

William R. Keeler
Keeler & Keeler, LLP
108 E. Aztec Avenue
Gallup, NM 87301
(505) 722-5608

Craig K. Vernon (Pro Hac Pending)
Leander L. James (Pro Hac Pending)
James, Vernon & Weeks, P.A.
1626 Lincoln Way
Coeur d'Alene, ID 83814
(208) 667-0683

Patrick Noaker (Pro Hac Pending)
Noaker Law Firm
333 Washington Avenue N., # 300
Minneapolis, MN 55401
(612) 839-1080

Attorneys for Plaintiffs



NAVAJO NATION DISTRICT COURT
DISTRICT OF WINDOW ROCK, ARIZONA

RJ and MM,)	
)	
Plaintiffs,)	Case No. _____
)	
vs.)	
)	COMPLAINT FOR PERSONAL
THE CORPORATION OF THE PRESIDENT)	INJURY
OF THE CHURCH OF JESUS CHRIST OF)	
LATTER-DAY SAINTS, a Utah corporation;)	
THE CORPORATION OF THE PRESIDING)	
BISHOP OF THE CHURCH OF JESUS CHRIST)	
OF LATTER-DAY SAINTS, a Utah corporation;)	
LDS FAMILY SERVICES, a Utah corporation;)	
THE CHURCH OF JESUS CHRIST OF)	
LATTER-DAY SAINTS, an unincorporated)	
religious association,)	
)	
Defendants.)	

Plaintiffs, through counsel, and based upon information and belief available at the time of the filing of this Complaint, bring this Complaint under Navajo Law for damages resulting from

1. COMPLAINT FOR PERSONAL INJURY

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1. COMPLAINT FOR PERSONAL INJURY

injuries suffered by Plaintiffs as a result of Defendants' negligence and other misconduct described herein.

I. JURISDICTION AND VENUE

1. At the time of the events described in this Complaint, all parties resided on and/or maintained continuous and systematic contacts with the Navajo Nation.

2. This Court has civil, personal and subject-matter jurisdiction over the Defendants based upon the consensual relationships between the Defendants and the Navajo Nation.

3. This Court has civil, personal and subject-matter jurisdiction over the Defendants because the conduct of the Defendants described herein threatens the health, welfare and cultural well-being of the Navajo Nation.

II. PARTIES

4. Plaintiff RJ is an adult male who is an enrolled member of the Navajo Nation and resides within the boundaries of the Navajo Nation. Plaintiff was a minor at the time of the sexual abuse alleged herein. During the relevant time period, Plaintiff was a resident of the Navajo Nation where he was taken from the Navajo Nation by the Defendants and placed with foster families in Utah. There, Plaintiff was sexually abused. The name used by Plaintiff in this Complaint is not the real name of Plaintiff, but is a fictitious name used to protect the privacy of Plaintiff, a victim of childhood sexual abuse.

5. Plaintiff MM is an adult female who is an enrolled member of the Navajo Nation and resides within the boundaries of the Navajo Nation. Plaintiff was a minor at the time of the sexual abuse alleged herein. During the relevant time period, Plaintiff was a resident of the Navajo Nation where she was taken from the Navajo Nation by the Defendants and placed with foster families in Utah. There, Plaintiff was sexually abused. The name used by Plaintiff in this Complaint is not the real name of Plaintiff, but is a fictitious name used to protect the privacy of Plaintiff, a victim of childhood sexual abuse.

6. Defendant Church of Jesus Christ of Latter-day Saints (hereinafter the "LDS

Church” or “Mormon Church”) is an unincorporated association made up of individual members worldwide. The Mormon Church conducts its world-wide affairs, in part, through various corporate entities, including Defendant Corporation of the President of the Church of Jesus Christ of Latter-day Saints and Defendant Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints. The Mormon Church conducts its affairs, in part, within the Navajo Nation. At all relevant times, the LDS Church conducted continuous and systemic activities within the Navajo Nation.

7. Defendant Corporation of the President of the Church of Jesus Christ of Latter-day Saints, is a corporation duly organized and operating pursuant to the laws of Utah (hereinafter “COP”). COP operates church meetinghouses within the Navajo Nation and in tens of thousands of other locations worldwide and is one of the corporate entities through which the LDS Church conducts its affairs. At all relevant times, the COP conducted continuous and systemic activities within the Navajo Nation.

