NORTH CAROLINA

ROCKINGHAM COUNTY

FILED
2020 OCT 19 P 4:47
ROCKINGHAM CO., C.S.C.
BY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
20 CVS 2510

MARK HOWELL, MATTHEW HOWELL and CHRISTOPHER HOWELL

Plaintiffs

v.

DAN RIVER WESLEYAN CHURCH; THE WESLEYAN CHURCH CORPORATION and GEORGE W. SEED

Defendants

COMPLAINT

NOW COME the Plaintiffs, complaining of Defendants and demanding a trial by jury, and allege and say as follows:

1. Plaintiff Mark Howell [hereinafter "Mark"] is a citizen and resident of New Hanover County, North Carolina.

2. Plaintiff Matthew Howell [hereinafter "Matthew"] is a citizen and resident of Rockingham County, North Carolina.

3. Plaintiff Christopher Howell [hereinafter "Christopher"] is a citizen and resident of Rockingham County, North Carolina.

4. Upon information and belief, Defendant George William Seed [hereinafter referred to as "Defendant Seed" or collectively with Defendant Dan River Wesleyan Church as "Defendants"] was at all times relevant hereto a citizen and resident of Rockingham County, North Carolina but upon information and belief, currently resides in Gwinnett County, Georgia.

5. Upon information and belief, Defendant Dan River Wesleyan Church [hereinafter referred to as "Dan River" or "the church" or collectively with Defendants Seed and The

Wesleyan Church Corporation as "Defendants"] is a corporation organized and existing under the laws of the State of North Carolina, with its principle place of business located in Eden, Rockingham County, North Carolina.

6. Upon information and belief, Defendant The Wesleyan Church Corporation [hereinafter referred to as "WCC" or collectively with Defendants Seed and Dan River as "Defendants"] is a corporation organized and existing under the laws of the State of Indiana, with its principle place of business located in Fishers, Indiana.

7. Upon information and belief, Defendant WCC is the national organization responsible for oversight of Wesleyan churches throughout the United States, including Defendant Dan River.

8. Defendant Dan River is a Wesleyan church founded in 1948 and, upon information and belief, is a member church of The Wesleyan Church Corporation.

9. This court has personal jurisdiction over Defendants Dan River and WCC in that at all times relevant hereto Defendants Dan River and WCC conducted business in the state of North Carolina, including Rockingham County.

10. This court has personal jurisdiction over Defendant Seed in that the alleged events occurred in North Carolina.

11. This court has subject matter jurisdiction over Plaintiffs' claims in that the claims arose under the substantive law of North Carolina.

12. This court is the proper venue for this action pursuant to N.C. Gen. Stat. § 1-80.

13. Defendant Dan River has been properly served with the Summons and Complaint in this matter pursuant to the applicable provisions of the North Carolina General Statutes and

the North Carolina Rules of Civil Procedure, and there are no outstanding issues of process, service of process, or jurisdiction.

14. Defendant WCC has been properly served with the Summons and Complaint in this matter pursuant to the applicable provisions of the North Carolina General Statutes and the North Carolina Rules of Civil Procedure, and there are no outstanding issues of process, service of process, or jurisdiction.

15. Defendant Seed has been properly served with the Summons and Complaint in this matter pursuant to the applicable provisions of the North Carolina General Statutes and the North Carolina Rules of Civil Procedure, and there are no outstanding issues of process, service of process, or jurisdiction.

FACTUAL BACKGROUND

16. Plaintiffs refer to and hereby incorporate by reference all previous paragraphs of this Complaint.

17. In the early 1990's, Defendant Seed was a youth leader with Defendant Dan River and served in this capacity with the blessing, approval and consent of the church's clergy and laity.

18. During the course of his association with Defendant Dan River, Defendant Seed used his position in the church to befriend Plaintiffs Mark, Matthew and Christopher Howell in order to engage in sexual misconduct with those young boys.

