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Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

JANE ROE NO. 1,

Plaintiff,

vs.

CALVARY CHAPEL OF HONOLULU;  
CURTIS BARNES; JOHN DOES 1-10;  
JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE  
PARTNERSHIPS 1-10; DOE NON-  
PROFIT ENTITIES 1-10; and DOE  
GOVERNMENTAL ENTITIES 1-10

Defendants.

CIVIL NO.

(Non-Motor Vehicle Tort)

COMPLAINT; SUMMONS; DEMAND FOR  
JURY TRIAL

**COMPLAINT**

Plaintiff Jane Roe No. 1, a fictitious name used to protect Plaintiff's privacy interest, alleges the following against Defendants Calvary Chapel of Honolulu and Curtis Barnes:

**PARTIES**

1. At all times material to the Complaint, Plaintiff Jane Roe No. 1 (hereinafter referred to as "Plaintiff") was an female child who resided in the County of Honolulu, State of Hawaii. Plaintiff was a minor at the time of the sexual abuse alleged herein. She has now reached the age of majority.

2. At all times material to the Complaint, Defendant Calvary Chapel of Honolulu ("Calvary Chapel") was a domestic nonprofit corporation formed for the stated purposes of operating a church, a religious radio station, a private adoption referral service, a religious bookstore and a private christian school.

3. At all times material to the Complaint, Defendant Curtis Barnes ("Barnes") was a resident of the County of Honolulu, State of Hawaii, and was an employee, agent, volunteer and representative of Defendant Calvary Chapel. Defendant Barnes otherwise acted under the direct supervision, authority, employ, and control of Defendant Calvary Chapel.

4. Plaintiff has attempted to ascertain the names and identities of possible defendants who are presently unknown to Plaintiff. Plaintiff's efforts include reviewing records and interviewing witnesses including other potential victims. Plaintiff alleges, upon information and belief, that the conduct of other defendants, presently unknown to Plaintiff, was or may

have been a proximate or legal cause of the harm that she has suffered as alleged herein.

#### **FACTS**

5. At all times material, Barnes was an employee, agent and/or representative of Defendant Calvary Chapel who was screened, hired, trained, and employed by each and all of the Defendants and under the direct supervision, employ, agency, and control of each and all of the Defendants.

6. Plaintiff alleges, upon information and belief, prior to July of 2003, Barnes began working as an employee, agent, volunteer and representative of Defendant Calvary Chapel, but not limited to some of the time periods when Plaintiff attended Calvary Chapel.

7. Generally, Barnes's employment and volunteer duties with the Calvary Chapel included teaching and working with children. Barnes lead and/or supervised youth activities at Calvary Chapel and under the authority and auspices of Calvary Chapel.

8. Plaintiff, with her family, attended Calvary Chapel over the course of years. Plaintiff and her family developed great admiration, trust, reverence, and respect for Calvary Chapel and its agents.

9. In approximately 2003, when Plaintiff was approximately 5 years old, Barnes, using his position of

authority, trust, reverence, and control as an agent of Calvary Chapel, engaged in unpermitted, harmful and offensive sexual contact upon the person of Plaintiff. The sexual contact and/or acts constituted or would have constituted a criminal offense under part V or part VI of chapter 707 (Haw. Rev. Stat. Sections 707-730 to 707-759 (2013)).

10. Prior to Barnes's sexual abuse of Plaintiff, Defendant Calvary Chapel knew or should have known about Barnes's inappropriate interactions with children and sexual abuse of children.

11. Prior to Barnes's sexual abuse of Plaintiff, Defendant Calvary Chapel knew or should have known that Barnes was a child molester and knew or should have known that Barnes was a dangers to children.

12. Before Plaintiff was sexually abused by Barnes, Defendant Calvary Chapel knew or should have known material facts regarding Barnes's sexual misconduct, impulses, and behavior, but failed to act on that knowledge thereby increasing the likelihood that Plaintiff would be harmed. Calvary Chapel's failure to act on that knowledge also contributed to Plaintiff's injuries and inability to appreciate the abuse and resulting injuries or obtain help for the abuse and injuries suffered.

