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MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

B.M., an adult female; D.W., an adult female; K.R.,
an adult female; J.J., an adult female; and, C.W., an
adult female,

Plaintiffs,

vs.

THE BOY SCOUTS OF AMERICA, a
congressionally chartered corporation, authorized to
do business in Montana; and MONTANA
COUNCIL, BOY SCOUTS OF AMERICA, a
Montana non-profit corporation,

Defendants.

Dept. No. _____

Cause No. _____

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

COMES NOW Plaintiffs, by and through their attorneys of record, and for their
complaint against Defendants, and each of them, states:

PARTIES

1. At all times relevant to this Complaint, Plaintiffs were all minor girls participating in an Explorer Scout program in Kalispell, Montana. Because this is a child sex abuse case involving intimate, private, and embarrassing details of Plaintiffs' private lives, Plaintiffs are proceeding under their initials pursuant to *Doe v. Deschamps*, 64 F.R.D. 652, 654 (D. Mont. 1974), and similar authority.

2. Plaintiff B.M. is an adult female Oregon resident, born in 1960. At all times relevant this complaint, Plaintiff B.M. was an unemancipated minor who was living in Kalispell, Montana, and participating in an Explorer Scout program operated and/or controlled by Defendants.

3. Plaintiff D.W. is an adult female Illinois resident, born in 1961. At all times relevant this complaint, Plaintiff D.W. was an unemancipated minor who was living in Kalispell, Montana, and participating in an Explorer Scout program operated and/or controlled by Defendants.

4. Plaintiff K.R. is an adult female Alaska resident, born in 1962. At all times relevant this complaint, Plaintiff K.R. was an unemancipated minor who was living in Kalispell, Montana, and participating in an Explorer Scout program operated and/or controlled by Defendants.

5. Plaintiff J.J. is an adult female Montana resident, born in 1959. At all times relevant this complaint, Plaintiff J.J. was an unemancipated minor who was living in Kalispell, Montana, and participating in an Explorer Scout program operated and/or controlled by Defendants.

6. Plaintiff C.W. is an adult female Montana resident, born in 1960. At all times relevant this complaint, Plaintiff C.W. was an unemancipated minor who was living in Kalispell, Montana, and participating in an Explorer Scout program operated and/or controlled by Defendants.

7. At all times relevant to this complaint, Defendant Boy Scouts of America (“BSA”) was a congressionally-chartered corporation operating throughout the United States, and authorized to do business in the State of Montana. At all times relevant to this complaint, BSA chartered, authorized, managed, and/or controlled Defendant Montana Council, Boy Scouts of America.

8. At all times relevant to this complaint, Defendant Montana Council, Boy Scouts of America (“MC”) was a Montana non-profit corporation operating throughout the State, with its principal place of business located in Great Falls, Montana. At all times relevant this complaint Defendant MC managed and controlled a Scout “District” in Flathead County, which included operations in Kalispell, Montana.

9. Defendant BSA and Defendant MC will be referred to hereinafter collectively as “Defendants.”

FACTS RELEVANT TO ALL COUNTS

10. At all times relevant to this Complaint, Defendants operated various outdoor craft, life and career skills training, as well as citizenship, service, and character-building programs – collectively known as “Explorer Scouting” – for adolescent boys and girls, including Plaintiffs.

11. At all times relevant this complaint, Defendants jointly agreed to operate the Explorer “post” or “crew” to which Plaintiffs belonged.

12. Defendants retained the right of final approval over any and all adult Explorer Scout leaders and the right to remove any such Scout leaders at their discretion. In the course of operating Plaintiffs’ Explorer post, Defendants had the right to control the physical details, means, and methods of Explorer Scout leaders’ interactions with the Explorer Scouts in their care, as well as the leaders’ performance of their duties on behalf of the Defendants. Defendants exercised this control in part by promulgating detailed handbooks for Explorer Scout leaders and Explorer Scouts to follow, by enforcing the rules and regulations contained therein,

and by each retaining the right to refuse membership in Scouting and remove individual Scout leaders for any reason (with Defendant BSA given the ultimate right to reject any adult Scout leader applicant).

