

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY,
STATE OF MISSOURI

JANE DOE,)
)
 Plaintiff.)
)
 v.)
)
 FOREST LAKE TENNIS CLUB, INC.,)
)
 Serve: Eugene Ellis)
 1012 Woods Mill Road, North)
 Chesterfield, MO 63017)
)
 MILLER TENNIS ACADEMY, LLC,)
)
 Serve: Michael L. Miller)
 225 Eugenia Street)
 St. Louis, MO 63141)
)
 MIKE MILLER,)
)
 Serve: 225 Eugenia Street)
 St. Louis, MO 63141)
)
 JAVIER POZO,)
)
 Serve: 1506 Clayton Woods Ct.)
 Ballwin, MO 63011)
)
 Defendants.)
)
)
)

Cause No. _____

Division No. _____

PERSONAL INJURY –
JURY TRIAL DEMANDED

PETITION FOR DAMAGES

COMES NOW, Plaintiff, by and through her counsel, Daniel T. DeFeo, Timothy Engelmeyer and Ronald Holliger and for her causes of action against Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC, Mike Miller, individually and Javier Pozo (“Defendants”) states and alleges as follows:

INTRODUCTION

1. This summer, parents will drop off their children for tennis lessons, clinics, and camps at Forest Lake Tennis Club ("Forest Lake") in Chesterfield. Forest Lake holds itself out as a safe place for children as young as 4 years old to learn the game of tennis. Its offerings for lessons and camps for children are the same this year as they were in 2009, when Jane Doe began taking tennis lessons at Forest Lake.

2. In 2009, Jane Doe was a 12-year-old girl eager to learn the game of tennis. She and her parents trusted Forest Lake and Miller Tennis Academy ("Miller") (which operates under the auspices of Forest Lake) as a safe place to learn tennis with, as Miller's website advertises "some of the best teaching professionals in the St. Louis area." See www.forestlaketennisclub.com

3. At the time, Forest Lake and Miller employed several tennis instructors, including Javier Pozo. Despite hearing concerns from Pozo's colleagues that Pozo was "a creep," Forest Lake and Miller continued to hold out Pozo as one of the "best teaching professionals in the St. Louis area." As members of the United States Tennis Association (USTA) and the United States Tennis Professionals Association (USTPA), Forest Lake and Miller's management are trained to prevent grooming and sexual abuse of minor athletes. Yet, like so many other clubs and athletic programs, the rules and guidelines that are in place to protect minor athletes are mere window dressing.

4. What followed Forest Lake's and Miller's decision to entrust the "creep" Pozo with instructing an innocent 12-year-old girl was yet another avoidable story of sexual abuse of a minor athlete. The four years of sexual abuse that ensued, like so many prior cases, began with

grooming a young child's mind and evolved into weekly rape and sodomy that continued for years.

5. Forest Lake and Miller knew the risk to minor athletes. They had the clinics and teachings of both the USTA and the USTPA, yet they ignored the real risk to every child that walks onto its tennis courts if their legal duties and the rules are not followed and enforced. In fact, Forest Lake and Miller were so aware of the risk for sexual abuse of one of their minor athletes they purchased insurance protection for molestation and abuse.

6. Although they attempted to protect their financial assets, what did they do to protect a minor athlete? Nothing. Their legal duties, along with the rules and guidelines of the USTA and USTPA, were ignored. When they learned of Javier Pozo's creepy conduct, they turned a blind eye and dismissed all the red flags of grooming and manipulation of a minor athlete.

7. Jane Doe knows all too well the pain and lifelong harm that her experience at Forest Lake and Miller will cause her and her family. Although she tried to continue with tennis, she ultimately had to give up her dreams of tennis scholarships and the sport she loved. She had to trade it in for heartbreaking therapy to treat her post traumatic stress disorder (PTSD).

She brings this cause of action not only for the full measure of justice the law provides but also with the aid of the civil justice system to foster and encourage change so that other minor athletes can truly safely learn and love the sport of their choosing without the fear of sexual abuse. It is only by Jane Doe and others like her bringing attention to this issue that the parents who drop off their kids for instruction at clubs like Forest Lake will know their children will be safe from creeps like Pozo.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the causes of action asserted herein and over the parties to this action. Plaintiffs assert claims under Missouri common law. This Court has jurisdiction because the acts described herein first occurred at Forest Lake Tennis Club, Inc. in Chesterfield, Missouri which is located in St. Louis County, within the State of Missouri.