19. Defendant Seed also befriended Mark, Matthew and Christopher's mother and used Defendant Dan River and his position within the church to facilitate his sinister personal agenda.

20. Defendant Seed used Defendant Dan River and his position within the church to manipulate these young boys and their family, gained their trust and then took advantage of

them. Defendant Seed did not have to work hard to earn the trust and confidence of these boys and their mother because he had the actual and/or apparent endorsement and trust of Defendant Dan River.

21. Based on Defendant Seed's position with Defendant Dan River, Plaintiffs Mark, Matthew and Christopher's mother would allow her sons to sleep overnight at Defendant Seed's home, unaware that such overnight stays were subjecting her sons to sexual assaults and molestation by Defendant Seed.

22. Defendant Seed also used church-sanctioned trips such as youth retreats to carry out his sexual assaults and molestations.

23. It was well know by the then-Pastor and adult members of Defendant Dan River that Defendant Seed repeatedly and openly engaged in inappropriate conduct with many young boys in the church youth group, doing such things as giving them prolonged hugs, and grabbing and squeezing their rear-ends while hugging them and at other times.

24. Despite Seed's openly inappropriate behavior, Defendant Dan River did nothing to intervene and, instead, continued to offer its approval, blessing and sanction of Defendant Seed's work with the church's youth.

25. On December 15, 1993, Defendant Seed was convicted of sexual battery in the state of Tennessee and Defendant Seed is a registered sex offender.

26. On numerous occasions over the course of many months, Defendant Seed sexually assaulted and molested Mark, Matthew and Christopher by, among other things, rubbing and fondling their genitalia, rubbing their legs and attempting to put his hands up their shorts, touching Plaintiff Christopher's genitalia and commenting on his penis size, getting in bed with them and rubbing and fondling them and trapping them in bed and making them fearful

of leaving, and grabbing their buttocks and giving them prolonged hugs. On several occasions, Plaintiff Mark, after sleeping overnight at Defendant Seeds house, woke up to find blood on the backside of his sweatpants.

27. Defendant Seed carried out these sexual assaults on Plaintiffs both in his home and at the church, including in the church's fellowship hall.

FIRST CLAIM FOR RELIEF
ASSAULT and BATTERY

28. Plaintiffs refer to and hereby incorporate by reference all previous paragraphs of this Complaint.

29. Defendant Seed committed numerous assaults and batteries on Plaintiffs by touching them inappropriately in a sexual nature as alleged herein and including that he:

a. intentionally and in wanton disregard for the safety and well-being of Plaintiffs, assaulted and battered them, including touching and groping their genitalia, commenting on the size of their penis and sexually molesting them in other ways;

b. acted in a manner meant to cause a reasonable person to suffer apprehension or fear of imminent harmful or offensive contact;

c. engaged in conduct which a reasonable person would consider to be harmful or offensive contact;

d. engaged in conduct that a reasonable person would know would cause the Plaintiffs great confusion and tremendous feelings of guilt;

e. engaged in other wrongful conduct not set out herein, but which may be revealed in discovery; and

f. engaged in conduct rising to the level of battery and assault in other and further ways as the evidence will show and to be proven at trial.

30. The conduct of Defendant Seed, as specifically alleged above, constitutes battery and assault or otherwise establishes a reckless indifference to the likelihood that such conduct would cause serious harm or apprehension of serious harm to Plaintiffs.

31. Upon information and belief, at all times relevant herein, Defendant Seed was knowingly associated with Defendant Dan River and was operating under said association when the alleged sexual assaults occurred.

32. Upon information and belief, at all times relevant herein, Defendant Seed was an actual and/or apparent agent of Defendants Dan River and/or WCC and was working with the church's youth with the consent, encouragement and blessing of Defendants Dan River and/or WCC.

33. The above-alleged acts and omissions by Defendant Seed are imputed to Defendant Dan River pursuant to the doctrines of agency and/or *respondeat superior*.

