

Gary A. Dordick, Esq. S/B# 128008
John M. Upton, Esq. S/B# 162858
Golnar V. Monfared, Esq. SB# 293580
DORDICK LAW CORPORATION
509 South Beverly Drive
Beverly Hills, California 90212
Tel: (310) 551-0949 • Fax: (855) 299-4444
In association with
Mark Flores, Esq. S/B# 166990
CRANE FLORES, LLP
15 West Carrillo Street, Suite 310
Santa Barbara, California 93101
Tel: (805) 564-8181 • Fax: (805) 456-4433
Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JANE DOE,
Plaintiff,

v.

THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS, a Utah
Corporation; CORPORATION OF THE
PRESIDENT OF THE SAN DIEGO
CALIFORNIA STAKE THE CHURCH OF
JESUS CHRIST OF LATTER-DAY
SAINTS, a California Corporation; STEVEN
ROBERT FITZGERALD; KATHLEEN
DENISE BINGLEY; and DOES 1 to 100,
Inclusive,
Defendants.

Case No. CVRI2100419
(Assigned to: Hon. Chad Firetag, Dept. 3)

**SECOND AMENDED COMPLAINT FOR
DAMAGES**

- 1. NEGLIGENCE**
- 2. NEGLIGENCE – ASSUMED DUTY**
- 3. SEXUAL ABUSE**
- 4. INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS**

[DEMAND FOR JURY TRIAL]

Plaintiff Jane Doe hereby brings this Second Amended Complaint against
Defendants, and each of them, and alleges as follows:

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1 1. Jurisdiction and venue in this county and division is proper because the
2
3 events giving rise to the following causes of action occurred in Riverside County, State of
4 California. The relief sought through this Complaint is within the jurisdiction of this Court
5 because the damages Plaintiff alleges exceed \$25,000.00. Venue is proper because the
6 damage caused to Plaintiff as herein alleged occurred in Riverside County.

7 THE PARTIES

2. Plaintiff Jane Doe ("Plaintiff") is currently thirty-nine (39) years old and is and was, at all relevant times herein mentioned, a resident of the County of Riverside, State of California. As a minor, Plaintiff was the victim of unlawful sexual assault, molestation, abuse, and other extreme misconduct by Defendant Steven Robert Fitzgerald ("Defendant Fitzgerald"). Plaintiff's full identity has been concealed from public court filings to prevent those not directly involved in this action from learning her identity and making her identity public, as such a public disclosure would further harm Plaintiff and her family.

3. Defendant Kathleen Denise Bingley ("Defendant Bingley") is and was at all relevant times herein mentioned Plaintiff's mother. Defendant Bigley is and was at all relevant times herein mentioned a resident of Riverside County, California.

19 4. Defendant Fitzgerald is and was at all relevant times herein mentioned
20 Plaintiff's stepfather. Defendant Fitzgerald is and was at all relevant times herein
21 mentioned a resident of Riverside County, California.

22 5. Defendant, The Church Of Jesus Christ Of Latter-Day Saints, a Utah
23 Corporation (“Defendant LDS” or “LDS”), is a Utah corporation and doing business
24 under the laws of the State of California.

25 6. Defendant, Corporation Of The President Of The San Diego
26 California Stake - The Church Of Jesus Christ Of Latter-Day Saints ("Defendant LDS-
27 SD" or "LDS-SD") is a California corporation and was at all relevant times herein
28 mentioned, the religious entity, located at 18220 Dexter Avenue, Lake Elsinore, CA..

1 7. The true names and capacities, whether individual, plural, corporate,
2 partnership, associate, or otherwise, of Defendants DOES 1 through 100, Inclusive, are
3 unknown to Plaintiff at this time, who, therefore, sues said Defendants by such fictitious
4 names. Plaintiff is informed and believes and thereupon alleges that each of the
5 Defendants fictitiously named herein as a DOE is legally responsible, negligently or in
6 some other actionable manner, for the events and happenings hereinafter referred to and
7 that the acts and omissions of said Defendants was the legal cause of the injury to
8 Plaintiff and the resulting injury and damages to Plaintiff as hereinafter alleged. Plaintiff
9 will amend this Complaint to assert the true names and/or capacities of such fictitiously
10 named Defendants when the same have been ascertained.