9. Venue is proper in this court under R.S.Mo. § 508.010, because Plaintiff was first injured in Chesterfield, Missouri which is located in St. Louis County, Missouri.

PARTIES

10. Plaintiff, Jane Doe, was a minor and was at all times relevant to this petition a resident of St. Louis County, Missouri. Plaintiff Jane Doe is referred to in this public filing by pseudonym to maintain confidentiality of her identity.

11. Plaintiff, Jane Doe, was a minor between her ages of twelve and sixteen at the time of all acts against her that are relevant to this petition and was a resident of St. Louis County, Missouri.

12. Defendant Forest Lake Tennis Club, Inc. is a corporation organized under the laws of the State of Missouri during all times herein stated. Defendant Forest Lake Tennis Club, Inc. is located in Chesterfield, St. Louis County, Missouri. The initial tortious acts of Defendant Forest Lake Tennis Club, Inc. against Plaintiff occurred in Chesterfield, St. Louis County, Missouri. Defendant Forest Lake Tennis Club, Inc., accepted custody and control of Jane Doe and had a duty to supervise her.

13. Its employees, agents and representatives caused injury to Plaintiff while it was functioning as her protector, supervisor, and training facility. Defendant Forest Lake Tennis Club,

Inc. has obtained the benefits of the laws of the State of Missouri and the benefits of its St. Louis County, Missouri location.

14. Defendant Miller Tennis Academy, LLC is a corporation doing business under the laws of the State of Missouri during all relevant events of this petition. Defendant Miller Tennis Academy, LLC has obtained the benefits of the laws of the State of Missouri and the benefits of its St. Louis County, Missouri location. Defendant Miller Tennis Academy, LLC accepted custody and control of Jane Doe and had a duty to supervise her and protect her from harm and breached that duty of care causing injury to Plaintiff while it was functioning as her protector, supervisor, and tennis academy.

15. Defendant Mike Miller is the sole owner of Miller Tennis Academy, LLC and is a resident of Creve Coeur, St. Louis County, Missouri. Mike Miller at all times herein was an Elite Member of the United States Tennis Professional Association (Hereafter "USTPA") and the United States Tennis Association (Hereafter "USTA") and agreed to follow the guidelines, ethics and rules of these organizations relating to protection of students from sexual abuse and molestation. Defendant Mike Miller had a duty to supervise her and protect Plaintiff from harm and caused injury to Plaintiff while he was functioning as her protector, tennis supervisor, and tennis academy manager.

16. Defendant Javier Pozo is a resident of Ballwin, St. Louis County, Missouri. During all times herein stated Defendant Javier Pozo was and employee, agent and tennis professional with Defendants Forest Lake Tennis Club, Inc and Miller Tennis Academy, LLC. Mr. Pozo caused injury to Plaintiff while he was functioning as her protector, supervisor, and tennis coach.

17. Plaintiff suffered injuries caused by Defendants at 1012 North Woods Mill Road, Chesterfield, St. Louis County, Missouri 63017. At all times relevant to this petition Defendants

acted in a capacity as the minor Plaintiff's tennis trainers, providing care and supervision to the minor children during times in which Jane Doe was a student of Defendants.

