents, including Stibal to spend time with, interact with and recruit children.

16. Defendants' conduct placed Stibal in a position of actual or apparent authority to act on behalf of each respective Defendant.

17. Defendants had a duty to Plaintiff to protect him from harm because each Defendant's actions created a foreseeable risk of harm to Plaintiff.

18. Prior to the sexual abuse of Plaintiff, Defendants knew or should have known that Stibal was preying upon young boys in the troop, including Plaintiff, but took no steps to investigate the abuse, report Stibal to law enforcement or prohibit his contact with children.

19. Defendants learned or should have learned that Defendant Stibal was a child molester. Upon discovery of this information, Defendants failed to take action to investigate the abuse, report Stibal to law enforcement or prohibit his contact with children.

20. Defendants have known for decades that sexual predators had infiltrated scouting, desiring positions around children, due in part to their sexual interest in children. Defendants knew or should have known the danger that pedophiles presented to children participating in scouting before Plaintiff was abused, and either knew, or should have known, the danger that Defendant Stibal presented to children participating in scouting before Plaintiff was abused.

21. Defendants knew or should have known that there was a risk of child sex abuse for children participating in scouting activities and that children and families should be warned of the risk.

22. Defendant BSA and NSC's own internal "Ineligible Volunteer Files," including a subcategory referred to as the "Perversion Files" collected and maintained in secrecy for at least seventy years, reveal that pedophiles are drawn to scouting and that the Boy Scouts is a sanctuary for child molesters.

23. Defendant BSA and NSC's "Perversion Files" demonstrate that (a) the Boy Scouts are aware that pedophiles are attracted to scouting, (b) the distinctive characteristics of scouting render scouts particularly susceptible to pedophiles who are given authority, and (c) the actual and apparent authority of persons who serve in scoutmaster roles are used by pedophiles to sexually abuse young scouts in and out of scouting.

24. Defendants each knew or should have known that scouting attracts pedophiles because a) by requiring overnight trips in order to participate, scouting provides a pedophile with access to boys who are alone and away from their parents in secluded settings; b) scouting provides opportunities for a pedophile to sexually abuse a boy by getting him in situations where the boy has to change clothing or spend the night with him; c) that a pedophile given authority in scouting can volunteer for and have access to, boys of only a certain age or age range; d) Defendants cloak scoutmasters with authority that give scoutmasters the ability to exploit trust and groom parents and scouts to sexually abuse scouts in and out of scouting; e) Defendants condition boys in scouting to the concept of strict obedience to the scout authority and a bonding mechanism that pedophiles are known to exploit; f) Defendants promote the idea of secret ceremonies, rituals and loyalty oaths, all of which help facilitate a pedophile's efforts to keep the victims silent and

compliant; g) Defendants provided insufficient oversight and supervision to Stibal, enabling him to isolate himself with scouts; h) at the time of the Plaintiff's abuse, Defendants conducted no criminal background checks on its volunteers and/or any background checks done were insufficient.

25. Defendants were aware for decades prior to the sexual abuse of Plaintiff that it had removed thousands of pedophiles from its ranks of leadership in local Scout Troops. Defendants concealed a known history of scout leaders grooming scouts and their families, to access scouts and sexually abuse them in and out of scouting, which should have been disclosed to parents as a known danger of scouting.

26. Defendants knew or should have known that the "Ineligible Volunteer" system of keeping track of pedophiles infiltrating its ranks did not function to protect children who participated in scouting from sexual abuse. The "Ineligible Volunteer" system operated only to keep a record of abuse that had already occurred.

27. Defendants knew or should have known that there was a risk of child sexual abuse for children participating in Scouting programs and activities.

28. Prior to the sexual abuse of Plaintiff, Defendants knew or should have known that Stibal had a sexual interest in young boys, and knew or should have known, that Stibal was a danger to children.

29. During Stibal's tenure as a scoutmaster, Defendants became aware, or should have become aware, that he was unfit to serve as a scoutmaster and negligently retained Stibal, permitting Stibal to sexually abuse the minor Plaintiff.