11 8. Plaintiff is informed and believes and thereupon alleges that, at all times
12 mentioned herein, Defendants were the agents, servants, employees, successors-in-
13 interest and/or joint venturers of their co-defendants and were, as such, acting within the
14 purpose, course, scope and authority of said agency, employment, successor-in-interest
15 and/or joint venture and that each and every Defendant as aforesaid was acting as a
16 principal and was negligent in the selection and hiring and retention of each and every
17 Defendant as an agent, employee, successor-in-interest and/or joint venture.

18 9. All of the acts, conduct and nonfeasance herein carried out by each and
19 every representative, employee or agent of each and every corporate business
20 Defendant, was authorized, ordered and directed by their respective Defendant's
21 corporate or business employers, officers, directors and/or managing agents; that in
22 addition thereto, said corporate or business employers, officers, directors and/or
23 managing agents had advance knowledge of, authorized and participated in the herein
24 described acts, conduct and nonfeasance of their representatives, employees, agents and
25 each of them; and that in addition thereto, upon the completion of aforesaid acts, conduct
26 and nonfeasance of the employees and agents, the aforesaid corporate and business
27 employers, officers, directors, and/or managing agents, respectively ratified, accepted the
28 benefits of, condoned and approved of each and all said acts, conduct or nonfeasance of

1 their co-employees, employees and agents.

2 **FACT ALLEGATIONS**

3 **(Common to All Causes of Action)**

4 10. This is an action for childhood sexual abuse brought pursuant to Code of
5 Civil Procedure section 340.1, subdivision (a)-(d) and any other applicable statute. The
6 misconduct described herein began in 1987 when Plaintiff Jane Doe was a minor
7 approximately five or six years old. Plaintiff will reach the age of forty (40) in December
8 2021. Moreover, as stated herein and at all times relevant, Defendants, each of them,
9 and DOES 1-100, knew or had reason to know, or were otherwise on notice, of the
10 misconduct alleged herein, which created the risk of childhood sexual assault by an
11 employee, volunteer, representative, or agent, and the person or entity failed to take
12 reasonable steps or to implement reasonable safeguards to avoid acts of childhood
13 sexual assault. The action of each defendant was a legal cause of injury to Plaintiff. For
14 purposes of subdivision (c), providing or requiring counseling is not sufficient, in and of
15 itself, to constitute a reasonable step or reasonable safeguard. As such, Plaintiff's
16 complaint is timely.

17 11. Plaintiff is informed and believes, and on such information and belief
18 alleges that Plaintiff's mother, Defendant Bingley, met Plaintiff's stepfather, Defendant
19 Fitzgerald, when Plaintiff was approximately four or five years old. Plaintiff is informed
20 and believes, and on such information and belief alleges that they married
21 approximately a year later.

22 12. During the time period encompassing 1987 through 1997. Plaintiff (then a
23 minor), Defendant Bingley, and Defendant Fitzgerald attended Defendant LDS and
24 LDS-SD church services in Lake Elsinore, California and were active in church
25 organizations. Plaintiff and Defendant Bingley were churchgoing members of Defendant
26 LDS and LDS-SD. Plaintiff is informed and believes that Fitzgerald had attended the
27 Defendant LDS's and LDS-SD's for several years before becoming baptized into the
28 church in or about 1995.

1 13. During the time period encompassing 1987 through 1997, Plaintiff attended
2 Sunday school and other youth-oriented programs presented by Defendant LDS and
3 LDS-SD. Plaintiff was taught by her Sunday school teachers, her young women's
4 Beehive group leaders, and speakers, such as Defendant LDS and LDS-SD church
5 bishops, that the father of the family unit was the head of her household and was
6 following the Heavenly Father. Plaintiff was instructed about family and the household
7 dynamic, including guidance and instruction on how family members should treat each
8 other as brothers and sisters and how children should obey their parents and how they
9 should look to their parents for guidance. During Defendant LDS and LDS-SD's Sunday
10 school sessions, Plaintiff was taught that she had to honor and obey her parents, and,
11 at the time and based on these teachings, she saw her stepfather, a regular churchgoer,
12 as a religious authority figure.