BACKGROUND FACTS APPLICABLE TO ALL COUNTS

18. Starting in 2009, Plaintiff Jane Doe, a twelve-year-old minor was entrusted to the care and supervision of Defendants during all times when she participated in the Defendants' tennis academy for tennis instruction. All defendants accepted custody and control of Jane Doe and owed a duty of care to supervise and protect the minor. As an aspiring young athlete, JANE DOE and her parents wanted to have good, safe and structured tennis training. Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC, as members of the USTA held themselves and their staff out as the professionals that JANE DOE and her parents wanted. By joining Forest Lake Tennis Club Jane Doe and her parents would enjoy certain benefits and privileges. This included a discount on professional tennis instruction with Miller Tennis Academy, LLC that operates at Forest Lake Tennis Club. As professional tennis operations Forest Lake Tennis Club and Miller Tennis Academy, LLC had a staff of tennis professionals. After some consideration JANE DOE began lessons from tennis professional Javier Pozo who at the time was touted as the best coach on the staff. JANE DOE and her parents paid their membership fees to Forest Lake Tennis Club and began the instructions. As lessons were scheduled Jane Doe and her parents would pay Forest Lake Tennis Club for her lessons. In turn Miller Tennis Academy, LLC scheduled Jane Doe for the lessons with tennis pro Javier Pozo. Forest Lake Tennis Club would then compensate Javier Pozo through its payroll checks.

19. Defendants were in a close relationship with Plaintiff Jane Doe, as Defendants acted as a safe tennis facility, providing instruction, training and guidance to Jane Doe and maintained a position of influence, control, supervision and trust with the minor children, including Jane Doe.

Defendants as USTA and UPTPA and youth sports caregivers were aware of foreseeable risks to Jane Doe of sexual abuse by persons in contact with the minor. The practices, guidelines and policies of youth sport supervision including, but not limited to the USTA and USTPA place Defendants on notice of risk of harm to Jane Doe and other minor athletes.

20. Over the course of a four-year period from 2009-2013, Defendant Javier Pozo, an employee of Defendants Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC engaged in a series of improper acts with minor Plaintiff Jane Doe. This series of acts were many times in plain view on the tennis courts and surrounding facilities at Forest Lake Tennis Club.

21. Specifically, Defendant Javier Pozo and his employers engaged in acts that violated the United States Tennis Association's Safe Play Conduct Policies and Guidelines by first beginning with a grooming process of Jane Doe where he engaged in a pattern of improper conduct with a goal of engaging in sexual misconduct. This conduct was the sort that members of USTA armed with the superior knowledge of grooming, including the management of Forest Lake Tennis Club and Miller Tennis Academy, LLC, would and should recognize and prevent. JANE DOE an innocent 12-year-old had no awareness of the danger she was being woven into. Like in many similar cases with minor athletes everything seemed normal. Grooming was initiated through text messages, verbal comments and compliments designed to seek out a vulnerable minor. The acts were done to earn the minor's trust and the trust of the minor's family. The grooming continued through direct, in person, and text message contact with the Jane Doe where for example, Mr. Pozo would complement the 12-year-old girl on her cute tennis outfit. Thereafter, Defendant engaged in sexually inappropriate conduct, first by hand holding, hugging and kissing the minor in open view on the Forest Lake tennis courts and surrounding facilities. Later this expanded into groping minor Jane Doe's body through her clothes. Eventually, this conduct evolved to touching her

genitals by reaching inside her clothing. After manipulating the minor's mind, the Defendant expanded his improper sexual conduct by scheduling Jane Doe for early morning practices. Forest Lake Tennis Club, Inc. and Miller Tennis Academy provided Mr. Pozo with keys to gain before and after hour access to the club grounds. In order to isolate the minor and enable his improper conduct, Mr. Pozo would regularly drive Jane Doe to and from her tennis lessons. Both USTA and USTPA members know or should know that tennis coaches should never be alone with the minor student. The Rule of 3 is well known to youth athletic organizations to prevent one on one access to the minor athlete. Yet, Forest Lake Tennis Club and Miller Tennis Academy, LLC with keys in hand allowed the practice of Mr. Pozo coming and going from the tennis club with one on one access to Jane Doe. During his one on one time with Jane Doe Mr. Pozo deepened the grooming process. For example, to maintain his control and to gain the loyalty of Jane Doe, he discouraged her from accessing significant others for friendship and support. He instructed and encouraged her to immediately delete all text messages he sent her. Finally, he groomed her to a commitment of secrecy and would check to make sure she was maintaining her secrecy. As she became older, he instructed her not to drink alcohol and told her that if she told anyone he would go to jail, never see his kids and ruin his life. After achieving this level of grooming, control and loyalty, Defendant Javier Pozo moved his behavior to direct sexual assault of Jane Doe around the age of thirteen. With the one-on-one access that Mr. Pozo's employers allowed, his sexual assaults evolved into sodomy and rape of Jane Doe. These crimes continued on a weekly basis until he was caught when Jane Doe was age sixteen. The sexual assaults occurred on the premises, off the premises and during sponsored tournaments, some across state lines, where over and over Forest Lake Tennis Club and Miller Tennis Academy, LLC allowed their employee to have one on one access to a

young girls' mind and body. Once caught, Defendant Javier Pozo admitted to his history of sexual assault on Plaintiff Jane Doe.

22. Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller knew, or should have known about Defendant Javier Pozo's deviate and dangerous exploitive propensities and/or that he was unfit to provide proper care and supervision for Plaintiff Jane Doe. These propensities were publicly displayed to management of Forest Lake Tennis Club, Inc., Mike Miller and Miller Tennis Academy, LLC, but the warning signs that are well documented under the USTA's Safe Play Conduct and Guidelines were ignored by these Defendants. Defendant Mike Miller was notified and questioned about Javier Pozo being a "creep" with improper conduct towards Jane Doe. However, he failed to act and dismissed the improper conduct as being part of Mr. Pozo's "culture". Defendants Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC are members of the USTA, Mike Miller is a USTA and USTPA member and had the responsibility of reporting and supervising the conduct of their employee, agent and representative, Javier Pozo as laid out in the USTA Safe Play Conduct, Policies and Guidelines.

23. At all times relevant, the sexual misconduct and injuries sustained by Plaintiff Jane Doe first occurred at the premises of Forest Lake Tennis Club, Inc. where Miller Tennis Academy, LLC operated and other locations described above.

24. In 2016, Javier Pozo was convicted, after pleading guilty, in St. Louis County, Missouri of the felony offenses of 2nd degree statutory sodomy and 2nd degree statutory rape with a minor.

25. After being caught Mr. Pozo's employers fired him, took away his keys and banned him from being on the premises of Forest Lake and from giving tennis instruction from Miller

Tennis Academy, LLC. Mr. Pozo's professional profile was removed from the defendant's websites and other advertising mediums.

26. Since Mr. Pozo was caught, Forest Lake Tennis Club or Miller Tennis Academy, LLC and/or their representatives have failed to reach out or contact Jane Doe or her parents to apologize for the years of sexual abuse Jane Doe endured between the ages of 12 to 16 years. Nor did they offer any comfort and aid Jane Doe and her family. Instead, Forest Lake Tennis Club and Miller Tennis Academy, LLC and Mike Miller engaged in and acquiesced in false narratives that suggested that Jane Doe was lying about the years of grooming and sexual abuse and in doing so have negligently defamed her reputation. Defendant's cynical conduct continued even after Pozo was arrested. For example, after attempting to return to tennis on a shortened schedule, Jane Doe's family asked if the full fee could be reduced as she only hit part time. Incredibly, they refused her request.

27. Since Plaintiff's history with Javier Pozo, Jane Doe struggles with romantic relationships due to lack of trust and intentions.

28. As a direct result of Defendants' wrongful conduct, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, post-traumatic stress disorder (PTSD), physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, loss of reputation, humiliation, and loss of enjoyment of life; and has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling. Her emotional injuries are real and have been professionally diagnosed.

COUNT I
SEXUAL ABUSE AND/OR BATTERY
AGAINST DEFENDANT JAVIER POZO

29. Plaintiff incorporates all paragraphs of this Petition as if fully set forth herein.

30. During the times between August 17, 2009 to November 14, 2013, Defendant Javier Pozo engaged in illegal, unpermitted, harmful and improper sexual conduct and contact upon the person of minor, specifically Jane Doe

31. Defendant's actions were willful, wanton, and reckless for which punitive damages are appropriate.

32. As a result of the above-described acts, Plaintiff suffered and continues to suffer great pain of mind and body, shock, emotional distress, post-traumatic stress disorder (PTSD), physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, loss of reputation, humiliation, and loss of enjoyment of life; and has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff prays for judgment against Defendant for compensatory and punitive damages in an amount that is fair and reasonable in excess of twenty-five thousand dollars (\$25,000), for her costs herein and for such other further relief the Court deems just and equitable.