13. In performing duties on behalf of Defendants, the individual Explorer Scout leaders were acting in the time and space limits of their agency with Defendants, were motivated at least in part by a desire to serve Defendants, and these actions were of a type that they were required to do on behalf of the Defendants.

14. At all times relevant to this complaint, Defendants selected or accepted an adult male named William H. Leininger, Jr. (hereinafter "Leininger") as an Explorer Scout leader. As an Explorer Scout leader, Leininger's role was to educate, mentor, befriend, and train young people – including Plaintiffs in this case – in morality, patriotism, community service, and various life skills. At all times relevant to this complaint, Plaintiffs' Explorer post was officially sanctioned by the Defendants.

15. Leininger was criminally convicted in 1976 for his sexual abuse of young girls, including the Plaintiffs. Leininger died in 2002.

16. At all times relevant to this Complaint, Leininger served on the MC Executive Board, the governing body for the MC, and as a BSA District Chairman.

17. Leininger also served as a Scoutmaster for troops 20 and 76 and advisor for Explorer Scouts Posts 100 and 131 in the Kalispell district. Additionally, Leininger served as District Camping and Activities Chairman, Public Relations Chairman, and Regional Explorer Chairman for Scout districts in the Kalispell area.

18. Defendants recruited and accepted Leininger as a Scoutmaster and Explorer Scout leader without undertaking reasonable efforts to check his background or suitability for serving in a role that allowed him to exercise leadership authority and supervision over minor children, including Plaintiffs.

19. At all times relevant to this Complaint, Defendants failed to properly train and supervise Leininger such that he was allowed complete and uncontrolled access to minor children, including Plaintiffs, and was allowed to unilaterally set policies, rules, and activities within Explorer Scouts, all to the detriment of Plaintiffs.

20. Instead of taking any reasonable efforts to supervise, monitor, or evaluate Leininger's exercise of his duties as a Scoutmaster and Explorer Scout leader, the Defendants continued to cede more authority and control to Leininger to establish Explorer Scouts programs and to run those programs as he saw fit, all to the further detriment of minor children, including the Plaintiffs.

21. In 1974, during the period of Leininger's wrongful conduct alleged in this Complaint, the Defendants bestowed upon Leininger Scouting's highest adult award, the Silver Beaver award.

22. Defendants empowered Leininger to perform all duties of an Explorer Scout leader, including but not limited to the power to provide instruction, counseling, moral guidance, and physical supervision to adolescent boys and girls who participated in Explorer Scout programs and activities, the power to enforce the rules governing the youths' participation, and the power to order and instruct these youths, including Plaintiffs, to comply with Leininger's commands. Defendants knew that as part of his duties as an Explorer leader, Leininger would be in a position of trust, confidence, and authority over the youth involved, including Plaintiffs.

23. While performing his duties as Explorer Scout leader, and for the purpose of furthering the duties required in that role, Leininger befriended Plaintiffs and their family; gained the trust and confidence of Plaintiffs and their families as an instructor, guide, mentor, counselor, and authority figure; and gained the permission, acquiescence, and support of Plaintiffs' parents to spend substantial periods of time alone with each of the individual Plaintiffs. As a result, Plaintiffs were conditioned to trust Leininger, to comply with his directions, and to respect

Leininger as a person of authority as their Explorer Scout leader. This course of conduct is referred to in this Complaint as "Grooming." Leininger also performed agency duties on behalf of Defendants that gave him authorized access to Plaintiffs, and Defendants authorized Leininger to spend time alone with Plaintiffs as part of Scouting.