8. Defendant Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints, is a corporation duly organized and operating pursuant to the laws of Utah (hereinafter “COPB”). COPB is another corporation through which the LDS Church conducts its business. COPB is a corporation consisting of a single individual, the “Presiding Bishop,” who serves at the pleasure of, and subject to the direct and absolute control of, the COP. COPB holds nominal title to the Church’s real property, including its chapels, churches, temples, including such property located within the Navajo Nation. The Church’s income from member tithes is turned over to the COP and COPB for investment and other uses. At all relevant times, the COPB conducted continuous and systemic activities within the Navajo Nation.

9. Defendant LDS Family Services is a nonprofit Utah corporation owned and operated by the LDS Church and related Defendants. At all relevant times, LDS Family Services was acting as the agent of Defendants the LDS Church, the COP and/or the COPB. Upon information and belief, LDS Family Services formerly operated under the name “LDS Social Services.” From approximately 1947 to the mid 1990’s, LDS Family Services operated a

program known as the “Indian Placement Program” or the “Lamanite Placement Program” (hereinafter the “LPP”). At all relevant times, Plaintiffs were sexually abused while they were participating in the LPP and while they were in the care and custody of the Defendants. At all relevant times, LDS Family Services, in association with the other LDS Defendants, conducted continuous and systemic activities within the Navajo Nation.

10. Defendants LDS Church, COP, COPB and LDS Family Services will be referred to collectively throughout the complaint as the “LDS Church” or “LDS Defendants”

III. RELEVANT FACTS APPLICABLE TO ALL PLAINTIFFS

11. At all times material hereto, Plaintiffs were participants in the LPP described in this Complaint. Upon information and belief, the LPP was developed and maintained at the behest of and for the benefit of the LDS Defendants. According to the 1968 version of the *Lamanite Handbook of the Church of Jesus Christ of Latter-day Saints*, in September of 1946, the acting President of the Church, George Albert Smith, appointed Spencer W. Kimball to head the General Lamanite Committee with the charge “to see that the gospel was carried to all the children of Lehi (which includes the Lamanites) all over the world.” Kimball’s commitment to the Native Americans (commonly referred to as Lamanites by the Defendants) is explained in a January 7, 2016 article in Indian Country Today:

Kimball’s commitment to the Native Americans stemmed from the Mormon belief that America’s indigenous people actually fled from Israel in the year 600 B.C. After settling in an unspecified location in the Americas, the people split up into two groups: the Nephites, a righteous and civilized people; and the Lamanites, an “idle, savage and bloodthirsty” people who, after hardening their hearts, were cursed by God with a “skin of blackness” and thus became “loathsome.”

Read more at <http://indiancountrytodaymedianetwork.com/2016/01/07/assimilation-tool-or-blessing-inside-mormon-indian-student-placement-program-162959>

12. The LDS Church’s desire to convert Native American or “Lamanite” children and assimilate them into their culture reflects teachings in the Book of Mormon, a book of canonized scripture unique to the Mormon religion. According to this canonized Mormon scripture,

because the Lamanites had hardened their hearts against the Lord, they were *cursed* with a “skin of blackness” to distinguish them from the righteous Nephites.

And he had caused the cursing to come upon them, yea, even a sore cursing, because of their iniquity. For behold, they had hardened their hearts against him, that they had become like unto a flint; wherefore, as they were white, and exceedingly fair and delightsome, that they might not be enticing unto my people the Lord God did cause a skin of blackness to come upon them. (2 Nephi 5:21, *Book of Mormon*).

13. At the time the Plaintiffs were taken from the Navajo Nation and placed into Mormon foster homes, the LDS Church taught that the Native Americans, including the Plaintiffs, were Lamanites as described in the Book of Mormon and summarized above. The leaders of the LDS Church felt driven to instruct the Lamanites within the Navajo Nation concerning their true ancestry and convert them back to the one true faith. Therefore, converting the Navajo Nation children and immersing them into white Mormon culture was not only rooted in Mormon scripture but believed to be divinely directed as the way to redeem and restore the “Lamanites” to their prophetic destiny. An example of this belief is a quote by long time Mormon Prophet, Spencer W. Kimball, who suggested that Latter-day Saint Native Americans was gradually turning lighter, essentially breaking the dark skin curse:

I saw a striking contrast in the progress of the Indian people today... The day of the Lamanites is nigh. For years they have been growing delightsome, and they are now becoming white and delightsome, as they were promised. In this picture of the twenty Lamanite missionaries, fifteen of the twenty were as light as Anglos, five were darker but equally delightsome. The children in the home placement program in Utah are often lighter than their brothers and sisters in the hogans on the reservation. At one meeting a father and mother and their sixteen-year-old daughter we represent, the little member girl—sixteen—sitting between the dark father and mother, and it was evident she was several shades lighter than her parents—on the same reservation, in the same hogan, subject to the same sun and wind and weather These young members of the Church are changing to whiteness and to delightsomeness. *Conference Report*, October 1960; *Improvement Era*, December 1960, pp. 922–23.