COUNT II
NEGLIGENT FAILURE TO SUPERVISE AND PROTECT
STUDENTS/MINOR TENNIS PLAYERS
AGAINST ALL DEFENDANTS

33. Plaintiff incorporates all paragraphs of this Petition as if fully set forth herein.

34. At all times material, Defendants Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC and Mike Miller held themselves out as institutions of training student athletes to be competitive tennis players. Defendants, as members of USTA and as supervisors of minor athletes, accepted the care, custody and control of minor, Jane Doe, and owed a duty to protect Jane Doe from improper conduct, molestation and sexual abuse.

35. Defendants Forest Lake Tennis Club, Inc. Miller Tennis Academy, LLC and Mike Miller knew, or should have known about Javier Pozo's improper conduct but failed to remove

him as a tennis pro and when having the opportunity, disregarded and inappropriately did not supervise Jane Doe from the dangerous proclivities of Javier Pozo.

36. Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller failed to exercise ordinary care in supervision of Jane Doe to protect her from foreseeable risk of molestation and sexual abuse.

37. Defendants' inaction proximately caused injury to Plaintiff.

38. Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller knew, or should have known that the improper conduct, inappropriate grooming, touching and improper contact of individuals such as Jane Doe by tennis pros they recommended for employment would cause or was substantially certain to cause harm to Jane Doe Despite the risks posed, Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller continued to place Javier Pozo in positions in which he would have contact with individuals seeking his training, including minors such as Jane Doe Specifically, Defendants recommended Javier Pozo to be hired as a tennis pro to provide services on behalf of Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC.

39. By engaging in these actions, Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller disregarded the risk posed by Javier Pozo to individuals who came to him for tennis instruction, including minor Jane Doe

40. Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller breached their duty to Plaintiff, and were negligent, by:

- a. Failing to have in effect and/or failing to enforce effective policies and procedures and training prohibiting sexual contact including those

recommended by the USTA Safe Play Policies and Guidelines and USTPA Guidelines in order to prevent harm to Jane Doe;

- b. Failing to have in effect and/or failing to enforce effective policies and procedures and training instruction of staff on the signs of sexual abuse;
- c. Failing to have in effect and/or failing to enforce effective policies and procedures and training instruction of staff about the steps to be followed if staff suspects a tennis pro is having inappropriate contact with a tennis club and tennis academy member, including the minor Jane Doe;
- d. Failing to have in effect and/or failing to enforce effective policies and procedures and training instruction of staff about the steps to be followed if a tennis pro is behaving in a sexually inappropriate manner;
- e. Failing to have in effect and/or failing to enforce effective policies and procedures to inform players who to contact about potential allegations of inappropriate conduct;
- f. Failing to use reasonable care in supervising Javier Pozo and reporting him to the appropriate authorities when they became aware of inappropriate sexual conduct;
- g. Failing to use reasonable care in conducting background checks on Javier Pozo as required by USTA and USTPA guidelines.

41. Defendants' actions or inactions were willful, wanton and reckless for which punitive damages are appropriate.

42. As a result of the above-described acts, Plaintiff Jane Doe has suffered and continues to suffer great pain of mind and body, shock, emotional distress, post-traumatic stress

disorder (PTSD) physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, loss of reputation, humiliation, and loss of enjoyment of life; and has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff Jane Doe prays for judgment against Defendants for compensatory and punitive damages in an amount that is fair and reasonable and in excess of twenty-five thousand dollars (\$25,000), for her costs herein and such further relief the Court deems just and equitable.

COUNT III
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST ALL DEFENDANTS

43. Plaintiff Jane Doe incorporates all paragraphs of this Petition as though fully set forth herein.

44. The facts of the above described occurrence and the reasonable inferences therefrom demonstrate that such occurrence was directly caused by Defendants' failure to use a degree of care that an ordinarily careful person would use under the same or similar circumstances and Defendants were thereby negligent.

45. Such negligence involved an unreasonable risk of causing emotional distress to Plaintiff of which Defendants knew, or by using ordinary care should have known.

46. As a direct and proximate result of Defendants' negligence, Plaintiff has suffered and continues to suffer severe emotional distress as a result of the offensive grooming, control, sexual contact that is professionally diagnosable and so significant as to require professional psychological attention.