24. Leininger's Grooming of Plaintiffs, and/or his actions toward Plaintiffs' were within the scope of his agency and were: (1) committed in direct connection and for the purposes of fulfilling his duties and agency with the Defendants; (2) committed within the time and space limits of his agency as an Explorer Scout leader; (3) done initially, and at least in part, from the desire to serve the interests of Defendants; (4) done directly in the performance of his duties as Explorer Scout leader; (5) consisted generally of actions of a kind and nature which Leininger was required to perform as Explorer Scout leader; and (6) done at the direction of, and pursuant to, the power vested in him by the Defendants.

25. By virtue of Leininger's involvement in the Defendants' organizational structure in Montana and Defendants' knowledge that they had ceded unsupervised control over Scouting functions to Leininger, Defendants knew or reasonably should have known about the serious risks Leininger posed to minor participants in the Explorer Scouts, including Plaintiffs.

26. From at least the 1960s, Defendants knew that Scout leader and volunteer positions were being used by predatory child molesters to gain access to and victimize children, and that Defendants had an institution-wide or systemic child abuse problem; in that every year an average of nearly 60 adult leaders were discovered molesting children.

27. At all times relevant to this Complaint, Defendants invited Plaintiffs to participate in the Scouting program that they jointly administered and controlled, promoting their program as safe and beneficial for youth, including Plaintiffs. This invitation created a special, fiduciary relationship wherein Plaintiffs and their parents relied upon Defendants' expertise and judgment in selecting morally upright Scout Leaders, and handed Defendants authority to act *in loco parentis*

over Plaintiffs. Defendants also invited Plaintiffs to enter into a commercial relationship by joining Scouting in exchange for paying dues, fees, and required purchases.

28. Defendants created a danger to Plaintiffs when they failed to warn parents of the risk of child molestation inherent to the Scouting program, failed to implement child sex abuse policies, and failed to change their process for selecting and monitoring Explorer Scout leaders (hereinafter referred to as Defendants' "institutional negligence"). Defendants knew to a moral certainty that such failures would reasonably lead to at least some number of youths – in the hundreds each year, based on Plaintiffs' information and belief – to be sexually abused by adult Scout leaders while participating in Scouting. Plaintiffs were members of the class of individuals to be protected by a warning about Scouting's dangers, by alternative child abuse policies, and by screening, and/or monitoring of Scout leaders.

29. Defendants' institutional negligence was a substantial contributing and causal factor to the abuse of Plaintiffs. Because of the duration and consistency of child sexual abuse in Scouting, Defendants' knowing failure to warn, implement child abuse policies, or change screening or monitoring procedures created a foreseeable risk of harm to the safety of children in the care of Defendants, including Plaintiffs. If warnings had been issued, or if more comprehensive child sexual abuse or leader-monitoring policies had been in place, Plaintiffs would have been protected from some or all of their sexual abuse.

30. Because of the decades-long knowledge that hundreds of youths were suffering abuse at the hands of Scout leaders each and every year, Leininger's sexual abuse of Plaintiffs was a foreseeable outcome of the Scouting program itself. Defendants' institutional negligence was thus a direct, proximate, and foreseeable cause of Plaintiffs' sexual abuse and damages as alleged herein.

Facts Specific to Plaintiff B.M.

31. Specifically, as to Plaintiff B.M., Leininger sexually abused and molested her for

well over a year beginning in or around 1974, when Plaintiff B.M. was about 13 years old. The abuse first occurred in the context of Leininger demonstrating first aid bandaging techniques on Plaintiff B.M. as part of the Explorer program. Leininger required Plaintiff B.M. to remove all of her clothing and fondled her while bandaging her. Frequent instances of intercourse followed this initial abuse, some upon the pretext of teaching bandaging techniques, some occurring on Explorer-related trips throughout the Pacific Northwest, and some at facilities used for Explorer activities. In all, Leininger sexually abused Plaintiff B.M. on over one hundred occasions.

32. As a result of Leininger's sexual abuse, as well as his betrayal of his role as Explorer Scout leader, role model, and authority figure, Plaintiff B.M. suffered bodily harm at the time of abuse, and continues to suffer debilitating and severe physical, mental, and emotional injury – including pain and suffering – as well as permanent psychological damage distinct from that suffered at the time of the abuse. Plaintiff B.M. has also incurred and/or will incur in the future, costs for counseling, psychiatric and psychological medical treatment.