13 14. During the time period encompassing 1987 through 1997, Defendant LDS
14 and LDS-SD had a policy for the protection of children from vile predators whereby they
15 would offer aid, protection, and assistance in making reports to civil law enforcement
16 authorities to any of their minor members complaining to them of ongoing sexual abuse.
17 Defendant LDS and LDS-SD had implemented and had acted upon this policy between
18 1987 and 1997. That policy was conveyed to Plaintiff and others during Sunday school
19 and other youth-oriented programs presented by Defendants LDS and LDS-SD. Plaintiff
20 was instructed to go to the Defendants LDS and LDS-SD for help if she was being
21 abused. In Defendant LDS and LDS-SD's Sunday school sessions attended by Plaintiff
22 and in Plaintiff's Beehive group, Plaintiff was instructed that if she was being touched
23 inappropriately by a grownup, she should talk to the bishop or one of Defendant LDS
24 and/or LDS-SD Sunday school program instructors. Specifically, Sister Eckles told her
25 that if someone was touching her inappropriately, she should go to the bishop or to a
26 teacher such as herself. Plaintiff was specifically told by the LDS church via a church
27 bishop and by Sister Ruth Ann Taylor that the church, the bishops, and her teachers
28 would take care of her and would protect her from situations where inappropriate

1 touching, hitting, and abuse was taking place. Plaintiff also recalls watching televised
2 general conferences during this time frame wherein representatives from the LDS
3 church advised instances of abuse should be reported to the church, and that the
4 church would protect those reporting it from acts of sexual abuse.

5 15. Once his relationship with Defendant Bingley was established, Defendant
6 Fitzgerald began taking advantage of and manipulating church doctrines and teachings
7 about the family structure instilled in Plaintiff to groom and to sexually abuse her. At the
8 time of the initiation of the abuse, Plaintiff was just five or six years old. Intent on
9 manipulating Plaintiff's emotions and taking advantage of her innocence so that he
10 eventually could sexually abuse her, Fitzgerald exploited Plaintiff's fragile and
11 developing mental state to cause her extreme fear, anxiety, and confusion;
12 brainwashing her with statements like, "don't tell". All tactics employed for abuse
13 purposes occurred during the most vulnerable time of this Plaintiff's life while she was
14 still developing child.

15 16. From the time she was five or possibly six through age fourteen (during the
16 years of approximately 1987 through 1997), Plaintiff was subjected to regular acts of
17 sexual abuse by Fitzgerald. The acts of abuse included Fitzgerald touching her breasts
18 and her genitals with his hands, penetrating her genitals with his fingers, forcing her
19 hands onto his genitals and then guide them up and down, and forcing her to perform
20 oral sex on him, and forcibly raping her once of trice per week from age 6 to have 12.
21 Once she entered puberty and began having periods, Fitzgerald discontinued the rapes
22 but continued the other sexual acts of sexual abuse, including forcing her to perform
23 oral sex on him, forcibly performing oral sex on her, digitally penetrating her genitals,
24 and fondling of her genitals and breasts. After abusing Plaintiff, Fitzgerald would strike
25 her, slap her, and force her to say that she was wrong, that she was bad, that she was a
26 "bitch" and say that she deserved what was happening to her. These acts of abuse
27 occurred at locations both inside and outside the family home, including at Defendant
28 LDS and LDS-SD controlled premises, events and meetings.

1 17. Plaintiff is informed and believes and thereupon alleges, that, at all times
2 herein mentioned, Bingley knew Fitzgerald was using his position of authority to groom
3 and to sexually abuse Plaintiff, and Bingley failed to take reasonable steps to protect her
4 daughter.

5 18. Plaintiff still suffers emotionally because of her mother, Bingley, who knew
6 Fitzgerald was a sexual predator and yet continued to recognize him as Plaintiff's
7 stepfather. Plaintiff was a helpless child and wholly dependent on both Bingley and
8 Fitzgerald for basic needs, accommodations, authority, and guidance. Given the special
9 nature of their relationship, Bingley, at all times herein relevant, knew Plaintiff relied on
10 her protection. In spite of this, Bingley negligently, carelessly, recklessly, and with
11 conscious disregard for her minor daughter's rights, life and future happiness, married
12 and chose to share a home with a sexual predator; allowed Plaintiff to be alone with
13 Fitzgerald; allowed him to supervise Plaintiff, alone at home and on Defendant LDS and
14 LDS-SD premises; and, at no time did Bingley report any instance of sexual abuse to law
15 enforcement. For years, Plaintiff was secluded with Fitzgerald and completely helpless.
16 Bingley's willing blindness compromised Plaintiff's self-esteem, mental and emotional
17 development, maturity, clarity, understanding of abuse, health, safety, overall well-being
18 and any instinct Plaintiff had to report the misconduct; Bingley's acts and/or omissions
19 continue to affect Plaintiff's quality of life today.