34. The above-alleged acts and omissions by Defendant Seed are imputed to Defendant WCC pursuant to the doctrines of agency and/or *respondeat superior*.

35. As a direct and proximate result of the conduct of Defendant Seed, Plaintiffs suffered and continue to suffer severe physical and mental injuries arising from the sexual assaults/batteries committed by Defendant Seed. As a result of Defendant Seed's assaults/batteries Plaintiffs have incurred medical and other expenses and losses.

36. As a direct and proximate result of the conduct of Defendant Seed, Plaintiffs are entitled to recover from Defendants compensatory damages and punitive damages in an amount to be determined by a jury, said amount being in excess of twenty-five thousand dollars ($25,000.00).

SECOND CLAIM FOR RELIEF
NEGLIGENT RETENTION AND SUPERVISION OF DEFENDANT SEED

37. Plaintiffs refer to and hereby incorporate by reference all previous paragraphs of this Complaint.

38. Upon information and belief, Defendant Dan River breached its duty in retaining and supervising Defendant Seed in his capacity as a youth leader in the following respects:

a. Failed to perform a proper background check of Defendant Seed prior to allowing him to serve as a youth leader;

b. Failed to exercise due diligence in determining whether Defendant Seed would be a proper and safe youth leader;

c. Failed to properly train Defendant Seed regarding appropriate interaction with children;

d. Failed to properly supervise Defendant Seed;

e. Failed to properly supervise Defendant Seed during church related events with young males;

f. Failed to properly supervise Defendant Seed and his interactions with young males whose parents had entrusted their sons to the church and the adults associated with the church who interacted with them;

g. Failed to intervene when it knew or should have known of the inappropriate relationship between Defendant Seed and young boys who participated in the youth programs and activities sponsored by the church; and

h. In other respects to be established through discovery and proved at trial.

39. The above-alleged actions and omissions by Defendant Dan River are imputed to Defendant WCC pursuant to the doctrines of agency and/or *respondeat superior*.

40. As a direct and proximate result of the acts and omission of the Defendant Dan River, Plaintiffs are entitled to recover of the Defendants compensatory and punitive damages in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

THIRD CLAIM FOR RELIEF
CONSTRUCTIVE FRAUD

41. Plaintiffs refer to and hereby incorporate by reference all previous paragraphs of this Complaint.

42. Plaintiffs were minor children placed in the care and supervision of the Defendants, who owed them fiduciary duties and the duties of loyalty and of good faith and fair dealing, in providing their supervision and care.

43. Defendant Seed utilized his position of trust and confidence as Plaintiffs' care giver to molest and commit sexual assault and battery upon Plaintiffs for his own personal benefit and gratification, and to Plaintiffs' detriment.

44. Defendant Seed, in fact, benefitted from this abuse of the Plaintiffs' trust and confidence and the fiduciary relationship then existing.

45. The Plaintiffs were minors and could not consent to Defendant Seed's wrongful conduct described herein, nor did they comprehend that Defendant Seed would utilize the fiduciary relationship between Plaintiffs and Defendants to take advantage of the Plaintiffs.

46. The Plaintiffs' mother did not consent to Defendant Seed's wrongful conduct described herein, nor did she have knowledge that Defendant Seed would utilize the fiduciary relationship between Plaintiffs and Defendants to take advantage of the Plaintiffs.

47. Defendant Seed's actions described herein are imputed to Defendants Dan River and/or WCC under the doctrines of agency and/or *respondeat superior* because at all pertinent times, Defendant Seed was acting in the course and scope of his association with, or as an apparent or ostensible agent of Defendants Dan River and/or WCC and with the consent, encouragement and blessing of the church.

48. As alleged above, the Plaintiffs have suffered extreme harm as a result of Defendants' actions.

49. As a direct and proximate result of Defendants' constructive fraud, Plaintiffs suffered compensatory and punitive damages in excess of the jurisdictional limit of this Court.