14. Upon information and belief, in order to qualify for the LPP, Navajo Children had to be at least eight years old and baptized members of the Mormon Church in good standing.

All Plaintiffs were baptized members of the Mormon Church while residing on the Navajo Nation. The decision to remove Plaintiffs from their families was made by case workers and/or employees and/or agents of Defendants while on the Navajo Nation. Plaintiffs were then transported off the Navajo Nation and moved to Utah and placed with Mormon foster families. Upon information and belief, the foster families received stipends and/or subsidies (and were promised unspecified spiritual blessings) from the LDS Defendants for each Native American child placed in the home.

15. Upon information and belief and at all relevant times, the Mormon foster families into whose homes Plaintiffs were placed, were the employees and/or agents of Defendants the LDS Church, the COP, the COPB and/or LDS Family Services. At all relevant times, Defendants the LDS Church, the COP, the COPB and/or LDS Family Services had care and custody of the Plaintiffs during Plaintiffs' involvement with the LPP and for the duration of their placement into Mormon foster family homes in Utah. All acts of sexual abuse alleged herein took place during the LPP while Plaintiffs were in the custody and control of the Defendants.

Plaintiff RJ

16. In approximately August of 1978, Plaintiff RJ, who was approximately 10 years old, was baptized a member of the LDS Church in order to become involved in the LPP. Then, the LDS Defendants removed RJ from his home in Sawmill, Arizona, within the boundaries of the Navajo Nation, and placed him with the Lovell family in Oak City, Utah, in approximately August of 1978 for the start of what is believed to be RJ's fourth grade year in school. During RJ's placement in the Lovell home, RJ was sexually molested on various occasions (to include sexual penetration) by a step brother who was about 4 years older. RJ also suffered physical, emotional and cultural abuse by his foster mother to include, but not limited to, forcibly having his mouth washed out with soap whenever he spoke Navajo to the other placement children in the home.

17. RJ disclosed this abuse to Mel and Donna Anderson, who lived in Oak City at the

time, and who previously were LDS Missionaries on the Navajo Nation, where RJ was baptized and recruited to the LPP. After the Christmas break, RJ was taken out of the Lovell home and placed with the Andersons for the remainder of that school year. Then, RJ returned to his family within the Navajo Nation.

18. The following school year (believed to be 5th grade), RJ was placed with Tom and Sharon Anderson. During springtime of his 5th grade year, RJ was sexually molested on at least one occasion by an older foster brother.

19. RJ disclosed the sexual abuse he suffered in 4th grade and in 5th grade to agents of LDS Defendants, including but not limited to his LPP case worker, James (Jaymes) Helmstetler, who was believed to be an employee of LDS Social Services. RJ disclosed the abuse to Mr. Helmstetler within the Navajo Nation, on at least two different occasions following his 4th and 5th grade years. The locations of these disclosures included the LDS Chapel (Window Rock Ward or Branch) in St. Michael's, Arizona and at his home in Sawmill, Arizona.

20. For his 7th grade year, RJ was again removed from his home within the Navajo Nation by the LDS Defendants and placed with the Edwards family, in Centerfield, Utah. During his placement with the Edwards family, despite repeated disclosures to LDS Defendants about the sexual abuse within the LPP, Plaintiff RJ was again sexually abused. One of his sisters was also placed with this same family and RJ witnessed this sister being sexually abused as well.

21. When RJ returned to the Navajo Nation following his 7th grade year, he again disclosed to agents of LDS Defendants, including James Helmstedder, the new sexual abuse that was happening to him and his sister at the Edwards home. Despite this disclosure, for his 8th grade year, RJ was again removed from the Navajo Nation by the LDS Defendants and again placed with the Edwards family. During his 8th grade year, RJ himself was not sexually abused, however, he witnessed the same sister being sexually abused as had occurred during the previous year. Additionally, a younger sister was also placed in that home; he witnessed inappropriate sexual conduct and sexual abuse directed at her as well.

22. RJ remained with the Edwards family during his 9th grade year as well. While he

didn't suffer any sexual abuse himself, during that year, RJ again witnessed his younger sister being sexually abused.