20 19. At all relevant times, Defendants, LDS and LDS-SD, acknowledged that
21 sexual abuse of minors was a serious problem and adopted a firm practice and policy that
22 reports of abuse by victims should never be dismissed. The LDS and LDS-SD practice
23 and policy adopted and implemented by the church required that church leaders were to
24 report suspected abuse to civil authorities to protect victims against future abuse.
25 Defendants LDS and LDS-SD assumed a duty to make every effort to stop sexual abuse,
26 find safety for the victim, and help the victim seek healing, including reporting abuse to civil
27 law enforcement and/or to other civil child protective services. Jane Doe was informed of
28 this practice and policy and relied upon Defendants LDS and LDS-SD assurances of

1 protection and conveying abuse allegations to law enforcement when she reported the
2 abuse to Defendants, LDS and LDS-SD's bishops and representatives on several
3 occasions between approximately 1994 to 1996.

4 20. In or about 1994, and in reliance on the statements and representations
5 made to her by representatives of Defendants LDS and LDS-SD about the importance
6 of reporting instances of abuse to them and the help and protection they could provide
7 victims of sexual abuse, Plaintiff gathered her courage and approached the bishop at
8 her local church, Defendants LDS and LDS-SD's Bishop Smithson, at a Sunday church
9 service and asked for a meeting in private. They scheduled a meeting a few days later
10 at the church. Fitzgerald and Bingley took Plaintiff to that meeting, and in a private
11 session, Plaintiff told Bishop Smithson about the sexual abuse, including the forced oral
12 sex, the digital penetration of her genitals, and was in the process of describing other
13 acts before Smithson stopped her, saying that he "got the picture". He confirmed with
14 Plaintiff that the sexual abuse was still going on. He then told Plaintiff that he would
15 make sure that it stopped.

16 21. Instead of contacting law enforcement as he should have done as a
17 representative of Defendants LDS and LDS-SD per their own policies and procedures or
18 otherwise protecting her, Bishop Smithson attempted to stop the abuse and protect
19 Plaintiff his own way. After hearing Plaintiff's report, Bishop Smithson brought Fitzgerald
20 and Bingley into his office and had Plaintiff sit outside while he met with them privately.
21 Later, after some time had passed, Plaintiff was brought back onto Smithson's office
22 where Bishop Smithson guided them all a joint meeting. Bishop Smithson spoke about
23 repentance, about how the heavenly Father forgives them, and then directed Plaintiff to
24 hug and speak words of forgiveness to Fitzgerald. Plaintiff, confused, did as she was
25 told, and the bishop sent Plaintiff home with Fitzgerald and Bingley. Thinking that this
26 was the right and proper remedy at the time based on the directives of the bishop of her
27 church, Plaintiff decided to forego other remedies or courses of conduct that she may
28 have had at the time that would have brought an end to the sexual abuse, including

1 reporting the abuse to civil legal authorities or to a secular teacher at her non-church
2 school. Not once did the bishop ask Plaintiff if she felt safe to go home together with
3 Bingley or Fitzgerald. Neither the bishop nor LDS or LDS-SD provided protection to
4 Plaintiff. In violation of Defendants LDS and LDS-SD's own express policies, which Jane
5 Doe had relied upon, no report to any public law enforcement agency was made by
6 Bishop Smithson.

7 22. Rather than stopping Fitzgerald from further abuse of Plaintiff, the meeting
8 with Bishop Smithson, coupled with Smithson's decision not to report the abuse to the
9 proper authorities, emboldened Fitzgerald to commit further acts of sexual abuse on
10 Plaintiff. Realizing that he faced no real consequences for his past acts of abuse, and as
11 his acts of abuse against Plaintiff were apparently forgiven, Fitzgerald continued to
12 sexually abuse Plaintiff by penetrating her with his fingers, forcibly performing oral sex
13 acts on her, and forcing her to perform oral sex on him. Plaintiff was devastated,
14 confused, and experiencing even more mental anguish- she believed that she had done
15 all the right things as taught and directed by Defendants LDS and LDS-SD by reporting
16 the abuse to her bishop and had expressing forgiveness to Fitzgerald as Bishop
17 Smithson had told her to do, yet the authorities were not contacted, she was not
18 protected or shielded from Fitzgerald, and the sexual abuse did not stop.

