

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LINCOLN COUNTY

MARGARET DOE, as guardian ad litem	)	Case No. _____
proceeding under a pseudonym on behalf of	)	
EDWARD DOE, a minor proceeding under a	)	<b>COMPLAINT</b>
pseudonym,	)	(Sexual Battery of a Child/ <i>Respondeat</i>
	)	<i>Superior</i> ; Intentional Infliction of Emotional
Plaintiff,	)	Distress/ <i>Respondeat Superior</i> ; Negligence;
v.	)	Negligence <i>Per Se</i> )
	)	
CITY OF LINCOLN CITY, an Oregon local	)	JURY TRIAL DEMANDED
public body, authorized by the laws of the	)	
State of Oregon,	)	<i>Not Subject to Mandatory Arbitration</i>
	)	
Defendants.	)	Prayer: \$4,000,000.00

(Common Allegations)

1.

Plaintiff Edward Doe is a minor born in the year 2001. He is proceeding through his guardian *ad litem*, Margaret Doe. Both Edward Doe and Margaret Doe are proceeding under pseudonyms in order to minimize fear, embarrassment, humiliation, and retaliation from third parties that public disclosure of their identities might otherwise generate. At all times relevant to this Complaint, Plaintiff was an unemancipated minor living in Lincoln City, Oregon and invited to participate in youth sports programs operated by the Lincoln City Community Center and sponsored by the City of Lincoln City.

2.

Defendant City of Lincoln City ("Lincoln City") is a political subdivision of the State of Oregon and a local public body subject to the Oregon Tort Claims Act. At all times relevant to this Complaint, Defendant operated the Lincoln City Community Center ("LCCC") and selected

1 adults to serve as youth sports coaches and sponsored, operated, funded, and ratified the youth  
2 sports programs and activities provided through the LCCC.

3 3.

4 At all times relevant to this Complaint, Defendant selected or accepted Tyler Lopez, an  
5 adult, for the position of youth sports coach for teams on which Plaintiff participated as a minor  
6 athlete. As a coach, Lopez's role was to educate, mentor, befriend, counsel, and train minor  
7 participants in LCCC's youth sports programs and activities in various athletic, educational, and  
8 life skills.

9 4.

10 Defendant authorized and empowered Lopez to perform all of the duties of a coach,  
11 including providing athletic and educational instruction and training, physical supervision and  
12 discipline, counseling, and friendship; and enforcing the rules associated with participation in  
13 youth sports programs and activities at LCCC. Defendant knew that as part of his duties as a  
14 coach, Lopez would be in a position of trust, confidence, and authority over minor participants in  
15 the LCCC youth sports programs, including Plaintiff. Defendant retained the right to control the  
16 means and methods used by coaches, including Lopez, in fulfilling these duties for LCCC.

17 5.

18 While performing his duties as a coach, and at least in part for the purpose of furthering  
19 his duties required in those roles, Lopez befriended Plaintiff and gained the trust and confidence  
20 of Plaintiff as an authority figure, advisor, and mentor. As a result, Plaintiff was conditioned to  
21 trust Lopez, to comply with his directions, and to respect Lopez as a person of authority. This  
22 course of conduct is referred to in this Complaint as "Grooming."

23 6.

24 By using and manipulating his position of trust and authority as an LCCC coach, and  
25 through the Grooming process, Lopez induced and directed Plaintiff to engage in various sexual  
26 acts with him. Lopez's Grooming and authorized actions as a coach led to and resulted in the

1 sexual abuse of the Plaintiff, described below. Lopez's Grooming and authorized actions as a  
2 coach to Plaintiff were: (1) committed in direct connection with and for the purposes of fulfilling  
3 his employment or agency duties with Defendant; (2) committed within the time and space limits  
4 of his employment or agency duties as an LCCC coach; (3) done initially and at least in part from  
5 a desire to serve the interests of Defendant; (4) done directly in the performance of his duties as  
6 an LCCC coach; (5) consisted generally of actions of a kind and nature which Lopez was  
7 required to perform as an LCCC coach; and (6) done at the direction of, and pursuant to, the  
8 power vested in him by Defendant. Defendant had a right and the ability to control Lopez's  
9 Grooming and authorized activities as an LCCC coach. Alternatively or in conjunction with the  
10 Grooming process, Lopez's authorized actions as an LCCC coach led to and/or resulted in the  
11 sexual abuse of Plaintiff.

12 7.