33. In or about 2010, Plaintiff B.M. discovered the causal connection between her abuse, as set forth above, and the damages she sustained, as set forth in paragraph 32 above. Prior to 2010, Plaintiff B.M. did not discover – and could not reasonably have discovered – the causal connection between the abuse and the damages she suffered as a result of the abuse.

Facts Specific to Plaintiff D.W.

34. Specifically, as to Plaintiff D.W., Leininger sexually abused and molested her for approximately eighteen months beginning in or around 1974, when Plaintiff D.W. was about 12 years old. The abuse first occurred in the context of Leininger demonstrating first aid bandaging techniques on Plaintiff D.W. as part of the Explorer program. Leininger required Plaintiff D.W. to remove all of her clothing and proceeded to rape her in the context of the bandaging lesson. Leininger continued to engage in intercourse with Plaintiff D.W. two to three times per month for approximately eighteen months on the pretext of demonstrating bandaging techniques, on

Explorer-related trips in Montana, as well as at facilities used for Explorer activities. In all, Leininger sexually abused Plaintiff D.W. on over fifty occasions.

35. As a result of Leininger's sexual abuse, as well as his betrayal of his role as Explorer Scout leader, role model, and authority figure, Plaintiff D.W. suffered bodily harm at the time of abuse, and continues to suffer debilitating and severe physical, mental, and emotional injury – including pain and suffering – as well as permanent psychological damage distinct from that suffered at the time of the abuse. Plaintiff D.W. has also incurred and/or will incur in the future, costs for counseling, psychiatric and psychological medical treatment.

36. In or about 2010, Plaintiff D.W. discovered the causal connection between her abuse, as set forth above, and the damages she sustained, as set forth in paragraph 35, above. Prior to 2010, Plaintiff D.W. did not discover – and could not reasonably have discovered – the causal connection between the abuse and the damages she suffered as a result of the abuse.

Facts Specific to Plaintiff K.R.

37. Specifically, as to Plaintiff K.R., Leininger sexually abused and molested her for approximately a year beginning in or around late 1974, when Plaintiff K.R. was about 11 years old. Leininger's first rape of Plaintiff K.R. occurred in the context of Leininger demonstrating first aid bandaging techniques on her as part of the Explorer program. Leininger called Plaintiff K.R. to a private area and had her remove all of her clothing to demonstrate bandaging techniques, whereupon he raped her. Leininger subsequently engaged in intercourse with Plaintiff K.R. on numerous occasions, including on the pretext of demonstrating bandaging techniques, on camping trips, a trip she took with him to Spokane, and at facilities used by the Explorer post. Leininger frequently provided Plaintiff K.R. with alcohol on these occasions as well. In all, Leininger sexually abused Plaintiff K.R. dozens of times.

38. As a result of Leininger's sexual abuse, as well as his betrayal of his role as Explorer Scout leader, role model, and authority figure, Plaintiff K.R. suffered bodily harm at the

time of abuse, and continues to suffer debilitating and severe physical, mental, and emotional injury – including pain and suffering – as well as permanent psychological damage distinct from that suffered at the time of the abuse. Plaintiff K.R. has also incurred and/or will incur in the future, costs for counseling, psychiatric and psychological medical treatment.

39. In or about 2010, Plaintiff K.R. discovered the causal connection between her abuse, as set forth above, and the damages she sustained, as set forth in paragraph 38, above. Prior to 2010, Plaintiff K.R. did not discover – and could not reasonably have discovered – the causal connection between the abuse and the damages she suffered as a result of the abuse.

Facts Specific to Plaintiff J.J.

