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Attorneys for Defendant
The Church of Jesus Christ of Latter-day Saints,
a Utah corporation sole and Corporation of the President
of the San Diego California Stake of the Church of
Jesus Christ of Latter-day Saints, a California corporation

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
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 through 100, inclusive,

Defendants.

Case No. CVRI2100419

**ANSWER OF DEFENDANTS THE CHURCH
OF JESUS CHRIST OF LATTER-DAY
SAINTS AND CORPORATION OF THE
PRESIDENT OF THE SAN DIEGO
CALIFORNIA STAKE OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY SAINTS**

Complaint Filed: January 28, 2021
Trial Date: None Set

Defendants The Church of Jesus Christ of Latter-day Saints and Corporation of the President of
the San Diego California Stake of The Church of Jesus Christ of Latter-day Saints (“Church
Defendants”) answer Plaintiff’s Second Amended Complaint as follows:

1 **GENERAL DENIAL**

2 Pursuant to section 431.30(d) of the California Code of Civil Procedure, Church Defendants
3 deny, generally and specifically, each and every allegation in the Second Amended Complaint. Church
4 Defendants further deny, generally and specifically, that Plaintiff has been injured in any sum therein
5 alleged, and that Plaintiff is entitled to damages or any other relief whatsoever by reason of any act or
6 omission on the part of Church Defendants.

7 **AFFIRMATIVE DEFENSES**

8 Without waiving or excusing Plaintiff's burden of proof, or admitting that Church Defendants
9 have any burden of proof, Church Defendants hereby assert the following defenses.

10 **FIRST AFFIRMATIVE DEFENSE**

11 **(No Legal Cause)**

12 1. Plaintiff is precluded from recovering from Church Defendants because no conduct of
13 Church Defendants was the legal cause of any alleged damage to Plaintiff.

14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Acts of Plaintiff)**

16 2. Any alleged injury suffered by Plaintiff is the proximate result of the failure, neglect,
17 omissions, negligence and/or acts of the Plaintiff and on that basis Plaintiff is barred from any claims or
18 relief.

19 **THIRD AFFIRMATIVE DEFENSE**

20 **(Contributory Negligence/Comparative Fault)**

21 3. Any alleged claims that Plaintiff may have were the result of Plaintiff's own fault, or the
22 fault of third parties who were not under Defendants' control.

23 **FOURTH AFFIRMATIVE DEFENSE**

24 **(California Constitution, Article 1, Section 4)**

25 4. Some of the actions taken by Church Defendants are actions protected by the California
26 Constitution and, therefore, cannot be the subject of a cause of action.
27
28

1 **FIFTH AFFIRMATIVE DEFENSE**

2 **(Supervening and Superseding Cause)**

3 5. The conduct of Plaintiff's stepfather Steven Fitzgerald is a supervening and superseding
4 cause of Plaintiff's damages. The conduct of Plaintiff's mother Kathleen Bingley is a supervening and
5 superseding cause of Plaintiff's damages.

6 **SIXTH AFFIRMATIVE DEFENSE**

7 **(Apportionment of Fault)**

8 6. The injuries of the Plaintiff are the proximate result of the acts or omissions of other
9 persons, including Plaintiff's stepfather and Plaintiff's mother.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11 **(Offset)**

12 7. Any payment received by Plaintiff for her injuries should offset recovery against Church
13 Defendants.

14 **EIGHTH AFFIRMATIVE DEFENSE**

15 **(Statute of Limitations)**

16 8. Plaintiff's claims are barred by section 340.1 of the Code of Civil Procedure.

17 **NINTH AFFIRMATIVE DEFENSE**

18 **(Laches)**

19 9. Plaintiff's claims are barred by laches.

20 **TENTH AFFIRMATIVE DEFENSE**

21 **(Waiver)**

22 10. Plaintiff's claims are barred by waiver.

23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 **(Failure to Mitigate)**

25 11. Plaintiff has failed to mitigate her damages, if any.

26 **TWELFTH AFFIRMATIVE DEFENSE**

27 **(Estoppel)**

28 12. Plaintiff's claims are barred by estoppel.

1 **THIRTEENTH AFFIRMATIVE DEFENSE**

2 **(First Amendment Privileges)**

3 13. Some of the actions taken by Church Defendants are actions protected by the First
4 Amendment of the United States Constitution and, therefore, cannot be the subject of a cause of action.

5 **PRAYER**

6 WHEREFORE, Church Defendants pray for relief as follows:

- 7 1. That Plaintiff's Second Cause of Action for Negligent – Assumed Duty against Church
8 Defendants be dismissed with prejudice;
- 9 2. That Church Defendants recover costs of suit; and
- 10 3. For such other and further relief as the court may deem proper.

11 Dated: November 19, 2021

CROCKETT & ASSOCIATES

13 

14 Lisa Dearden Trepanier
15 Attorneys for Church Defendants

16 4860-6130-5347, v. 2

PROOF OF SERVICE

On November 19, 2021, I served the following documents described as:

ANSWER OF DEFENDANTS THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AND CORPORATION OF THE PRESIDENT OF THE SAN DIEGO CALIFORNIA STAKE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

by serving a true copy of the above-described document to:

Dordick Law Corporation 509 South Beverly Drive Beverly Hills, CA 90212 310-551-0949 Counsel for Plaintiff, Jane Doe	Gary Dordick, Esq. gary@dordicklaw.com Golnar Monfared, Esq. golnar@dordicklaw.com Cristina Reynosa cristina@dordicklaw.com	
Mark Flores, Esq. Crane Flores, LLP 15 West Carrillo St., Suite 310 Santa Barbara, CA 93101 805-564-8181 mkflores@cflawyers.com Counsel for Plaintiff, Jane Doe	James G. Bohm Bohm Wildish & Matsen, LLP 695 Town Center Dr., Suite 700 Costa Mesa, CA 92626 714-384-6500 jbohm@bohmwildish.com Joanne P. Freeman, Esq. jfreeman@bohmwildish.com Lindsay Rivara lrivara@bohmwildish.com Counsel for Defendant, Kathleen Denise Bingley	Gary S. Saunders, Esq. Saunders Law Group 1891 California Ave., Suite 102 Corona, CA 92881-7259 951-272-9114 contact@saunderslawoffice.com Counsel for Defendant, Steven Robert Fitzgerald

and I served it in the following manner:

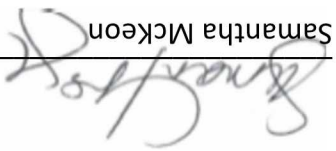
- ☐ by depositing it in sealed envelope in a U.S. Postal Service mail box.
- ☐ by depositing it in a sealed envelope in a U.S. Postal Service mail box maintained at the office complex of Crockett & Associates.
- ☐ by depositing it in a sealed envelope in a U.S. Postal Service mail box at my residence.
- ☐ by handing it to a messenger courier service or registered process server for the delivery of documents by hand in accordance with the instructions provided the messenger courier service or registered process server on the that same day.

☒ by emailing it to the addressee's listed above pursuant to Code of Civil Procedure section 1010.6 and California Rules of Court, rule 2.251(c)(3).

☐ by depositing it in a sealed envelope and delivering it to an overnight delivery service with instructions to deliver it to the addressee above.

I declare that I am employed in the office of a member of the Bar of the State of California at whose direction this service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 19, 2021, at Valencia, California.



Samantha McKeon