13 Lopez engaged in intentional conduct resulting in one or more of the following effects:  
14 physical injury, mental injury, sexual abuse, and/or sexual exploitation of Plaintiff, as those terms  
15 are used in ORS 12.117. Specifically, Lopez sexually abused and molested Plaintiff while he  
16 was a minor. The sexual abuse included fondling and groping of Plaintiff's genitals.

17 8.

18 On information and belief, prior to the last incident of Plaintiff's abuse, Defendant  
19 received notice of allegations that Lopez was engaging in inappropriate conduct with Plaintiff  
20 and/or other minors participating in LCCC's youth sports programs and activities. No employees  
21 or agents of Defendant commenced an adequate investigation, nor did they report the suspected  
22 abuse to state licensing authorities, the Department of Human Services, and/or law enforcement,  
23 as required by ORS 419B.010.

24 ////

25 ////

26 ////

1 9.

2 Plaintiff provided timely and sufficient notice of his claims to Defendant pursuant to the  
3 requirements of ORS 30.275 under the Oregon Tort Claims Act.

4 10.

5 Plaintiff's claims are timely under ORS 30.275, as they are brought within two years of  
6 Plaintiff's discovery of his cognizable injuries. In the first alternative, Plaintiff is currently 16  
7 years old and the limitations period for initiation of an action is tolled by Plaintiff's minority. In  
8 the second alternative, the acts of Tyler Lopez constitute child abuse and therefore, pursuant to  
9 ORS 12.117, Plaintiff's claims are timely.

10 11.

11 As a result of Lopez's sexual abuse, molestation, and breach of authority and trust,  
12 Plaintiff has suffered and will continue to suffer severe and debilitating physical, mental, and  
13 emotional injury, including pain and suffering, physical and emotional trauma, and permanent  
14 psychological damage distinct from the abuse itself, all to his non-economic damages in the  
15 amount of \$3,000,000.00, the exact amount of which will be proven at the time of trial.

16 12.

17 As an additional result and consequence of Lopez's sexual abuse, molestation, and breach  
18 of authority and trust, Plaintiff has incurred and/or will incur in the future: costs for counseling  
19 and psychiatric and psychological medical treatment, all to his economic damages in the amount  
20 of \$1,000,000.00 the exact amount of which will be proven at the time of trial.

21  
22 **FIRST CLAIM FOR RELIEF**

23 (Sexual Battery of a Child/*Respondeat Superior*)

24 13.

25 Plaintiff realleges and incorporates by reference paragraphs 1 through 12, above.  
26

14.

While acting in the course and scope of his agency for Defendant, Lopez induced and directed Plaintiff to engage in various sexual acts with him, as described in paragraph 7, above. The sexual molestation and abuse described in paragraph 7 constituted harmful and offensive touching of Plaintiff, to which Plaintiff did not and could not consent.

15.

As a result and consequence of Lopez's sexual abuse and breach of authority and trust, Plaintiff has incurred economic and non-economic damages, as detailed in paragraphs 11 and 12, above.

## SECOND CLAIM FOR RELIEF

(Intentional Infliction of Emotional Distress/*Respondeat Superior*)

16.

Plaintiff realleges and incorporates by reference paragraphs 1 through 15, above.

17.

Lopez, while engaging in the Grooming process, knowingly and intentionally caused severe emotional distress and physical injury to Plaintiff when he sexually abused Plaintiff, as described in paragraph 7, above. In the alternative and/or in conjunction with the Grooming, acts committed within the course and scope of Lopez's agency with Defendant led to and/or resulted in Lopez knowingly and intentionally causing severe emotional distress and physical injury to Plaintiff. Plaintiff did in fact suffer severe emotional distress as a result of this sexual abuse, and the sexual abuse of a child is beyond the bounds of all socially tolerable conduct.

18.

As a result of Lopez's sexual abuse and breach of authority and trust, Plaintiff has incurred economic and non-economic damages, as detailed in paragraphs 11 and 12, above.

1 **THIRD CLAIM FOR RELIEF**

2 (Negligence)

3 **Count I - Common Law Negligence**

4 19.

5 Plaintiff realleges and incorporates by reference paragraphs 1 through 18, above.

6 20.