30. Defendants failed to use ordinary care in: determining whether its facilities were safe; determining whether it had sufficient information to represent its facilities as safe; having

sufficient policies and procedures to prevent abuse at its facilities; investigating risks at its facilities; properly training its leaders, agents, and/or servants including, but not limited to, adult leaders, scoutmasters, and assistant scoutmasters, in youth protection, and preventing child sexual abuse based on its own information in its perversion files; investigating the amount and type of information necessary to represent its facilities as safe; training its agents and volunteers to properly identify signs of child molestation by fellow agents or servants; and determining whether it had sufficient information regarding potential adult leaders to hire them and represent them as safe.

31. Defendants breached their duties to Plaintiff by failing to warn him and his family of the risk that Stibal posed and the risks of child sexual abuse by scout leaders in general. Defendants failed to warn Plaintiff or his family about any of the knowledge that Defendants had about child sexual abuse and the creation and maintenance of the “Perversion Files”.

32. Defendants breached their duties to Plaintiff by failing to report the information known about Stibal’s abuse of children to the police and law enforcement.

33. Despite knowledge of the risk of child sex abuse in scouting, Defendants held its leaders and agents out as people of high morals, as possessing superior power and faculties, taught families and children to obey these leaders and agents, taught families and children to respect and revere these leaders and agents, solicited youth and families to its programs as beneficial for children who participated, marketed to youth and families, recruited youth and families, and held its programs and agents out as safe, including Stibal.

34. Defendants’ breach of their duties to Plaintiff include but are not limited to: failure to have sufficient policies and procedures to prevent child sex abuse, failure to properly implement the policies and procedures to prevent child sex abuse, failure to properly supervise Stibal, failure

to take reasonable measures to make sure that the policies and procedures to prevent child sex abuse were working, failure to protect children in their programs from child sex abuse, failure to adequately inform leaders, volunteers, families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train volunteers, employees and institutions and programs within Defendants' geographical confines, failure to have any outside agency test its safety procedures, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs and leaders and people as safe, failure to properly investigate adult leaders prior to hiring, and failure to train its agents properly to identify signs of child molestation by fellow agents.

35. Defendants negligently permitted Stibal to isolate himself with Plaintiff while on scouting activities and trips, causing Plaintiff to be sexually abused by Stibal.

36. Defendants negligently or recklessly believed that Stibal was fit to work with children and/or that Stibal would not sexually molest, injure or hurt children.

37. Defendants were negligent and/or made representations to Plaintiff and his family during each and every year of his minority.

38. Defendants negligently retained and supervised Stibal when Defendants knew or should have known that Stibal posed a threat of sexual abuse to children.

39. As a direct result of the Defendants' conduct described herein, Plaintiff has suffered, and will continue to suffer, great pain of mind and body, severe and permanent emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation, physical, personal and psychological injuries. Plaintiff was prevented, and will continue to be prevented, from performing his normal daily activities and obtaining the full

enjoyment of life; has incurred, and will continue to incur, expenses for medical and psychological treatment, therapy, and counseling; and, on information and belief, will incur loss of income and/or loss of earning capacity.

COUNT I: SEXUAL BATTERY – DEFENDANT STIBAL

40. Plaintiff incorporates all paragraphs of this Amended Complaint as if fully set forth under this count and further alleges that:

41. Between approximately 2002 and 2005, Defendant Stibal repeatedly inflicted unpermitted, harmful and offensive sexual contact upon the person of Plaintiff.