40. Specifically, as to Plaintiff J.J., Leininger sexually abused and molested her beginning in or around 1974, when Plaintiff J.J. was about 14 years old. The abuse first occurred in the context of Leininger demonstrating first aid bandaging techniques on Plaintiff J.J. as part of the Explorer program. Leininger required Plaintiff J.J. to remove all of her clothing and proceeded to rape her. Additional instances of sexual abuse followed this initial abuse upon the pretext of teaching first aid techniques.

41. As a result of Leininger's sexual abuse, as well as his betrayal of his role as Explorer Scout leader, role model, and authority figure, Plaintiff J.J. suffered bodily harm at the time of abuse, and continues to suffer debilitating and severe physical, mental, and emotional injury – including pain and suffering – as well as permanent psychological damage distinct from that suffered at the time of the abuse. Plaintiff J.J. has also incurred and/or will incur in the future, costs for counseling, psychiatric and psychological medical treatment.

42. In or about 2011, Plaintiff J.J. discovered the causal connection between her abuse, as set forth above, and the damages she sustained, as set forth in paragraph 41 above. Prior to 2011, Plaintiff J.J. did not discover – and could not reasonably have discovered – the causal connection between the abuse and the damages she suffered as a result of the abuse.

Facts Specific to Plaintiff C.W.

43. Specifically, as to Plaintiff C.W., Leininger sexually abused and molested her for well over a year beginning in or around 1974, when Plaintiff C.W. was about 14 years old. The abuse first occurred in the context of Leininger demonstrating first aid bandaging techniques on Plaintiff C.W. as part of the Explorer program. Leininger required Plaintiff C.W. to remove all of her clothing and proceeded to rape her. Additional instances of intercourse followed this initial abuse upon the pretext of teaching first aid techniques.

44. As a result of Leininger's sexual abuse, as well as his betrayal of his role as Explorer Scout leader, role model, and authority figure, Plaintiff C.W. suffered bodily harm at the time of abuse, and continues to suffer debilitating and severe physical, mental, and emotional injury – including pain and suffering – as well as permanent psychological damage distinct from that suffered at the time of the abuse. Plaintiff C.W. has also incurred and/or will incur in the future, costs for counseling, psychiatric and psychological medical treatment.

45. In or about 2011, Plaintiff C.W. discovered the causal connection between her abuse, as set forth above, and the damages she sustained, as set forth in paragraph 44 above. Prior to 2011, Plaintiff C.W. did not discover – and could not reasonably have discovered – the causal connection between the abuse and the damages she suffered as a result of the abuse.

COUNT I

By All Plaintiffs Against All Defendants Sexual Battery of a Child/*Respondeat Superior*

46. Plaintiffs reallege and incorporate by reference paragraphs 1 through 45, above.

47. Leininger, while acting within the course and scope of his agency with Defendants, and using his authority and position of trust as Explorer Scout leader for the Defendants – through the Grooming process, and/or as a result of the performance of his agency duties in Scouting for Defendants – induced and directed the minor Plaintiffs to engage in various sexual acts with him.

48. Leininger's acts of intentional sexual abuse constituted harmful and offensive touching of Plaintiffs, to which Plaintiffs could not consent as a matter of law.

49. Leininger used the Grooming process and/or the performance of his agency duties on behalf of Defendants to accomplish his acts of sexual abuse of Plaintiffs.

50. As a result of Leininger's sexual battery, Plaintiffs have suffered damages described herein.

COUNT II

By All Plaintiffs Against All Defendants Intentional Infliction of Emotional Distress/*Respondeat Superior*

51. Plaintiffs reallege and incorporate by reference paragraphs 1 through 50, above.

52. Leininger, while engaging in the Grooming process and/or as a result of the performance of his agency duties, knowingly and intentionally caused severe emotional distress to Plaintiffs when he sexually battered and abused Plaintiffs as described in Count I. It was reasonably foreseeable that Plaintiffs would suffer, and did in fact suffer, severe emotional distress as a result of this sexual abuse. The sexual touching of a child by a trusted authority figure is beyond the bounds of all socially tolerable conduct.

53. As a result of Leininger's intentional infliction of emotional distress, Plaintiffs have suffered damages described herein.