13. Barnes's practice of sexually accessing and abusing children was known or should have been known to Defendants.

14. Defendant Calvary Chapel negligently and grossly negligently or recklessly believed that Barnes was fit to work with children and/or that any previous problems he had was fixed and cured; that Barnes would not sexually molest children and that Barnes would not injure children; and/or that Barnes would not hurt children.

15. Defendant Calvary Chapel engaged in a pattern and practice of fraudulent conduct in order to conceal the criminal and harmful acts of their agent and employee. Defendant Calvary Chapel, by and through its agents, misrepresented and/or failed to present the facts of known sexual misconduct to Plaintiff's family and/or law enforcement authorities in furtherance of a scheme to protect Barnes from criminal prosecution, to maintain or increase charitable contributions and/or avoid public scandal thereby creating and perpetuating a conspiracy of silence and/or misrepresentation.

16. By holding Barnes out as qualified employee, agent, volunteer and representative employed by Defendant Calvary Chapel, and by undertaking the instruction and spiritual and emotional guidance of the minor Plaintiff, Defendant entered into a special relationship with Plaintiff and other minors who

attended Calvary Chapel and its programs. As a result of Plaintiff being a minor, and by Defendant Calvary Chapel undertaking the care and guidance of the then vulnerable Plaintiff, Defendants held a position of empowerment over Plaintiff.

17. Further, Defendant Calvary Chapel, by holding itself out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment.

18. Defendant Calvary Chapel and its agents and representatives held themselves out to church goers and their parents, including Plaintiff and her family, as counselors and instructors on matters that were spiritual, moral, and ethical. Accordingly, Plaintiff and her family placed trust in Defendants so that Defendants gained superiority and influence over Plaintiff. Defendants, by maintaining and encouraging such a relationship with Plaintiff and preventing the then minor Plaintiff and her family from effectively protecting Plaintiff, entered into fiduciary relationships with Plaintiff.

19. These fiduciary relationships with Plaintiff established a duty of good faith and fair dealing and the duty to act with the highest degree of trust and confidence. These fiduciary relationships included the duty to warn, the duty to disclose, and the duty to protect children from sexual abuse and

exploitation by Calvary Chapel employees who were promoted as being safe with children. Defendants' fiduciary relationships with Plaintiff were based upon a justifiable trust by Plaintiff and her family and superiority and influence by Defendants.

20. At all times material, by accepting custody of the then minor Plaintiff, Defendants accepted custody *in loco parentis*, as a parent, and owed Plaintiff and her family the duty of full disclosure of all information they had or should have had regarding Barnes's history of sexual misconduct.

21. Defendant Calvary Chapel and its agents were in a specialized or superior position to receive and did receive specific information regarding misconduct by its agents and employees that was of critical importance to the well-being, protection, care and treatment of innocent minor victims, including Plaintiff. This knowledge was not otherwise readily available. Defendant Calvary Chapel exercised its special or superior position to assume control of said knowledge and any response thereto.

22. Plaintiff, on the other hand, was in a subordinate position of weakness, vulnerability, and inequality and lacked such knowledge. Further, the ability of Plaintiff or her family to monitor the use or misuse of the power and authority of Defendant Calvary Chapel was compromised, inhibited or

restricted by Defendant.

23. Defendant held its leaders and agents out as people of high morals, as possessing immense power, teaching families and children to obey these leaders and agents, teaching families and children to respect and revere these leaders and agents, soliciting youth and families to its programs, marketing to youth and families, recruiting youth and families, and holding out the people that worked in the programs as safe.

24. Defendant Calvary Chapel owed Plaintiff and her family a duty of reasonable care because it had superior knowledge about the risk that Barnes posed to Plaintiff, the risk of abuse in general in its programs and/or the risks that its facilities and staff posed to minor children.

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

26. Defendant Calvary Chapel breached its fiduciary duties to Plaintiff by failing to act upon or insufficiently acting upon or responding to, information obtained by virtue of its superior status, known only or secretly to it, that was indicative of a pattern of wrongful, unlawful or criminal behavior on its part.

27. Defendant Calvary Chapel also breached its duties to Plaintiff by failing to warn her and her family of the risk that Barnes posed. It also failed to warn Plaintiff and her family about any of the knowledge that it had about child sexual abuse in general, and in their programs.

28. Defendant Calvary Chapel knew or should have known that it did not have sufficient information about whether or not its employees, agents, volunteers and representatives and people working in its programs were a danger to those in its care.