19 23. These ongoing acts of abuse brought Plaintiff to the brink of suicide.
20 Desperate for help, Plaintiff again reached out to Defendants LDS and LDS-SD for help
21 as she had been told to do by representatives of Defendants LDS or LDS-SD. This
22 time, she went to a female— Bishop Smithson's wife, Sister Smithson— and told her
23 that she wanted to take her own life because she could not live with the abuse that
24 Fitzgerald was inflicting on her any longer. Instead of contacting law enforcement, Sister
25 Smithson called Bishop Smithson at work, and again, instead of contacting law
26 enforcement, Bishop Smithson attempted to help her by counseling that suicide is a sin,
27 that she was loved in the church, and that the Heavenly Father loved her. Bishop
28 Smithson told her to focus on these things. Bishop Smithson did not make any attempt

1 to remove her or Fitzgerald from the family home. Bishop Smithson did not contact law
2 enforcement in violation of Defendants LDS or LDS-SD's own express policies. Again,
3 following the advice of her bishop, Plaintiff decided to focus on these things and forego
4 other remedies or courses of conduct that she may have had at the time that would
5 have brought an end to the sexual abuse, including reporting the abuse to civil legal
6 authorities or to a secular teacher at her non-church school.

7 24. Between 1995 and 1997, Plaintiff confided in another member of the LDS
8 church, Christopher Schneider, who was approximately 19 years old at the time, telling
9 him that her stepfather was sexually abusing her. Mr. Schneider told Plaintiff that she
10 should speak to his father, Defendants LDS and LDS-SD's Bishop Rocky Schneider.
11 Plaintiff followed this advice and reported the abuse to Bishop Schneider. In response to
12 her report of sexual abuse, rather than protecting Plaintiff from Fitzgerald's loathsome
13 practices and/or contacting law enforcement per Defendants LDS and LDS-SD's
14 express policies, Bishop Schneider and two of his counselors attempted to intimidate
15 Plaintiff into silence, telling her that if she went to the police she would go to prison and
16 would harm her family, including her cancer-stricken brother. They attempted to shame
17 her into silence by peppering her with questions about whether she was sexually active
18 and consuming alcoholic beverages, both of which are serious sins in the LDS faith.
19 They told her about all the horrible things that would happen to Fitzgerald if she reported
20 him to the police and if he was sentenced to prison for his crimes against her. Their
21 intimidation and shaming tactics worked, and they caused Plaintiff to forego other
22 remedies as she had become too afraid to report Fitzgerald's abuse to the police or to
23 other secular authorities, such as a teacher at her non-church school, with the result
24 being that Plaintiff's sexual abuse at the hands of Fitzgerald continued.

25 25. In 1997, Plaintiff, by now in high school, had made the varsity basketball
26 team Temescal Canyon High School in Lake Elsinore. During one of her basketball
27 games, she noticed Defendant Fitzgerald in the stands looking down on the court at her
28 teammates in an inappropriate way. This made Plaintiff uncomfortable, so she told her

1 basketball coach, Ms. Carrie Strange how she felt and confessed her stepfather's
2 relentless sexual abuse. Ms. Strange immediately reported the abuse to the counselor
3 at Plaintiff's High School. That same day, authorities arrested Defendant Fitzgerald.

4 26. Fitzgerald pled guilty to all charges against him stemming from his unlawful
5 abuse of Plaintiff and was eventually sentenced on 55 counts. When Defendant's
6 sentencing day arrived, one of Plaintiff's teachers drove her to court, where she sat
7 alone on one side of the courtroom. Defendant Bingley, Defendants LDS and LDS-SD's
8 bishop, and several other church missionaries sat on the other end of the courtroom to
9 support Fitzgerald. In prison, the church missionaries visited Fitzgerald often over the
10 course of his 3-year stay. Plaintiff's mother, Bingley, remained married to Fitzgerald for
11 two (2) years following his conviction.

12 **FIRST CAUSE OF ACTION**

13 **NEGLIGENCE**

14 **(Plaintiff JANE DOE against BINGLEY and DOES 1-100)**

15 27. Plaintiff re-alleges and incorporates by reference herein each allegation
16 contained herein above as though fully set forth and brought in this cause of action.