COUNT III

By All Plaintiffs Against All Defendants *Negligent Hiring, Training, Supervision and Retention*

54. Plaintiffs reallege and incorporate by reference paragraphs 1 through 53, above.

55. Defendants had a duty to properly investigate Leininger's background and character prior to his appointment as a Scout and Explorer troop leader.

56. Defendants breached their duty to properly investigate Leininger's background and character by failing to perform any background check or investigate Leininger's character prior to his appointment as a Scout and Explorer troop leader.

57. Defendants had a duty to properly train and supervise Leininger in the performance of his duties as a Scout and Explorer troop leader.

58. Defendants breached their duty to properly train and supervise Leininger in the performance of his duties as a Scout and Explorer troop leader. Defendants breached this duty by failing to properly train Leininger in the rules and regulations of the Boy Scouts regarding appropriate interactions with Scout and Explorer members, by failing to provide oversight of Leininger's activities as a Scout and Explorer leader, and by failing to review Leininger's performance and the appropriateness of his actions as a Scout and Explorer leader. Defendants' breach occurred despite widespread institutional knowledge of sexual abuse by existing Scout leaders.

59. Defendants had a duty to discharge Leininger when Defendants had knowledge of his sexual battery and abuse of the Plaintiffs.

60. Defendants breached their duty to discharge Leininger when Defendants had knowledge of Leininger's sexual abuse of the Plaintiffs due to Leininger's position on the Executive Board of the Montana Council of the Boy Scouts of America, which gave the Defendants actual knowledge of the Leininger's sexual abuse of the Plaintiffs pursuant to the laws of agency.

61. Defendants' negligent hiring, training, supervision, and retention of Leininger were thus a direct, proximate, and foreseeable cause of Plaintiffs' sexual abuse and damages.

COUNT IV

By All Plaintiffs Against All Defendants *Negligence – Special Relationship*

62. Plaintiffs reallege and incorporate by reference paragraphs 1 through 61 above.

63. Defendants' had a special relationship to the Plaintiffs created by Mont. Code Ann. §§ 41-3-101 and 45-5-622.

64. Defendants' had a special relationship to the Plaintiffs created by the Defendants' control and custody over the Plaintiffs while the Plaintiffs engaged in both routine and overnight activities with the Explore Scouts at the Defendants invitation and with the consent of the

Defendants.

65. Defendants' had a special relationship to the Plaintiffs created by the Defendants' and their agents standing *in loco parentis* to the Plaintiffs while the Plaintiffs engaged in both routine and overnight activities with the Explore Scouts.

66. The special relationship between the Defendants and the Plaintiffs created a duty to protect Plaintiffs from harm, including a duty to protect Plaintiffs from harm as the result of intentional misconduct. This duty included, but is not limited to, the duty to warn Plaintiffs of known dangers, duty to inform Plaintiffs of known risks, and the duty to protect Plaintiffs while participating in Defendants' program.

67. Defendants breached their duty to the Plaintiffs by failing to take the necessary actions to protect Plaintiffs. Defendants failed to warn Plaintiffs or their parents of the risk of sexual abuse in Scouting, failed to inform Plaintiffs or their parents of the prevalence of such sexual abuse in the Scouting program, and failed to implement any changes to the program despite knowing that sexual abuse by adult Scout leaders was a consistent, recurring problem in Scouting. Defendants also failed in their duty to protect Plaintiffs by failing to implement procedures that would have prevented Leininger from isolating and sexually abusing Plaintiffs. Defendants failed to take such actions even though Defendants knew to a moral certainty that such failures would reasonably lead to youths being sexually abused by adult Scout leaders while participating in Scouting.

68. Defendants' negligence in failing to protect the Plaintiffs pursuant to their duty created by the special relationship between the parties was a direct, proximate, and foreseeable cause of Plaintiffs' sexual abuse and damages.