29. Defendant Calvary Chapel knew or should have known that there were risks of child sex abuse for children participating in its and activities.

30. Defendant Calvary Chapel, through its agents, made representations directly to Plaintiff and her family. Defendants knew or should have known that the representations made to Plaintiff's parents would influence Plaintiff and the amount and type of contact that Plaintiff had with Barnes, Barnes's access

to Plaintiff, and Barnes's ability to molest Plaintiff.

31. Defendant Calvary Chapel was in a specialized position where it had knowledge unknown to Plaintiff. Defendant Calvary Chapel was in a position to have this knowledge because it was Barnes's employer and was responsible for Barnes. Plaintiff, as a child, was not in a position to have information about Barnes's inappropriate tendencies towards children.

32. Had Plaintiff or her family known what Defendant Calvary Chapel knew or should have known - that Barnes had sexually molested numerous children before Plaintiff and that Barnes was a danger to children- Plaintiff would not have been sexually molested.

33. Despite having actual or constructive knowledge of Barnes's pedophilic propensities and/or previous instances of molestation of other children, Defendant concealed the danger which Barnes presented by holding him out as trustworthy and in good standing, thus enabling his continued, unrestricted access to minor children.

34. The sexual abuse of Plaintiff and the circumstances under which the abuse occurred caused Plaintiff to develop confusion, various coping mechanisms and symptoms of psychological disorders, including post-traumatic stress disorder, anxiety, depression, repression and disassociation.

As a result, Plaintiff formed a reasonable and rational fear that she would be disbelieved and was unable to fully perceive or know that 1) the conduct of Barnes was pervasive; 2) Defendant Calvary Chapel knew or had reason to know that Barnes was a pedophile prior to her abuse; 3) Defendants were responsible for the abuse; and 4) the injuries she suffered were the result of the abuse. Because Plaintiff's emotional and psychological injuries at times manifested themselves in ways seemingly unconnected to the sexual abuse by Barnes, Plaintiff was unable to perceive or know the existence or nature of her psychological and emotional injuries and the causal connection to the sexual abuse.

35. As a direct result of Defendants' conduct, Plaintiff has suffered and continues to suffer from injuries including, but not limited to: great pain of mind and body; severe and permanent emotional distress; physical manifestations of emotional distress; psychological injuries, including post-traumatic stress disorder and depression; feelings of shame, embarrassment, and powerlessness; was prevented and will continue to be prevented from performing normal daily activities and obtaining the full enjoyment of life; will incur expenses for medical and psychological treatment, therapy and counseling; and has incurred and will continue to incur loss of income and/

or loss of earning capacity.

**COUNT ONE**

**SEXUAL ASSAULT AND BATTERY AGAINST DEFENDANT BARNES**

36. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

While Plaintiff was a minor child, Barnes intentionally touched and manipulated the body and genitals of Plaintiff in a sexual manner.

37. At all times material, the aforesaid conduct of Barnes was offensive to Plaintiff and done without Plaintiff's consent. Barnes knew or should have known that Plaintiff would find such conduct offensive.

38. As a direct result of Barnes's intentional conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT TWO**

**NEGLIGENCE AND GROSS NEGLIGENCE AGAINST DEFENDANT CALVARY  
CHAPEL AND ALL DOE DEFENDANTS**

39. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

Defendant assumed a duty to Plaintiff by:

holding Barnes out to the public, including Plaintiff and her family, as competent and a trustworthy employee,

representative, agent, volunteer and/or counselor of high morals;

holding their facilities and programs out as a safe environment for children;

taking and inviting children into their facilities and programs;

entrusting children to the care of Barnes during activities of Calvary Chapel; and

fostering environments in which Plaintiff was inhibited from reporting the sexual abuses against her.

40. Defendants had a duty to exercise care in screening, hiring, training, supervising Barnes in his position and failed in these duties to prevent the injuries sustained by Plaintiff as a result of the foreseeable misconduct of its volunteer and employee Barnes.

41. Defendant breached its duty by exposing Plaintiff to Barnes, an unfit agent with dangerous and exploitive propensities.