FOURTH CLAIM FOR RELIEF
FALSE IMPRISONMENT

50. Plaintiffs refer to and hereby incorporate by reference all previous paragraphs of this Complaint.

51. Defendant Seed engaged in conduct rising to the level of false imprisonment of Plaintiffs, in that he:

a. unlawfully confined, restrained or removed from one place to another minor plaintiffs who could not consent;

b. engaged in the above-mentioned conduct for the purpose of facilitating the commission of a felony;

c. restrained plaintiffs by force, threat or fraud;

d. by using words and/or conduct that induced a reasonable apprehension of force with a means of coercion at hand.

e. engaged in conduct not set out herein which may be revealed in discovery; and

f. engaged in conduct rising to the level of false imprisonment in other and further ways as the evidence will show and to be proven at trial.

52. The conduct of Defendant Seed, as specifically alleged above, constitutes false imprisonment which caused Plaintiffs severe emotional distress and physical harm or otherwise indicated a reckless indifference to the likelihood that such conduct would cause severe emotional distress and physical harm to Plaintiffs.

53. Upon information and belief, at all times relevant herein, Defendant Seed was associated with and under the supervision of Defendants Dan River and/or WCC and was operating under said association when the alleged sexual assaults occurred and with the consent, encouragement and blessing of the church.

54. Upon information and belief, Defendant Dan River knew, or should have known, that Defendant Seed was predisposed to commit the type of act alleged herein, or in the alternative, condoned the activity in ways to be further proven at trial.

55. Defendant Seed's actions described herein are imputed to Defendant Dan River under the doctrine of agency and/or *respondeat superior* because at all pertinent times, Defendant Seed was acting in the course and scope of his employment with, or as an apparent or ostensible agent of Defendant Dan River, and with the consent and blessing of Defendant Dan River.

56. Defendant Seed's actions described herein are imputed to Defendant WCC under the doctrines of agency and/or *respondeat superior.*

57. In the alternative, Defendant Dan River gained knowledge of the material facts concerning Defendant Seed's conduct, and by their unreasonable inaction, ratified the misconduct by Defendant Seed.

58. Defendants are jointly and severally liable to the Plaintiffs for injuries and damages proximately caused by the acts of Defendant Seed.

59. As a direct and proximate result of the conduct of Defendant Seed, Plaintiffs have suffered severe emotional distress and physical harm arising from the intentional detainment without consent and other acts committed by Defendant Seed upon Plaintiffs.

60. As a direct, proximate and foreseeable result of the conduct of Defendant Seed, Plaintiffs are entitled to recover of Defendants compensatory and punitive damages in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

FIFTH CLAIM FOR RELIEF
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

61. Plaintiffs refer to and hereby incorporate by reference all previous paragraphs of this Complaint.

62. As alleged above, Defendant Dan River's conduct related to Plaintiffs was negligent.

63. The negligent conduct did, in fact, cause Plaintiffs severe emotional distress.

64. Defendant Dan River knew or should have known, and it was reasonably foreseeable that, Defendant Seed's conduct would cause the Plaintiffs severe emotional distress.

65. Defendant Dan River knew of should have known and it was reasonably foreseeable that the failure of the clergy, employees, leaders and administrators of Defendant Dan River to intervene and stop the harmful conduct of Defendant Seed when it was or should have been clear that such harmful conduct was occurring would cause the Plaintiffs severe emotional distress.

66. Defendant Seed's actions described herein are imputed to Defendant WCC under the doctrine of agency and/or *respondeat superior.*

67. As a proximate and foreseeable result of the negligence of Defendant Dan River as alleged herein, Plaintiffs endured pain, suffering, mental anguish, and suffered from severe emotional distress and will continue to endure pain, suffering, mental anguish, and suffer from severe emotional distress in the future.

68. As a direct, proximate and foreseeable result of the negligence of Defendant Dan River, said negligence being imputed to Defendant WCC, Plaintiffs are entitled to recover of Defendant Dan River compensatory and punitive damages in an amount to be determined by a jury and in excess of the jurisdictional limit of this Court.

