

6. Defendant Justin Taylor (“Taylor”) is, upon information and belief, a resident of Des Moines, Iowa.

7. This Court has jurisdiction over the subject matter and the parties to this action. Venue is proper in Wake County under N.C. Gen. Stat. § 1-82 because defendant YMCA is a resident of Wake County and the causes of action arose in Wake County.

FACTUAL ALLEGATIONS

8. Taylor was employed by the YMCA as a counselor at the YMCA’s before-school and after-school program at Jones Dairy Elementary School (“Jones Dairy”). Taylor’s duties included supervising children at before/after-school programs and at summer camps. Taylor was employed in this position beginning October 15, 2003, and as of the time of discovery of the incidents complained of in this case, had recently been promoted to a supervisory position.

9. At all times relevant, the YMCA supervised Taylor in the performance of his duties.

10. Upon information and belief, Taylor’s risk for committing sexual abuse and exploitation of elementary school children should have been known to defendant Triangle YMCA because of his background and observable conduct in the presence of children.

11. Taylor used his position as plaintiffs’ YMCA counselor to repeatedly separate plaintiffs from each other and from other adults and children in order to sexually abuse and otherwise mistreat them.

12. In the summer of 2006, plaintiff C.T.S. attended the YMCA after school program at Jones Dairy. One day that summer, Taylor reprimanded C.T.S. because C.T.S. did not want to play outside due to the heat. Taylor took C.T.S. into the gym office where counselors kept

their paperwork and other equipment. Taylor instructed C.T.S. to sit on his lap, placed his hand under C.T.S.s' shorts but outside of his underwear, and rubbed C.T.S.s' genital area.

13. For the remainder of the summer, Taylor would continue to isolate C.T.S. in the gym office at least once a day, where he continued to sexually assault the child by rubbing his genital area. C.T.S. was nine years old at the time of the assaults.

14. In the summer of 2007, plaintiff D.H. attended the YMCA after-school program at Jones Dairy. D.H. has a mild case of cerebral palsy and at the time, wore leg braces. Around the third week of July, D.H. was playing four-square when Taylor called him over and had the child sit on his lap. Taylor then placed his hand under D.H.'s shorts but over his underwear, and began moving his hand towards D.H.'s genitals. D.H. told Taylor to stop just before Taylor reached the child's genitals. Taylor stopped, and D.H. got off of his lap. Taylor asked D.H. to sit in his lap several times after this assault, but D.H. refused to do so each time. D.H. was nine years old at the time of the assault.

15. In the fall semester of 2007, another minor child, ("Child No. 3"), attended the YMCA after-school program at Jones Dairy three days a week. Taylor treated Child No. 3 as a "favorite," and asked the child to run errands and perform tasks for him. Taylor would frequently "tickle" Child No. 3 on the stomach. Taylor also repeatedly had Child No. 3 sit in his lap, and would then touch Child No. 3's genital area. This happened both in public and when the two were alone. The assaults lasted for approximately three months.

16. In the fall semester of 2007, ("Child No. 4"), another minor child, attended the YMCA after-school program at Jones Dairy five days a week. Taylor also treated Child No. 4 as a "favorite," and also touched Child No. 4 inappropriately.

17. On November 26, 2007, Jessica Maye, a program counselor for the YMCA at Jones Dairy, saw Taylor lift Child No. 3 by grabbing near Child No. 3's buttocks and wrapping the child's legs around his waist. She thought this looked strange, so continued to observe Taylor. She then saw Taylor turn Child No. 3 around so he was facing forward, lift the child's shirt, rub the child's stomach a few times, and then rub the child's genital region outside his clothing for at least 10-15 seconds.

18. Jessica Maye reported this assault to the Wake County Sheriff's department. On December 1, 2007, defendant YMCA relieved Taylor of his duties.

19. Upon information and belief, C.T.S., D.H. Child No. 3 and Child No. 4 were not the only boys who were molested by Taylor during the time that he was employed by the YMCA, and in fact Taylor had committed sexual assaults on many more boys who were in his charge.

20. On December 4, 2007, Taylor gave a written statement to the Wake County Sheriff's department denying that he touched Child No. 3 inappropriately.

21. On December 5, 2007, a warrant for Taylor's arrest was issued for Taking Indecent Liberty with a Minor. On or about December 18, 2007, a second warrant for Taylor's arrest was issued for Taking Indecent Liberty with a Minor.

22. On or about December 19, 2007, Taylor turned himself in for arrest.

23. Taylor pleaded guilty to three counts of taking indecent liberties with a minor on October 17, 2008 and was sentenced to 48 months of supervised probation. He was required to register as a sex offender.

24. As a direct and proximate result of the misconduct and wrongful actions of the defendants as described in this Complaint, plaintiffs have suffered and continue to suffer:

- a. permanent psychological personal injury;
- b. difficulty in forming close, trusting relationships with others;
- c. anger which has caused them to harm themselves and others;
- d. impaired judgment;
- e. medical expenses they have incurred and will likely continue to incur in the future for treatment of emotional and psychological conditions caused by the misconduct of the defendants.

FIRST CLAIM FOR RELIEF (against the Defendant YMCA)
Negligent Hiring, Supervision and Retention

25. The plaintiffs re-allege and incorporate herein all previous allegations of this Complaint.

26. Defendant YMCA had a duty, as an employer and provider of camp and child-care services, to provide a reasonably safe and secure environment for children in its care, including the plaintiffs.