COUNT V
By All Plaintiffs Against All Defendants
Negligence – Failure to Warn

69. Plaintiffs reallege and incorporate by reference paragraphs 1 through 68 above.

70. Defendants had a duty to warn Plaintiffs of reasonably foreseeable dangers arising from their involvement in the Explore Scout program.

71. Defendants breached their duty to warn Plaintiffs by not informing the Plaintiffs, their parents, and the community about the known propensity of Scout leaders to commit sexual abuse against Scout members, despite the fact that Defendants knew to a moral certainty that such failures to warn would reasonably lead to youths being sexually abused by adult Scout leaders while participating in Scouting.

72. Defendants' negligence in failing to warn Plaintiffs and their parents of the inherent risks of sexual abuse in the Scouting programs was a direct, proximate, and foreseeable cause of Plaintiffs' sexual abuse and damages.

COUNT VI

By All Plaintiffs Against All Defendants *Negligent Infliction of Emotional Distress*

73. Plaintiffs reallege and incorporate by reference paragraphs 1 through 72 above.

74. Defendants had a duty not to cause acts or omissions where the reasonably foreseeable consequence would be serious or severe emotional distress to the Plaintiffs.

75. Serious or severe emotional distress is a reasonably foreseeable consequence of continued and sustained sexual abuse of the minors.

76. Defendants breached their duty to prevent the reasonably foreseeable consequence of serious or severe emotional distress to the Plaintiffs by failing to prevent Leininger's sustained sexual abuse of the Plaintiffs while Leininger was serving as a Scout leader.

77. Defendants' negligence in failing to prevent the reasonably foreseeable consequence of serious or severe emotional distress to the Plaintiffs was a direct, proximate, and foreseeable cause of Plaintiffs' sexual abuse and damages.

COUNT VII
By All Plaintiffs Against All Defendants
Institutional Fraud

78. Plaintiff realleges and incorporates by reference paragraphs 1 through 77, above.

79. Defendants misrepresented and failed to disclose, and/or actively concealed the dangers and prevalence of child molesters in Scouting. Defendants instructed scouts to obey leaders such as Leininger by requiring scouts to recite an oath at every meeting, thereby representing that Leininger was trustworthy and to be obeyed. Similarly, by way of the Scout Handbook, Defendants represented that the Scout leader is trustworthy and to be obeyed. Defendants knew that a significant number of Scoutmasters had abused Scouts, and therefore, knew that not all Scoutmasters were trustworthy. No warning was given in the Handbook or in any other manner.

80. Defendants' knowledge of the dangers and prevalence of child molesters in Scouting constituted a material fact because Plaintiffs would not have entered into a relationship with Defendants, Leininger, or other agents of Defendants had they been aware of such dangers. Despite their knowledge of the use of Scouting by child molesters, Defendants knowingly failed to change the Scouting program, further concealed the fact that safeguards to protect children were not in place, and failed to give appropriate warnings.

81. Defendants knew that the representations and omissions described above were false or made the representations and omissions with reckless disregard for the truth. Defendants made the representations and omissions with the intent of inducing Plaintiffs, Plaintiffs' guardians, and the community at large, to rely on the representations and omissions and thereby continue to trust Leininger and other Scoutmasters, and continue to participate in Scouting.

82. Plaintiffs and their parents relied on the representations and omissions in allowing

Plaintiff to engage in a trust relationship with Leininger. The reliance of Plaintiffs and their parents was justified because they did not know, nor could they have known, that Defendants had a known, decades-long history of child molesters using Scouting to obtain victims.

83. Plaintiffs and their parents justifiably and reasonably relied on the representations and omissions by Defendants, as well as Defendants' conduct in maintaining the same rules for the Scouting program over time, and reasonably believed that Scouting did not pose a known danger to Scouts.

84. Plaintiffs did not discover, and could not reasonably discover that the Defendants' representations and omissions were both false and/or a causal factor in their abuse until 2010, when they learned that the Boy Scouts' Ineligible Volunteer files contained records on thousands of child molesters over the course of several decades Defendants knew were involved in Scouting.

