STACKHOUSE LAW, PLC
534 N. Stone Ave., Ste. 02
Tucson, Arizona 85705
Timothy P. Stackhouse, SBN 030609
(520) 282-7696
tim@stackhouselawaz.com

Attorney for Defendants GCCA, TiyiEndea DellErbam as Personal Representative of the Estate of Van of Urantia, Nancy Emerson Chase, TiyiEndea DellErbam, Centria Lilly, and Marayeh Cunningham

SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF SANTA CRUZ

JANE M. DOE, Plaintiff, and ESTATE OF VAN OF URANTIA, *et al.* Defendants.	Case No. CV-202500384 **MOTION TO DISMISS**

Pursuant to Rule 12(b)(6), Ariz. R. Civ. P., Defendants Global Community Communications Alliances (GCCA), TiyiEndea DellErbam as Personal Representative of the Estate of Van of Urantia, Nancy "Ninan" Emerson Chase, TiyiEndea DellErba, Centria Lilly, and Mariyah Cunningham, (collectively, Defendants) move to dismiss all claims in Plaintiff Jane Doe's Second Amended Complaint that are barred by the applicable statute of limitations and/or fail to state a claim. The only claims that are not time barred are those that are for damages based on alleged injuries due to sexual contact or conduct that were caused by Defendants' negligence or failure to report.

Memorandum of Points and Authorities

INTRODUCTION

The Second Amended Complaint (SAC) raises 21 separate counts, ranging from simple negligence to federal racketeering claims, spanning over nearly two decades. The crux of Plaintiff's claims are that Defendants failed to protect her from sexual abuse by a teenager when she was a young girl,[1] subjected her to forced labor, and provided harmful counseling. Numerous allegations in the SAC are irrelevant and do nothing but malign GCCA and the individual Defendants. (*e.g.,* SAC ¶ 37). Others frame religious beliefs as malevolent practices, or common child raising practices, such as spanking and chores, as "sexualized punishment" and "forced labor." The SAC's allegations necessarily raise issues relating to the Establishment and Free Exercise Clause, and Ecclesiastical Abstention Doctrine.

At this point there is no need to consider anything but the allegations in the complaint, however, which are taken as true. Even then all but a few of claims must be dismissed, and the surviving claims narrowed in scope. The acts and omissions alleged to have harmed Plaintiff ceased when she left GCCA's community in June 2015 at the age of 19. (SAC ¶¶ 6, 152). The statute of limitations for every claim except those seeking damages based on Defendants' negligence or intentional acts that were a cause of sexual conduct or sexual contact ("sexual abuse") expired years before the original complaint was filed. The Court should not approve Plaintiff's efforts in the SAC to turn a molehill into a mountain, and should dismiss the time-barred and poorly stated claims.

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[1] The alleged abuser, Brendan Fitzpatrick, was a named defendant in the original complaint, but dropped from the SAC.

POINT I

ALL CLAIMS FOR INJURIES OTHER THAN THOSE BASED ON SEXUAL ABUSE ARE BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS.

Dismissal is appropriate "where it appears from the face of the complaint that the claim is barred." *Anson v. Am. Motors Corp*., 155 Ariz. 420, 421 (App.1987). The Second Amended Complaint (SAC) alleges numerous wrongful acts against GCCA occurring over two decades. The last possible date any such act could have occurred was June 2015, when Plaintiff, at the age of 19, "escaped" from the GCCA community, making her at least 29 years old when the original Complaint was filed in Santa Cruz County Superior Court on October 17, 2025. (SAC ¶¶ 6, 152). Any claims with a statute of limitations of 11 years or less from the time Plaintiff turned 18 in 2014 are time-barred.