27. Defendant YMCA, as an employer and provider of camp and child-care services, had a duty to all students, including the plaintiffs, to provide ordinary, prudent, and reasonable supervision of its counselors, including Taylor. Defendant YMCA specifically had a duty to take all reasonable and necessary steps to protect children from sexual abuse and exploitation by its employees and agents, including counselors, and to take steps to remedy any harm that might have occurred under their watch or as a result of their acts or failure to act.

28. Defendant YMCA knew or should have known, before hiring Taylor as a teacher, of Taylor's risk of committing sexual misconduct and his unfitness to be a counselor.

29. Defendant YMCA knew or should have known that Taylor spent much time alone with young male children, often separated from other students and staff in the gym office, and that his behavior toward young male children, described in the foregoing paragraphs, was inappropriate and dangerous to children.

30. In spite of this knowledge, defendant YMCA failed to take any steps to change its supervision of Taylor or to keep him from spending time alone with young male children. This occurred at or during a time when the defendant could have prevented some or all of the sexual abuse of the plaintiffs and other victims.

31. Defendant YMCA also was negligent in its supervision of Taylor in that it failed to take any steps to minimize the damages caused by his sexual abuse of the plaintiffs. Defendant YMCA continued to employ Taylor as a counselor when it should have known of his sexual proclivities and misconduct.

32. Defendant YMCA also failed to investigate whether Taylor had abused or was abusing children when they knew or should have known that such conduct by Taylor was occurring. If defendant had conducted a proper investigation aimed at protecting children, it would have learned the full extent of Taylor's misconduct and plaintiffs would have received timely treatment to mitigate the severe damage caused by Taylor.

33. As a direct and proximate result of the negligent hiring, supervision, and retention of Taylor by defendant YMCA, the plaintiffs have sustained substantial injuries, damages, harms and losses. Accordingly, the plaintiffs are entitled to recover compensatory damages in an amount in excess of \$25,000.00.

SECOND CLAIM FOR RELIEF (against both defendants)
Negligent Infliction of Emotional Distress

34. The allegations above are incorporated into this cause of action as if fully stated herein.

35. Defendant the YMCA had a duty to promulgate reasonable policies and procedures intended to promote and ensure the safety of children cared for in its programs, specifically, to enact and enforce policies requiring that counselors not be alone with individual

children outside the presence of other adults or children, and to insure that such policies and procedures were followed by its employees. Further, they had a duty to instruct the children under their care in how to recognize inappropriate behavior in any adult supervising them.

36. All defendants also had a duty to exercise ordinary care in their dealings with plaintiffs and had a duty to warn plaintiffs of foreseeable danger.

37. Defendants failed to fulfill these aforementioned duties. Such failure was negligent. It was reasonably foreseeable to defendants that their negligent conduct described above breached their duties to plaintiffs and that their conduct would cause severe emotional distress to plaintiffs.

38. The conduct of defendants described above did in fact cause severe emotional distress to plaintiffs.

39. As a direct and proximate result of the negligent infliction of emotional distress by defendants, plaintiffs have sustained substantial injuries, damages, harms and losses. Accordingly, Plaintiffs are entitled to recover compensatory damages for an amount in excess of \$25,000.00.

THIRD CLAIM FOR RELIEF (against Defendant Taylor)
Battery

40. The allegations above are incorporated into this cause of action as if fully stated herein.


41. Defendant Taylor's inappropriate conduct with plaintiffs, described in the foregoing paragraphs, amounts to the infliction of harmful or offensive contact upon plaintiffs' bodies, without plaintiffs' consent.

42. As a result of Taylor's battery, each plaintiff suffered damages in excess of \$25,000.00.

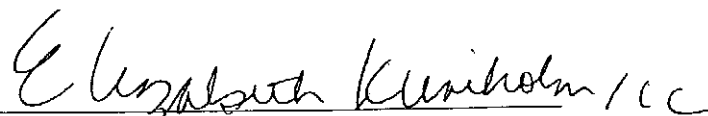
PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray the Court:

1. That plaintiffs be granted a trial by jury;
2. That plaintiffs recover from defendants compensatory damages in excess of \$25,000.00;
3. That plaintiffs recover from defendants their reasonable attorneys' fees as the Court may allow;
4. That the costs incurred by plaintiffs in prosecuting this action be assessed against Defendants;
5. That plaintiffs recover prejudgment interest on all damages pursuant to N.C.G.S. § 24-5;
6. That the Court award such other and further relief to plaintiffs as it deems just and proper.



Leto Copeley
NC State Bar No: 12624
COPELEY JOHNSON & GRONINGER PLLC
300 Blackwell St., Ste. 101
Durham, NC 27701
Phone: (919) 240-4054
Fax: (888) 412-0421
letto@cjglawfirm.com
COUNSEL FOR PLAINTIFF



Elizabeth F. Kuniholm

NC State Bar No: 9314

Kuniholm Group

P.O. Box 770

Durham, NC 27702

Phone: (919) 854-4454

Fax: (919) 882-1328

ekuniholm@kuniholmlaw.com

COUNSEL FOR PLAINTIFF