47. Further, as a direct result of the aforesaid improper conduct, Plaintiff Jane Doe has and will in the future experience substantial pain, suffering, embarrassment, loss of enjoyment of life, past and future medical, psychological and counseling expenses, extreme emotional distress and mental anguish.

48. The aforesaid improper conduct of Defendants was outrageous, and in reckless indifference to the rights of Plaintiff, for which Plaintiff claims punitive damages in an amount sufficient to punish Defendants and deter them and others similarly situated from like conduct in the future.

WHEREFORE, Plaintiff Jane Doe prays for judgment against Defendants for compensatory and punitive damages in an amount that is fair and reasonable in excess of twenty-five thousand dollars (\$25,000), her costs herein and such further relief the Court deems just and equitable.

COUNT IV NEGLIGENCE PER SE

49. Plaintiff incorporates all paragraphs of this Petition as if fully set forth herein.

50. Defendants' actions and omissions as alleged in this petition constitute violations of Revised Missouri Statute § 568.045, Endangering the Welfare of a Child in the first degree, which states in part: "1. A person commits the crime of endangering the welfare of a child in the first degree if: (1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old."

51. Defendants' actions and omissions as alleged in this petition constitute violations of Revised Missouri Statute §568.050, Endangering the Welfare of a Child in the Second Degree, which states, in part: "1. A person commits the crime of endangering the welfare of a child in the

second degree if: (1) He with criminal negligence acts in a manner that creates a Substantial risk to the life, body or health of a child less than seventeen years old.”

52. The statutes of the State of Missouri as described in Paragraphs 42 and 43 were intended to protect the Plaintiff and all those similarly situated.

53. Plaintiff, a child less than seventeen years old at all relevant times, is within the class of persons the statutes, as described in Paragraphs 42 and 43, are intended to protect.

54. As a direct and proximate result of Defendants’ conduct, Plaintiff has and will in the future experience substantial pain, suffering, embarrassment, loss of enjoyment of life, past and future medical, psychological and counseling expenses, extreme emotional distress and mental anguish.

55. The aforesaid conduct of Defendants was outrageous and in reckless indifference to the rights of Plaintiff, for which Plaintiff claims punitive damages in an amount sufficient to punish defendants and deter them and others similarly situated from like conduct in the future.

WHEREFORE, Plaintiff prays for judgment against Defendant for compensatory and punitive damages in an amount that is fair and reasonable in excess of twenty-five thousand dollars (\$25,000), his costs herein and such further relief the Court deems just and equitable.

**COUNT V
NEGLIGENT MISREPRESENTATION
REGARDING JAVIER POZO**

56. Plaintiff incorporates all paragraphs of this petition as if fully set forth herein.

57. As set forth above, the management of Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller hired Defendant Javier Pozo and represented him as a tennis professional for coaching minor students, as they had done in the past. Defendants made

affirmative statements and representations about Mr. Pozo that Defendants intended to be relied on by Jane Doe in hiring Mr. Pozo.

58. Defendants' representations were material and an important factor in the decision of Jane Doe and her family to take tennis lessons from Mr. Pozo. Based on these representations, Plaintiff Jane Doe and her family became members of the Forest Lake Tennis Club, Inc. and paid Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC for tennis lessons to be given by their tennis professional, Javier Pozo. Defendant Forest Lake Tennis Club issued Javier Pozo payroll checks for the lessons he gave Jane Doe. Miller Tennis Academy, LLC jointly hired and scheduled Jane Doe for lessons with Mr. Pozo

59. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of Mr. Pozo's improper conduct, dangerous and exploitive propensities and/or that he was an unfit agent, and despite such knowledge, Defendants disregarded and failed to disclose Javier Pozo's improper conduct and child molestation when they recommended him as a tennis coach for Jane Doe, a minor, and made false statements about his past experience.

60. As a result of failing to disclose such dangerous and improper conduct, Mr. Pozo was hired to perform tennis pro duties as an employee and agent of Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC, where he was able to commit the wrongful acts against the plaintiff.