7 Defendant established a special relationship with Plaintiff when it sought and obtained  
8 his participation in LCCC's youth sports programs and activities and held them out as safe and  
9 trustworthy youth development, education, and mentoring programs. That relationship created a  
10 duty on the part of Defendant to ensure that the youth sports programs were made as reasonably  
11 safe as possible from known dangers and to exercise reasonable care in the selection, training,  
12 supervision, and retention of its coaches, including Coach Lopez. Alternatively or in conjunction  
13 with the above, Plaintiff had a special relationship with Defendant as a child entrusted to the care  
14 and control of Defendant *in loco parentis*. This special relationship created a duty of care on the  
15 part of Defendant to ensure Plaintiff's safety while participating in Defendant's programs, events,  
16 or activities.

17 21.

18 On information and belief, Defendant acted negligently and created a foreseeable risk of  
19 Lopez abusing minor participants in LCCC's youth sports programs, including Plaintiff, by  
20 failing to undertake reasonable child abuse prevention measures in one or more of the following  
21 ways:

- 22 (a) In failing to adequately supervise Coach Lopez in his relationship with minors;  
23 (b) In failing to adequately train employees and/or volunteers, including Coach  
24 Lopez, in how to recognize, report, and prevent child sexual abuse;  
25 (c) In failing to reasonably and adequately investigate and respond to allegations that  
26 Coach Lopez was engaged in inappropriate conduct with minors;

1 (d) In failing to report Coach Lopez to state licensing authorities, the Department of  
2 Human Services, and/or law enforcement after learning information indicating child sexual abuse  
3 was occurring;

4 (e) In retaining Coach Lopez as a coach after learning information indicating child  
5 sexual abuse was occurring; and

6 (f) In failing to properly implement other common sense child abuse prevention  
7 policies.

8 22.

9 Any or all of Defendant's failures described in paragraph 21, were substantial  
10 contributing and causal factors of all or some of Plaintiff's abuse and damages as alleged in  
11 paragraphs 7, 11, and 12, above.

12 23.

13 In light of the knowledge Defendant acquired as to the risk of harm that Lopez posed to  
14 minor participants in LCCC's youth sports programs and activities, it was foreseeable to  
15 Defendant that the sexual abuse of minor participants, including Plaintiff, would continue.  
16 Plaintiff was within the class of persons to be protected by reasonable child abuse prevention  
17 measures, and such measures would have prevented some or all of Plaintiff's abuse by Lopez.

18 24.

19 Defendant's failures, described in paragraph 21, created a foreseeable risk that minors in  
20 Defendant's care, including Plaintiff, would be sexually abused. Plaintiff's interest in being  
21 protected and free from child sexual abuse was an interest of a kind that the law protects against  
22 negligent invasion.

23 25.

24 Defendant's failures, described in paragraph 21, were unreasonable in light of the  
25 knowledge Defendant acquired as to the risk of harm posed by Lopez. Defendant's failures were  
26 direct and foreseeable causes of all or some of Plaintiff's abuse and damages, as alleged in

1 paragraphs 7, 11, and 12, above.

2 26.

3 As a result and consequence of Defendant's negligence, Plaintiff has incurred the  
4 damages set forth in paragraphs 11 and 12.

5  
6 **Count II –Negligence Per Se**

7 27.

8 Plaintiff realleges and incorporates by reference paragraphs 1 through 26, above.

9 28.

10 As alleged above at paragraph 8, ORS 419B.010 ("the Statute") required Defendant's  
11 agents to report instances of child sexual abuse about which they acquired information to the  
12 Department of Human Services or local law enforcement.

13 29.

14 On information and belief, Defendant's agents – acting in the course and scope of their  
15 employment or agency – violated the Statute. These violations are imputed to Defendant.

16 30.

17 As a result of Defendant's violation of the Statute, Plaintiff suffered the abuse and  
18 damages set out above in paragraphs 7, 11, and 12, above.

19 31.

20 Plaintiff is within the class of persons sought to be protected by the Statute.

21 32.

22 The injuries suffered by Plaintiff as a result of Defendant's violations are the type that the  
23 Statute was intended to prevent.

24  
25 **WHEREFORE**, Plaintiff prays for judgment against Defendant, as follows:

26 1. Non-economic damages in the amount of \$3,000,000.00, the exact amount to be



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2. Economic damages in the amount of \$1,000,000.00, the exact amount to be  
determined by the jury at the time of trial;

3. For Plaintiff's costs and disbursements incurred; and

4. For any other relief this Court deems just and equitable.

DATED this 20<sup>th</sup> day of June, 2018.

**CREW Janci LLP**

**Trial Attorney:**

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