85. As a direct consequence and result of Plaintiffs reliance upon Defendants' representations and omissions regarding the danger to Scouts posed by Scout leaders, Plaintiffs suffered the abuse and damages described herein.

COUNT VIII
By All Plaintiffs Against All Defendants
Constructive Fraud

86. Plaintiffs reallege Paragraphs 1 through 85 as if fully set forth herein.

87. Alternatively, if Defendants have not committed actual fraud, Defendants committed constructive fraud by failing to disclose to Plaintiffs material facts and/or making misrepresentations concerning the risks posed by child molesters involved in Scouting.

88. Defendants' failure to disclose material facts and/or misrepresentations created a situation whereby Plaintiffs were misled all to their prejudice and damage.

89. As a direct and proximate result of Defendants' constructive fraud, Plaintiffs

suffered the abuse and damages described herein.

COUNT IX
By All Plaintiffs Against All Defendants
Actual Malice and Actual Fraud – Punitive Damages

90. Plaintiffs reallege and incorporate by reference paragraphs 1 through 89 above.

91. Defendants are guilty of actual malice and/or actual fraud as defined by Mont. Code Ann. § 27-1-221.

92. Defendants are guilty of actual malice as they had knowledge of facts, or intentionally disregarded facts, that created a high probability of injury to the Plaintiffs. Defendants deliberately proceeded to act in conscious or intentional disregard of the high probability of injury and Defendants also proceeded to act with indifference to the high probability of injury to the Plaintiffs.

93. Defendants' malice is shown by their direct knowledge of sexual abuse of Scout members by Scout leaders and the Defendants' failure to take the necessary steps to prevent the high probability of injury to the Plaintiffs from sexual abuse. Despite their knowledge of sexual abuse by Scout leaders, Defendants failed to take the necessary, available and reasonable steps to prevent continued sexual abuse of Scout members. Defendants, without implementing safeguards to prevent sexual abuse, continued to sanction the appointment of new Scout leaders, such as Leininger, and continued to create new Scout groups with conscious or intentional disregard to the known problem of sexual abuse.

94. Defendants engaged in actual fraud when they, or their agents, made representations of the safety of engaging in Scouting activities and the moral character of Scout leaders, such as Leininger. These representations were made despite the Defendants' actual knowledge that Scouting involved the known risk of sexual abuse for Scout members and Defendants' actual knowledge that some of their Scout leaders were sexual predators.

95. Because Defendants are guilty of actual malice and/or actual fraud as defined by Mont. Code Ann. § 27-1-221, each of them should be assessed punitive damages in an amount

sufficient to punish and educate these Defendants, and other persons or entities similarly situated, that such conduct will not be allowed by the Courts and the people of Montana.

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, joint and severly, as follows:

1. For general and special damages and punitive damages for Plaintiff B.M.;
2. For general and special damages and punitive damages for Plaintiff D.W.;
3. For general and special damages and punitive damages for Plaintiff K.R.;
4. For general and special damages and punitive damages for Plaintiff J.J.;
5. For general and special damages and punitive damages for Plaintiff C.W. in;
6. For Plaintiffs' costs and disbursements incurred; and,
7. For any other relief this Court deems just and equitable.

DATED this 7th day of September, 2011.

**THIEL LAW OFFICE, PLLC
O'DONNELL CLARK & CREW LLP**

Attorneys for Plaintiffs



By: Matthew B. Thiel

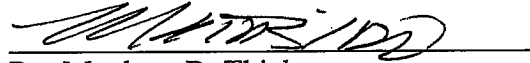
DEMAND FOR JURY TRIAL

Plaintiffs, by and through their attorneys, demand trial by jury on all issues raised by the pleadings.

RESPECTFULLY SUBMITTED this 7th day of September, 2011.

**THIEL LAW OFFICE, PLLC
O'DONNELL CLARK & CREW LLP**

Attorneys for Plaintiffs



By: Matthew B. Thiel