SIXTH CLAIM FOR RELIEF
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

69. Plaintiffs refer to and hereby incorporate by reference all previous paragraphs of this Complaint.

70. Defendant Seed engaged in conduct rising to the level of intentional infliction of emotional distress of Plaintiffs, in that he:

a. engaged in conduct which a reasonable prudent person would find extreme and outrageous;

b. engaged in conduct amounting to extreme and outrageous conduct with the specific intent to cause severe emotional distress to another person;

c. engaged in conduct amounting to extreme and outrageous conduct which he knew or should have known would cause another person severe emotional distress;

d. engaged in conduct amounting to extreme and outrageous conduct that caused another person to suffer severe and emotional distress;

e. engaged in conduct not set out herein which may be revealed in discovery; and

f. engaged in conduct rising to the level of severe infliction of emotional distress in other and further ways as the evidence will show and to be proven at trial.

71. The conduct of the Defendant Seed as specifically alleged above constitutes extreme and outrageous conduct which caused Plaintiffs severe emotional distress or otherwise indicated a reckless indifference to the likelihood that such conduct would cause severe emotional distress to Plaintiffs.

72. Upon information and belief and at all times relevant herein, Defendant Seed was knowingly associated with Defendant Dan River, and was operating under said association when the alleged sexual assaults occurred and was acting with the consent, encouragement and blessing of the church.

73. Upon information and belief, Defendant Dan River knew, or should have known, that Defendant Seed was predisposed to commit and/or was committing the type of act alleged herein, or in the alternative, condoned and ratified the activity in ways to be further proven at trial.

74. The aforesaid actions and omissions by Defendant Seed are imputed to Defendants Dan River and/or WCC pursuant to the doctrines of agency and/or *respondeat superior*.

75. In the alternative, Defendant Dan River gained knowledge of the material facts concerning Defendant Seeds' harmful conduct as alleged herein, and by their unreasonable inaction, condoned and ratified the misconduct of Defendant Seed.

76. Defendants are jointly and severally liable to Plaintiffs for injuries and damages proximately caused by the negligence of Defendant Seed.

77. As a result, Plaintiffs have sought professional medical treatment as a result of Defendant Seeds' conduct.

78. As a direct and proximate result of the conduct of, Plaintiffs have suffered severe emotional distress arising from the sexual offense, sexual battery, and other acts committed by Defendant Seed upon Plaintiffs.

79. As a proximate and foreseeable result of the conduct of Defendants as described herein, Plaintiffs have endured pain and suffering, mental anguish, and emotional distress and

will continue to endure pain and suffering in the future, have incurred medical and other expenses and have suffered lost wages.

80. As a proximate and foreseeable result of the negligent and/or wrongful conduct of the Defendants as alleged herein, Plaintiffs have sustained damages and are entitled to recover from the Defendants, jointly and severally, in an amount to be determined by a jury, said amount being in excess of twenty-five thousand dollars ($25,000.00).

81. The conduct of the Defendants as alleged herein was willful and/or wanton and was done with the conscious disregard of and/or indifference to the rights and safety of the Plaintiffs, and Plaintiffs are entitled to recover punitive damages from Defendants pursuant to Chapter 1D of the North Carolina General Statutes in an amount to be determined by a jury.

WHEREFORE, Plaintiffs respectfully pray the Court as follows:

1. That Plaintiffs have and recover of Defendants jointly and severally an amount to be determined by a jury, said amount being in excess of twenty-five thousand dollars ($25,000.00);

2. That Plaintiffs be awarded pre-judgment interest as by law allowed beginning from the date of the filing of this action;

3. That Plaintiffs have and recover from Defendants punitive damages as by law allowed;

4. That Plaintiffs be awarded attorney's fees and costs as allowed by law;

5. For a trial by jury of this action; and

6. For all such other and further relief as the Court may deem just and proper.

This the 14 day of October, 2020.

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