17 28. Bingley and DOES 1-100 are persons or entities who owed a duty of care
18 to the Plaintiff and/or to the minor's parent or had a duty to control the conduct of the
19 perpetrator by way of the special relationship existing between those individuals.

20 29. Bingley and DOES 1-100 knew or should have known of Defendant
21 Fitzgerald's misconduct and inappropriate sexual behavior directed by Defendant
22 Fitzgerald to minor Plaintiff Jane Doe.

23 30. Despite having knowledge of the misconduct, Bingley, and DOES 1-100,
24 failed to take any preventive action to control the conduct of Fitzgerald or protect
25 Plaintiff Jane Doe.

26 31. As a result of the negligence of Bingley and DOES 1-100; Plaintiff Jane
27 Doe was sexually abused by Defendant Fitzgerald.

28 32. Had Bingley and DOES 1-100 fulfilled their duties and responsibilities to

1 Plaintiff in the special relationship they had with minor Plaintiff, she would not have been
2 subject to all or most of the misconduct aimed against her over the course of
3 approximately ten of her most vulnerable life years.

4 33. As a direct and legal result of this conduct, Plaintiff suffered severe and
5 permanent injuries including, but not limited to, physical and mental pain and suffering,
6 severe emotional distress, psychological harm, physical injuries, past and future costs of
7 medical care and treatment, and past and future loss of earnings and earning capacity,
8 and other damages, in an amount not yet ascertained, but which exceed the minimum
9 jurisdictional limits of this Court.

10 **SECOND CAUSE OF ACTION**

11 **NEGLIGENCE – ASSUMED DUTY**

12 **(Plaintiff JANE DOE against Defendants LDS and LDS-SD and DOES 1-100)**

13 34. Plaintiff re-alleges and incorporates by reference herein each allegation
14 contained herein above as though fully set forth and brought in this cause of action.

15 35. Defendants, and each of them, through policies and procedures
16 implemented and adopted by them, undertook a duty to render services to
17 Plaintiff, a minor, who had complained and reported to them about the ongoing sexual
18 abuse happening to her in the home and had asked for help. The services and duties
19 that Defendants, and each of them, assumed and that should have been rendered by
20 the Defendants, and each of them, to Plaintiff including protecting or shielding Plaintiff
21 from her abusive stepfather and reporting such conduct to the proper civil authorities.
22 Defendants, and each of them, failed to exercise reasonable care in the performance of
23 the undertaking, including their failure to shield or protect Plaintiff from a sexual predator
24 and failure to contact civil law enforcement. These failures resulted in additional
25 physical and mental harm being inflicted upon Plaintiff in the form of ongoing sexual
26 abuse and mental abuse inflicted upon her by Fitzgerald.

27 36. Defendants' lack of due care in performing this undertaking increased the
28 risk of such harm in that Bishop Smithson's failures to report Fitzgerald to the civil

1 authorities, his failure to protect Plaintiff from Fitzgerald, and the negligent manner in
2 which he attempted to remedy the peril to Plaintiff by counseling Plaintiff to forgive
3 Fitzgerald for his awful acts and hugging him, emboldened Fitzgerald to inflict even
4 more physical and mental abuse on Plaintiff as well as inducing Plaintiff to forego other
5 remedies such as reporting the above to her teachers or to civil law enforcement. In
6 another episode, Defendants' lack of due care further increased the risk of harm to
7 Plaintiff in that Bishop Schneider and his counselors' decision to subject Plaintiff to a
8 victim-shaming session intimidated her into not reporting Fitzgerald's conduct to the
9 legal authorities. But for this conduct, Plaintiff would have reported the abuse to the
10 police or to a teacher at school at that time and would have saved herself from years of
11 additional sexual abuse by her stepfather.

12 37. Plaintiff, who was just a minor, had relied on the Defendants, and each of
13 them, to fulfill the duties that they had undertaken to perform and would protect her from
14 Fitzgerald sexual abuse, yet Defendants, and each of them, negligently performed these
15 undertakings.

16 38. Despite having assumed a duty to protect Plaintiff and despite knowledge
17 of the misconduct, Defendants, and each of them, failed to take any preventive action to
18 control the conduct of Fitzgerald, failed to report the abuse to public authorities and
19 failed to protect Plaintiff.

20 39. As a result of the negligence of Defendants LDS and LDS-SD, the sexual
21 abuse of Plaintiff continued from 1994 to 1997.