23. The sexual abuse that RJ suffered included fondling, sexual molestation, and sexual penetration. Additionally, he witnessed his sisters being sexually abused. As a direct result of the wrongful conduct alleged herein, RJ has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and continues to sustain loss of earnings and earning capacity; and/or has incurred and continues to incur expenses for medical and psychological treatment, therapy, and counseling.

Plaintiff MM

24. Plaintiff MM is an adult female residing who is an enrolled member of the Navajo Nation and resides within the boundaries of the Navajo Nation. At all relevant times, MM was a minor residing within the Navajo Nation. In approximately 1976, when Plaintiff MM was approximately 11 years old, she was baptized a member of the LDS Church in order to participate in the LPP. Then, the LDS Defendants removed MM from her home in Sawmill, Arizona, within the boundaries of the Navajo Nation, and placed her with the Munger family in Gunnison, Utah, in approximately August of 1976 for the start of what is believed to be MM's fifth grade year in school. During MM's placement in the Munger home, she was raped (sexual intercourse) by Gary Westlund, a friend of her step brother. This pedophile was believed to be approximately 40 years old at the time. Prior to this rape, Westlund was a frequent visitor and present in the Munger home; his presence and familiarity towards MM was known not only to the foster brother but also to MM's foster parents.

25. MM returned to the Navajo Nation the summer following her 5th grade year. For her 6th grade year, MM was not returned to the Munger family; however, she continued in the

LPP. From 6th grade through 10th grade, she participated in the LPP without incident.

26. For her 11th and 12th grades (believed to be 1981-1983), MM was again removed from her home within the Navajo Nation by the LDS Defendants and placed with the Edwards family in Centerfield, Utah. During her placement with the Edwards family, MM was sexually abused by her foster father. This abuse included, but is not limited to, multiple incidents of fondling of MM's private parts and at least one instance when the foster father entered MM's bedroom, uninvited and unannounced, and coerced MM into grabbing his penis and masturbating him. Additionally, MM became aware that her younger brother and younger sister, who were also placed with this same family, were being sexually abused.

27. As a direct result of the wrongful conduct alleged herein, MM has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; has suffered and continues to suffer spiritually; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and continues to sustain loss of earnings and earning capacity; and/or has incurred and continues to incur expenses for medical and psychological treatment, therapy, and counseling.

IV. FIRST CAUSE OF ACTION **CHILDHOOD SEXUAL ABUSE**

28. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

29. Between 1976-1983 Plaintiffs, on multiple occasions, were sexually abused while they participated in the LPP under the care and custody of the LDS Defendants.

30. The sexual abuse was either committed by individuals who at all times were in the course and scope of acting as servants and/or agents of the LDS Defendants, or was committed by others who were known to these servants and/or agents or under the control and supervision of these servants and/or agents, making the LDS Defendants vicariously liable for the injuries caused by Plaintiffs' abusers under the doctrine of respondeat superior.

31. Upon information and belief, prior to or during the abuse alleged above, the LDS Defendants knew, had reason to know, or were otherwise on notice of the unlawful sexual conduct by certain foster family members under the LPP. Defendants failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by these certain foster family members, including, but not limited to, removing Plaintiffs from the foster homes where sexual abuse was occurring and/or placing Plaintiffs in foster homes where they knew or should have known that Plaintiffs were at an increased risk of being sexual abused. Furthermore, at no time during the periods of time alleged did Defendants have in place a system or procedure to supervise and/or monitor employees, volunteers, representatives, or agents to ensure that they did not molest or abuse minors or allow such to occur.

32. Upon information and belief, after learning that RJ and MM were being sexually abused during their participation in the LPP and while under the care and custody of their LPP foster parents, the LDS Defendants, by and through their agents, ratified the wrongful conduct described herein by failing to report it to law enforcement authorities, prospective LDS members, current LDS members, their families, victims, and the public.

33. As a result of the above-described conduct, Plaintiffs have suffered, and continue to suffer, great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; have suffered and continue to suffer spiritually; were prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; have sustained and will continue to sustain loss of earnings and earning capacity; and/or have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

V. SECOND CAUSE OF ACTION
ASSAULT AND BATTERY

34. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

35. From approximately, 1976–1983, the LDS Defendants’ employees, servants and/or agents engaged in unpermitted, harmful and offensive acts in violation of Navajo Nation law. This includes, but is not limited to, removing Plaintiffs from the Navajo Nation and placing them into homes where they knew or should have known that Plaintiffs were at an increased risk of being sexually abused. The decision to remove Plaintiffs from the Navajo Nation and place them in dangerous homes occurred within the Navajo Nation.