61. Defendants' actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

62. As a result of the above-described acts, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, post-traumatic stress disorder (PTSD),

physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life; and has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff prays for judgment against Defendant for compensatory and punitive damages in an amount that is fair and reasonable in excess of twenty-five thousand dollars (\$25,000), his costs herein and such further relief the Court deems just and equitable.

COUNT VI NEGLIGENCE

63. Plaintiff incorporates all paragraphs of this petition as if fully set forth herein.

64. Defendants Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller had a duty to protect children served by tennis pros that they hired to provide tennis lessons and guidance to Jane Doe based on Defendants' recommendation.

65. Upon information and belief, Defendants, by and through their agents, servants and employees, knew or reasonably should have known of Mr. Pozo's improper conduct, dangerous and exploitative propensities and/or that he was unfit to act as a tennis pro, coach and supervisor and despite such knowledge, Defendants breached its duty to protect Plaintiff when they failed to protect Plaintiff from the sexual abuse described herein.

66. Defendants' actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

67. As a direct result of the acts or omissions described herein, Plaintiff has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, post-traumatic stress disorder (PTSD), physical manifestations of emotional distress that is medically diagnosable and significant, embarrassment, loss of self-esteem, disgrace, loss of reputation, humiliation, and loss of enjoyment of life; was prevented and will continue to be prevented from performing her

daily activities and obtaining the full enjoyment of life; has sustained loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff prays for judgment against Defendant for compensatory and punitive damages in an amount that is fair and reasonable in excess of twenty-five thousand dollars (\$25,000), his costs herein and such further relief the Court deems just and equitable.

**COUNT VII
INTENTIONAL MISREPRESENTATION
OF JAVIER POZO**

68. Plaintiff incorporates all paragraphs of this petition as if fully set forth herein.

69. As set forth above, the management at Forest Lake Tennis Club, Inc., Miller Tennis Academy, LLC and Mike Miller contacted Defendant Javier Pozo to inquire about the potential of providing tennis lessons to minors, as they had done in the past.

70. In response, Defendants failed to disclose material information and made affirmative representations about Mr. Pozo that they intended to be relied on by Plaintiff Jane Doe

71. Jane Doe did rely on the representations made by Defendants in evaluating Mr. Pozo for hiring and placement as a tennis pro coach for minor children.

72. Defendants knew the representations were false or otherwise intentionally withheld material information, with reckless disregard for the truth.

73. The representations made by Defendants were material to Jane Doe and family's decision to take tennis lessons from Javier Pozo.

74. Plaintiff Jane Doe relied on the alleged lack of any negative reports or prior complaints in hiring Javier Pozo.

75. Jane Doe would not have agreed to take tennis lessons from Javier Pozo if she knew about any of the prior improper conduct and allegations of child molestation.

76. As a result of Defendants' misrepresentations, Javier Pozo was hired as a tennis pro for Forest Lake Tennis Club, Inc. and Miller Tennis Academy, LLC to provide tennis lessons to minor students, including Jane Doe where he was able to commit the wrongful acts against the plaintiff.

77. Defendants' reference and recommendations empowered Javier Pozo to be entitled to provide tennis lessons and coaching services.

78. Defendants' actions and/or inactions were willful, wanton and reckless for which punitive damages are appropriate.

79. As a result of the above-described acts, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, post-traumatic stress disorder (PTSD), physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, loss of reputation, humiliation, and loss of enjoyment of life; and has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling.

WHEREFORE, Plaintiff prays for judgment against Defendant for compensatory and punitive damages in an amount that is fair and reasonable in excess of twenty-five thousand dollars (\$25,000), his costs herein and such further relief the Court deems just and equitable.

DEMAND FOR JURY TRIAL

80. The Plaintiff demands a trial by jury on all issues triable in this case.

WHEREFORE, the plaintiff asks that this court award judgment against Defendants as follows:

1. Award of compensatory and punitive damages in favor of the Plaintiff against Defendants for damages sustained as a result of the wrongdoing of Defendants;
2. Award the Plaintiff her costs and expenses incurred in this action;
3. Grant such other and further relief as the Court deems appropriate and just.

Respectfully submitted,

THE DEFEO LAW FIRM, LLC

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