22 40. Had Defendants LDS and LDS-SD timely reported Jane Doe's complaint to
23 civil authorities in accordance with their own practices and policies, the abuse would
24 have immediately ceased. The failure of Defendants LDS and LDS-SD to adhere to its
25 practice and policy of reporting the abuse inflicted on Plaintiff to civil authorities was a
26 legal cause of the childhood sexual assaults from the day she reported first them to
27 Defendants, and each of them, until the day Fitzgerald was arrested. These assaults
28 resulted in mental and physical injury to Plaintiff. Had Defendants LDS or LDS-SD

1 fulfilled its promise to protect Plaintiff, including reporting the abuse to public authorities,
2 Fitzgerald would have been arrested and the sexual abuse of Plaintiff would have
3 ceased immediately.

4 41. As a direct and legal result of this conduct, Plaintiff suffered severe and
5 permanent injuries including, but not limited to, physical and mental pain and suffering,
6 severe emotional distress, psychological harm, physical injuries, past and future costs of
7 medical care and treatment, and past and future loss of earnings and earning capacity,
8 and other damages, in an amount not yet ascertained, but which exceed the minimum
9 jurisdictional limits of this Court.

10 **THIRD CAUSE OF ACTION**
11 **SEXUAL ABUSE OF A MINOR**

12 **(Against DEFENDANTS BINGLEY, FITZGERALD and DOES 1-100)**

13 42. Plaintiff re-alleges and incorporates by reference herein each allegation
14 contained herein above as though fully set forth and brought in this cause of action.

15 43. Defendant Fitzgerald engaged in unlawful sexual acts and other harmful
16 misconduct with Plaintiff. Plaintiff did not consent to the acts, nor could Plaintiff have
17 consented to the acts given her age.

18 44. Defendants Bingley and DOES 1-100 ratified Fitzgerald's sexual abuse of
19 Plaintiff because Defendants had knowledge that he had harassed and potentially
20 harassed other community youth members, yet intentionally turned a blind eye allowing
21 Fitzgerald to gain access to and ultimately manipulate and sexually abuse Plaintiff.
22 Defendants Bingley and DOES 1-100 did not discipline, denounce, or discharge
23 Fitzgerald; as such, they instead accepted and thus ratified his conduct.

24 45. As a direct and legal result of this conduct, Plaintiff suffered severe and
25 permanent injuries including, but not limited to, physical and mental pain and suffering,
26 severe emotional distress, psychological harm, physical injuries, past and future costs of
27 medical care and treatment, and past and future loss of earnings and earning capacity,
28 and other damages, in an amount not yet ascertained, but which exceed the minimum

jurisdictional limits of this Court.

FOURTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Plaintiff JANE DOE Against Defendant FITZGERALD and DOES 1-100)

46. Plaintiff re-alleges and incorporates by reference herein each allegation contained herein above as though fully set forth and brought in this cause of action.

47. Acting with knowledge of his superior position and special relationship with Plaintiff and realizing Plaintiff's special susceptibility to emotional distress due to Plaintiff's age, inexperience and vulnerability, Defendant Fitzgerald and DOES 1-100, commenced upon a course of brainwashing and threatening Plaintiff, a minor, so that he could ultimately coerce and convince Plaintiff to engage in unlawful sexual acts. At all times Fitzgerald was both Plaintiff's stepfather and in the priesthood at her Church, and he used this position to gain Plaintiff's trust, knowing that he could then take advantage of Plaintiff sexually.

48. Fitzgerald's misconduct was outrageous; particularly because of the age difference between herself and Plaintiff (Plaintiff was a child, Fitzgerald was in his mid-30s) and because he was a trusted mentor. Fitzgerald used this trust and vulnerability to his advantage by manipulating Plaintiff's emotions and exploiting her sexually.

49. Fitzgerald's acts were intentional, willful, oppressive, and malicious and done for the purpose of causing Plaintiff to suffer emotional harm, humiliation, mental anguish, and emotional distress or with reckless disregard for the likelihood that he would cause Plaintiff such distress.

50. As a direct and legal result of Fitzgerald's actions and misconduct, Plaintiff has been damaged emotionally and physically, and otherwise, all to Plaintiff's special and general damages in amounts to be proven at the time of trial.