36. The LDS Defendants aided the sexual abuse of Plaintiffs by failing to take appropriate action to prevent further abuse from occurring despite having either actual or constructive notice that Plaintiffs were being abused while participating in the LPP. The LDS Defendants are directly liable for assault and battery from each instance of abuse as an accessory to the assault and battery.

37. Said conduct was undertaken while the abusers, or those who negligently allowed the abuse to take place, were employees, servants and/or agents of the LDS Defendants, while in the course and scope of employment/agency with the LDS Defendants making the LDS Defendants vicariously liable for the injuries caused under the doctrine of respondeat superior.

38. Upon information and belief, after learning of the LPP foster families’ wrongful conduct, the LDS Defendants, by and through their agents, ratified the wrongful conduct described herein by failing to report it to law enforcement authorities, prospective LDS members, current LDS members, their families, victims, and the public.

39. Upon information and belief, prior to or during the abuse alleged above, the LDS Defendants knew, had reason to know, or were otherwise on notice of the unlawful sexual conduct by LPP foster family members. The LDS Defendants failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by the LPP foster families, including, but not limited to, removing Plaintiffs from LPP foster family homes where sexual abuse was occurring. Furthermore, at no time during the periods of time alleged herein did the LDS Defendants have in place a system or procedure to supervise and/or monitor employees, volunteers, representatives, or agents to ensure that they did not

molest or abuse minors in Defendants' care, including the Plaintiffs.

40. As a result of the above-described conduct, Plaintiffs have suffered, and continue to suffer, great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; have suffered and continue to suffer spiritually; were prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; have sustained and will continue to sustain loss of earnings and earning capacity; and/or have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

VI. THIRD CAUSE OF ACTION - NEGLIGENCE

41. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

42. The LDS Defendants had a duty to protect the minor Plaintiffs when Plaintiffs were entrusted to their care by Plaintiffs' parents. Plaintiffs' care, welfare, and/or physical custody were temporarily entrusted to the LDS Defendants. The LDS Defendants voluntarily accepted the entrusted care of Plaintiffs. As such, Defendants owed Plaintiffs, minor children, a special duty of care, in addition to a duty of ordinary care, and owed Plaintiffs the higher duty of care that adults dealing with children owe to protect them from harm.

43. The LDS Defendants, by and through their agents, servants and employees, knew or reasonably should have known of the dangerous and exploitive propensities of some of the LPP foster family members and/or that certain LPP foster family members were unfit agents. It was foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to children in their care, including but not limited to Plaintiffs, the children entrusted to Defendants' care would be vulnerable to sexual abuse by certain LPP foster family members.

44. The LDS Defendants breached their duty of care to the minor Plaintiffs by allowing certain LPP foster family members to come into contact with the minor Plaintiffs without supervision; by failing to adequately supervise certain LPP foster family members and

family friends who they permitted and enabled to have access to Plaintiffs; by failing to investigate or otherwise confirm or deny such facts about certain LPP foster family members or family friends; by failing to tell or concealing from Plaintiffs, Plaintiffs' parents, guardians, or law enforcement officials that certain LPP foster family members and family friends were or may have been sexually abusing minors; by failing to tell or concealing from Plaintiffs' parents, guardians, or law enforcement officials that Plaintiffs were or may have been sexually abused after Defendants knew or had reason to know about the sexual abuse, thereby continuing to endanger Plaintiffs.

45. The negligent acts of removing Plaintiffs from the Navajo Nation and the decision to place them in dangerous homes occurred on the Navajo Nation. Likewise, the failure to disclose to Plaintiffs' parents, to police or to child protective services, about sexual abuse that was occurring within the LPP also occurred within the Navajo Nation.

46. As a result of the above-described conduct, Plaintiffs have suffered, and continue to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; have suffered and continue to suffer spiritually; were prevented and will continue to be prevented from performing Plaintiffs' daily activities and obtaining the full enjoyment of life; have sustained and will continue to sustain loss of earnings and earning capacity; and/or have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

VII. FOURTH CAUSE OF ACTION
NEGLIGENT SUPERVISION/FAILURE TO WARN

47. Plaintiffs incorporate all paragraphs of this Complaint as if fully set forth herein.

48. The LDS Defendants had a duty to provide reasonable supervision of LPP foster families; to use reasonable care in investigating potential LPP foster families; and to provide adequate warning to the Plaintiffs, the Plaintiffs' family, and minor LPP participants of certain LPP foster family members' dangerous propensities and unfitness.