42. As a direct result of Defendant Stibal's wrongful conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT II: NEGLIGENCE – DEFENDANTS BSA, NSC AND RIVER HILLS

43. Plaintiff incorporates all paragraphs of this Amended Complaint as if fully set forth under this count and further alleges that:

44. Defendants each owed Plaintiff a duty of reasonable care.

45. Defendants each breached the duty of reasonable care owed to Plaintiff.

46. Each Defendant's breach of its duty was a proximate cause of Plaintiff's injuries.

47. As a direct result of Defendants' negligent conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT III: NEGLIGENT HIRING – DEFENDANTS BSA, NSC AND RIVER HILLS

48. Plaintiff incorporates all paragraphs of this Amended Complaint as if fully set forth under this count and further alleges that:

49. Defendants owed Plaintiff a duty of reasonable care in hiring its agents, servants, and employees.

50. Defendants further assumed this duty by holding Stibal out to the public, including Plaintiff, as a competent and trustworthy scout leader, supervisor, servant, teacher, and counselor.

51. Defendants, by and through their agents, servants, and employees, knew or should have known of Stibal's dangerous and exploitive propensities, which could have been discovered by reasonable investigation by Defendants prior to hiring him as a scoutmaster and agent of Defendants. Defendants further knew of the risk of child sexual abuse in scouting.

52. Defendants breached their duty by failing to exercise reasonable care in hiring its agents, servants, and employees, including Stibal.

53. As a direct result of Defendants' negligent conduct, Plaintiff has suffered the injuries and damages described herein.

COUNT IV: NEGLIGENT RETENTION – DEFENDANTS BSA, NSC AND RIVER HILLS

54. Plaintiff incorporates all paragraphs of this Amended Complaint as if fully set forth under this count and further alleges that:

55. Defendants, by and through their agents, servants, and employees, became aware, or should have become aware, of problems indicating that Stibal was an unfit agent with dangerous and exploitive propensities, yet Defendants failed to take any further action to remedy the problem and failed to investigate or remove Stibal from working with children.

56. As a direct result of Defendants' negligent conduct, Plaintiff has suffered injuries and damages described herein.

COUNT V: NEGLIGENT SUPERVISION – DEFENDANTS BSA, NSC AND RIVER HILLS

57. Plaintiff incorporates all paragraphs of this Amended Complaint as if fully set forth under this count and further alleges that:

58. At all times material, Defendant Stibal was acting as an agent of Defendants and was under Defendants' direct supervision, employ and control when he committed the wrongful acts alleged herein. Defendants failed to exercise ordinary care in supervising Defendant Stibal in his role as scoutmaster and failed to prevent the foreseeable misconduct of Stibal from causing harm to others, including Plaintiff.

59. As a direct result of Defendants' negligent conduct, Plaintiff has suffered he injuries and damages described herein.

COUNT VI: VICARIOUS LIABILITY – DEFENDANTS BSA, NSC, AND RIVER HILLS

60. Plaintiff incorporates all paragraphs of this Amended Complaint as if fully set forth under this count and further alleges that:

61. At all times material, Stibal was under Defendants' direct supervision, employ and control when he committed the wrongful acts described herein. Stibal engaged in wrongful conduct while acting in the course and scope of his employment with Defendants and/or accomplished the sexual abuse by virtue of his job-created authority. Further, Defendant Stibal was acting at least in part in furtherance of his employment duties with Defendants.

62. It was foreseeable to Defendants that Stibal would sexually abuse Plaintiff.

63. The sexual abuse of a minor boy scout by a scout leader is a foreseeable and well-known hazard of the industry.

64. Defendants are therefore liable for the wrongful conduct of Defendant Stibal under the doctrine of respondeat superior.

65. As a direct result of the wrongful conduct, Plaintiff has suffered the injuries and damages as described herein.

WHEREFORE, Plaintiff demands judgment against Defendants individually, jointly and severally in an amount in excess of \$50,000 plus costs, disbursements, reasonable attorney's fees, interest, and whatever other relief the Court deems just and equitable.

Dated: 1/12/2015

JEFF ANDERSON AND ASSOCIATES, P.A.



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ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions, including costs, disbursements, and reasonable attorney fees, may be awarded pursuant to Minn. Stat. §549.211 to the party against whom the allegations in this pleading are asserted.