//

//

//

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff Jane Doe, by and through her Guardian Ad Litem, Ms.
3 DOE, prays for judgment against Defendants LDS and LDS-SD, Bingley, Fitzgerald, and
4 DOES 1 through 100, and each of them, as follows:

- 5 1. For an award of special (economic) and general (non-economic) damages
6 according to proof;
- 7 2. For an award of exemplary damages against Defendant Fitzgerald;
- 8 3. Attorney's fees as may be permitted by statute;
- 9 4. For costs of suit incurred herein; and
- 10 5. For such other and further relief as the Court deems just and proper.

11
12 Date: September 3, 2021

DORDICK LAW CORPORATION

13
14 By:



15 Gary A. Dordick, Esq.
16 Golnar V. Monfared, Esq.
17 Attorneys for Plaintiff
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff JANE DOE requests that this action be determined by trial by jury.

Dated: September 3, 2021

DORDICK LAW CORPORATION

By:



Gary A. Dordick, Esq.
Golnar V. Monfared, Esq.
Attorney for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 1122 WILSHIRE BLVD., LOS ANGELES, CA 90017.

On September 3, 2021, I served the foregoing documents described as **SECOND AMENDED COMPLAINT FOR DAMAGES** on all parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows.

[SEE ATTACHED SERVICE LIST]

() **BY UNITED STATES MAIL.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed below and

() deposited the sealed envelope with the United States Postal Service with postage fully prepaid.

() placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am employed in the county where the mailing occurred. The envelope or package was placed in the mail at Los Angeles, California.

() **BY OVERNIGHT DELIVERY.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons listed in the attached service list. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

() **BY MESSENGER SERVICE.** I placed the documents in an envelope or package addressed to the persons at the addresses listed in the attached service list and providing them to a messenger service for service.

1 () **BY PERSONAL SERVICE.** I caused such documents to be delivered
2 personally delivered to the persons addresses listed below.

3 () For a party represented by an attorney, delivery was made to the
4 attorney or at the attorney's office by leaving the documents, in an
5 envelope or package clearly labeled to identify the attorney being
6 served, with a receptionist or an individual in charge of the office,
7 between normal business hours.

8 () For a party, delivery was made to the party or by leaving the
9 documents at the party's residence with some person not younger
10 than 18 years of age between normal business hours.

11 () **BY FAX TRANSMISSION.** I caused all of the pages of the above entitled
12 document to be sent to the recipients noted on the attached service list via
13 electronic transfer (FAX) at the respective FAX numbers pursuant to C.C.P.
14 §1013(e) from DORDICK LAW CORPORATION on the date set forth above.
15 The machine I used complied with California Rules of Court, Rule 2.306(h)(3)
16 and no error was reported by the machine.

17 (X) **BY ELECTRONIC SERVICE [E-MAIL]** I caused the documents to be sent
18 to the persons at the electronic notification addresses listed in the attached
19 service list. I did not receive, within a reasonable time after the transmission,
20 any electronic message or other indication that the transmission was
21 unsuccessful.

22 Executed on September 3, 2021, at Los Angeles, California.

23 I declare under penalty of perjury under the laws of the State of California that the
24 above is true and correct.

25 
26 CRISTINA REYNOSA
27
28

SERVICE LIST

Doe, Jane v. Church of Jesus Christ of Latter-Day Saints, et al.

Case No. CVRI2100419

Robert D. Crockett, Esq.
Lisa Dearden Trepanier, Esq.
CROCKETT & ASSOCIATES
23929 Valencia Blvd., No. 303
Valencia, CA 91355
Tel: (323) 487-1101
Fax: (323) 843-9711
E-Mail: bob@bobcrockettlaw.com
E-Mail: lisatrepanier@bobcrockettlaw.com
E-Mail: McKeon@bobcrockettlaw.com
E-Mail: amy@bobcrockettlaw.com

Counsel for Defendant, The Church of Jesus Christ of Latter-Day Saints

James G. Bohm, Esq.
BOHM WILDISH & MATSEN, LLP
695 Town Center Drive, Suite 700
Costa Mesa, CA 92626
Tel: (714) 384-6500
Fax: (714) 384-6501
E-Mail: jbohm@aol.com
E-Mail: jfreeman@bohmwildish.com
E-Mail: lli@bohmwildish.com
E-Mail: lrivara@bohmwildish.com

Counsel for Defendant, Kathleen Denise Bingley