42. Defendant was negligent and grossly negligent in deeming Barnes a fit agent for employment in the contact and supervision of children and in continuing to employ Barnes in a position of trust and authority as a supervisor, counselor, and/or minister without proper or adequate supervision, thereby

providing him the opportunity to commit the wrongful acts against Plaintiff as described herein.

43. The aforesaid occurrences were proximately caused by the negligent, willful, wanton, reckless, and grossly negligent conduct of the Defendant, its agents, servants and/or employees, in failing to properly and adequately supervise the conduct of Barnes as it related to the Plaintiff, other young children, and/or other church members.

44. As a result of the Defendant's negligent and grossly negligent retention and inadequate supervision of Barnes, Plaintiff was sexually abused by Barnes when Plaintiff was a minor.

45. As a result of Defendant's negligent and grossly negligent conduct, Plaintiff has suffered the injuries and damages described herein.

### **COUNT THREE**

#### **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST DEFENDANT CALVARY CHAPEL AND ALL DOE DEFENDANTS**

46. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

47. Defendants' conduct was negligent, grossly negligent, extreme and outrageous.

48. A reasonable person would not expect or tolerate Defendants placing an individual who was known and/or should

have been known to Defendants as child molester, in contact with minors at Calvary Chapel events. A reasonable person would not expect or tolerate Defendants allowing Barnes to have unsupervised contact with minors and failing to supervise or prevent Barnes from committing wrongful sexual acts with minors, including Plaintiff.

49. Defendants' conduct was negligent and grossly negligent and done for the purpose of causing with a substantial certainty or reckless or conscious disregard of the likelihood that Plaintiff would suffer the injuries and damages described herein.

50. As a direct and proximate result of the severe emotional distress, Plaintiff has suffered emotional, psychological and physical injury.

#### **COUNT FOUR**

#### **NEGLIGENT MISREPRESENTATION AGAINST DEFENDANT CALVARY CHAPEL AND ALL DOE DEFENDANTS**

51. Plaintiff incorporates all paragraphs of the Complaint as if fully set forth under this count.

52. Defendants, through their agents, represented to Plaintiff and her family that their agents and employees, including Barnes, had been properly screened, trained,

supervised, did not have history of molesting children and did not pose dangers to children.

53. Barnes was not properly screened, trained, supervised and did pose a danger to children.

54. Defendants' representations to Plaintiff, her family and others regarding Barnes were false and Defendants were negligent in their care and/or competence in providing said representations.

55. As a direct and proximate result of Defendants' above-described conduct, Plaintiff has suffered the injuries and damages described herein.

**COUNT FIVE**

**PUNITIVE DAMAGES**

56. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

57. The conduct of Defendants constituted gross negligence, intentional, willful and wanton, or malicious misconduct or was conducted with such a want of care as to constitute a conscious indifference to the rights of others including Plaintiff warranting the imposition of punitive damages.

WHEREFORE, Plaintiff prays that judgment be entered in her favor, and against Defendants, for general, special, and

punitive damages, together with costs of suit, attorney's fees, pre- and post-judgment interest, and other relief pursuant to Rule 54 of the Hawaii Rules of Civil Procedure.

DATED: Honolulu, Hawai`i, December 5, 2017

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Mark Gallagher, Esq.  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI`I

JANE ROE NO. 1,

Plaintiff,

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CALVARY CHAPEL OF HONOLULU;  
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Defendants.

CIVIL NO.

(Non-Motor Vehicle Tort)

SUMMONS

SUMMONS

STATE OF HAWAI`I

To the above-named Defendants:

You are hereby summoned and required to file with the court and serve upon THE LAW OFFICE OF MARK GALLAGHER, Plaintiff's attorney, whose address is 66 Kaiholu Place, Kailua, Hawai`i 96734, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this

Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

DATED: Honolulu, Hawai`i, \_\_\_\_\_.

\_\_\_\_\_  
Clerk of the above-entitled court

**In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the First Circuit Court Administration Office at PHONE NO. 539-4333, FAX 539-4322, or TTY 539-4853, at least ten (10) working days prior to your hearing or appointment date.**

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Defendants.

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DEMAND FOR JURY TRIAL

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Plaintiff hereby demands trial by jury on all issues so triable.

DATED: Honolulu, Hawai`i, November December 5, 2017.

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Mark F. Gallagher, Esq.  
Attorney for Plaintiff