

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Personal Injury

JANE DOE 114 by and through her
GUARDIAN FATHER DOE 114,

Court File No.: 62-CV-16-3050

Plaintiff,

**THIRD AMENDED
COMPLAINT**

v.

TSE INC.; DAN RIETZ and RESCARE
MINNESOTA, INC.,

Defendants.

Plaintiff, for her cause of action against Defendants, alleges as follows:

THE PARTIES

1. At all times relevant to this Complaint, Plaintiff Jane Doe 114 was a resident of Ramsey County, State of Minnesota. Plaintiff was born April 19, 1988. Plaintiff was 27-years-old at the time of the incident. Plaintiff has trisomy 21 (Down Syndrome) and is disabled. Plaintiff was appointed a legal guardian and at all times material, had a legal guardian. Plaintiff is provided services by Defendant TSE Inc. Plaintiff is using the pseudonym of Jane Doe 114 because she is a vulnerable adult and this matter involves claims relating to a sexual assault.

2. At all times relevant to this Complaint, Father Doe 114 was the natural father and the legal guardian of Jane Doe 114. Father Doe 114 is using a pseudonym because the disclosure of his identity would identify the Plaintiff Jane Doe 114.

3. Upon information and belief, at all times relevant John Doe A was a resident of Ramsey County, State of Minnesota.

4. Upon information and belief John Doe A has disabilities, the exact nature of which are unknown. John Doe A is provided services by Defendants TSE Inc. and ResCare Minnesota, Inc. and was under the care, custody and control of one or more Defendants.

5. Upon information and belief, Defendant TSE Inc. (hereinafter "TSE") is a non-profit corporation organized under the laws of Minnesota on September 2, 1964. Defendant's principal office is located at 2027 Rice Street, Roseville, Minnesota. Defendant TSE provides a variety of services to individuals with disabilities, including but not limited to, employment training and oversight, supervision, advocacy, behavioral support, social activities and training and support programs for people with disabilities.

6. Upon information and belief, Defendant Dan Rietz (hereinafter "Rietz") is an individual and an resident of Ramsey County, Minnesota and an employee of TSE who was present on the night of the sexual assault described herein.

7. Upon information and belief, Defendant ResCare Minnesota, Inc. is a Delaware Corporation, lawfully doing business in the State of Minnesota, with a principal office of 1560 Sandhurst Avenue, Maplewood, Minnesota.

8. Relationship between Defendants. The exact relationship between Defendants, and each of them, is not fully known at this time, therefore Plaintiff alleges that each Defendant was acting within the course and scope of its agency, joint venture, partnership or other legal relationship that renders each Defendant jointly and severally liable for the conduct of all other Defendants.

GENERAL ALLEGATIONS

9. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

10. On April 24, 2015, Defendant TSE Inc. sponsored a dance between 6:30 and 8:30 p.m. It rented the ballroom at the Maplewood Community Center for this purpose.

11. Defendant TSE had numerous staff working at the dance. Including, but not limited to, staff members who were supervising, watching, and protecting the safety of participants at the dance.

12. Plaintiff Jane Doe 114 and John Doe A were friends and were both at the dance sponsored by TSE.

13. While at the dance, John Doe A led Plaintiff Jane Doe 114 into the hallway of the Maplewood community center at approximately 7:05 p.m., where John Doe A sexually and physically assaulted Jane Doe 114 with his hands, mouth and penis.

14. Sometime after the first assault, John Doe A again led Jane Doe 114 to the hallway and sexually assaulted her a second time.

15. John Doe A forced his penis into Plaintiff Jane Doe 114's mouth; and did forcefully sexually penetrate Plaintiff Jane Doe 114 vaginally and anally.

16. John Doe A punched and hit Plaintiff and bit Plaintiff on the breast.

17. John Doe A has a prior history of sexually deviant and violent behavior about which the Defendants and each of them knew or should have known.

18. John Doe A was required by his safety plan to have continuous supervision when he was among his vulnerable peers.

19. Defendants and each of them knew or should have known that John Doe A was required to have continuous supervision when he was among his vulnerable peers.

20. As a direct result of Defendants' breached duties, Plaintiff Jane Doe 114 has suffered and will continue to suffer great pain of mind and body, severe and permanent emotional

distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, humiliation and psychological injuries, was prevented and will continue to be prevented from performing her normal daily activities and obtaining the full enjoyment of life, has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

COUNT I: NEGLIGENCE OF TSE, INC.

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

22. Defendant TSE, INC. had a special relationship with Plaintiff Jane Doe 114 in that Plaintiff Jane Doe was a vulnerable adult and Defendant TSE Inc. provided a variety of social services to Plaintiff Jane Doe 114 including, but not limited to, job coaching and supervised employment.

23. Defendant TSE, INC. owed Plaintiff Jane Doe 114 a duty to protect her from injury while Plaintiff Jane Doe 114 was in the care of Defendants at Defendants' event.

24. John Doe A's sexual assault of Jane Doe 114 was foreseeable to Defendants.

25. Defendants breached the duty to protect Plaintiff Jane Doe 114.

26. Defendants' breach of their duty was the proximate cause of Plaintiff Jane Doe 114's injuries.

27. Both employee/agent and principal are liable for acts by the employee/agent, acting within the scope of authority for the principal.

28. One or more of the Defendants was acting within the scope of authority of his, hers or its principal, and the negligent acts committed herein by the agent are imputed to that principal.

29. As a direct result of Defendants' negligent conduct, Plaintiff Jane Doe 114 has suffered the injuries and damages described herein.

COUNT IV: NEGLIGENT SUPERVISION OF JOHN DOE A

30. Plaintiff incorporates all prior allegations as though set forth in full herein.

31. Defendants ResCare and TSE, Inc. each had a responsibility and duty to supervise John Doe A while he was participating in Defendant TSE, Inc.'s programs.

32. Both Defendant ResCare and TSE, Inc. had a special relationship with John Doe A, giving rise to the duty to supervise his conduct in order to prevent injury to Plaintiff.

33. At all times material hereto one or more Defendants failed to supervise John Doe A while he was participating in the TSE, Inc. sponsored event on April 24, 2015. Each Defendant allowed other vulnerable adults to be exposed to John Doe A, enabling him to harm Plaintiff.

34. Each of the Defendants failed to exercise reasonable care, caution and supervision of John Doe A, thereby providing access to Plaintiff and allowing him to violate her.

35. As a direct and proximate result of the Defendants' failure to properly supervise John Doe A, Plaintiff was injured in an amount in excess of \$50,000, the exact amount to be determined at trial.

COUNT II: VICARIOUS LIABILITY

36. Plaintiff incorporates all prior allegations as though set forth in full herein.

37. Defendants and each of them are vicariously liable for the negligent acts of each of their employees or agents acting within the scope of employment or authority under the principal of respondeat superior.

38. Plaintiff alleges that at all times material hereto Defendant Rietz were acting within the course and scope of his employment, agency or service with Defendant and that the

negligent acts committed herein were for Defendant TSE's benefit and Defendant TSE is vicariously liable for the acts of Defendant Rietz.

DEMAND FOR JURY TRIAL

39. Plaintiff demands a trial by jury on all counts of this Complaint.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF demands judgment against each Defendant, jointly and severally, as follows:

A. For an award of special and general damages, in excess of \$50,000, and to specifically be proven at trial; and

B. For such other and further relief as the Court deems just and equitable under the relevant circumstances.

Dated: June 14, 2017

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions, including costs, disbursements, and reasonable attorney fees may be awarded pursuant to Minn. Stat Section 549.211 to a party against whom the allegations in this pleading are asserted.



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