The only possibly applicable statute of limitations to Plaintiff's claims that is longer than 10 years is A.R.S. § 12-514. That statute extends the two-year statute of limitations in A.R.S. § 12-542 to 12 years after a plaintiff turns 18 for claims for damages specifically "based on" injuries for:

> 1. An injury that a minor suffers as a result of another person's negligent or intentional act *if that act is a cause of sexual conduct or sexual contact* committed against the minor.
>
> 2. The failure to report pursuant to section 13-3620 sexual conduct or sexual contact committed against a minor.

(Emphasis added).

The phrase "based on" is construed narrowly. *See Crum & Forster Specialty Ins. Co. v. Dvo, Inc.,* 939 F.3d 852, 855 (7th Cir. 2019) (exclusion in insurance policy for claims "based upon or arising out of" contract "include[s] a class of claims more expansive than those based

upon the contract"); *Fleisher v. Phx. Life Ins. Co*., 18 F.Supp.3d 456, 471 (S.D. N.Y. 2014) (noting "based on" is synonymous with phrases like "founded upon," "consist of," "relying on," "built on," and "contingent on," and applying narrow interpretation to "based on" phrase in insurance contract).

In contrast, phrases like "arising out of" are generally construed to have a very broad meaning. *Marcus v. Fox*, 150 Ariz. 333, 334 (1986). This is apparent in cases interpreting A.R.S. § 12-341.01, and applying "arising out of contract" broadly to award fee where a contract is merely a factor in causing the dispute. *Id.* at 335.

Both "arising out of" and "based on" are used in various Arizona statutes. *E.g.,* A.R.S. § 28-1321(A) (implied consent applies to "any offense ***arising out of*** acts alleged to have been committed in violation of" traffic laws."); (liability to third person for "a claim based on a contract entered into by a custodial trustee acting in a fiduciary capacity…"). Had the legislature intended for A.R.S. § 12-514 to extend the statute of limitations for a broad array of claims arising out of sexual abuse, it would have said so, and not used the more limited "based on."

Of the 21 counts in Plaintiff's SAC, only three are at least partially based on claims of damages due to injuries for sexual abuse. Counts I, II, and III[2] allege negligence, gross negligence, and negligent hiring that on their face are extended by A.R.S. § 12-514. But those

[2] Oddly, the SAC references to A.R.S. §§ 12-542 and 12-551 in Counts I and II, the general negligence statute of limitations and product's liability statute of limitations. To the extent that the citations means those statutes apply to the claims, they should be dismissed because A.R.S. § 12-542 sets a 2-year statute of limitations, and there is no allegation of any defective product to which § 12-551 could conceivably apply.

claims seek damages for injuries beyond the alleged sexual abuse. All claims and damages sought should be limited solely to the allegations claiming Defendants' negligent or intentional acts was a cause of sexual abuse.

Count IV alleges a failure to report under A.R.S. § 13-3620, and, on the face of the complaint, A.R.S. § 12-514 also extends the statute of limitations. But, as with the negligence claims, it must be limited to damages for injuries from alleged sexual abuse caused by the failure to report.

But even those claims must be dismissed in their entirety if Plaintiff turned 30 before the original complaint was filed on October 17, 2025. Her precise age is not stated in the complaint, however.

The remaining claims, as discussed below, must be dismissed for failure to state a claim and as barred by the applicable statute of limitations.

POINT II

THE REMAINING CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS OR FAIL TO STATE A CLAIM.

1. Count III – Negligent Hiring, Retention, and Supervision

Count III seeks to impose liability on GCCA by alleging they "hired, retained, and placed individuals in positions of authority whom they knew or should have known were unlicensed, unqualified, abusive, or dangerous." (SAC ¶ 77). The only identified individual is Brendan Fitzpatrick, who is alleged to have been a teenager at the time he sexually abused Plaintiff. (SAC ¶ 40). There is no allegation that Fitzpatrick was hired, or otherwise an employee of GCCA, at the time of the alleged sexual abuse.

The Defendants are not alleged to have actually provided direct care or supervision to Plaintiff, but only to have supervised and assigned those who did. (SAC ¶¶ 22, 29). The actual caretakers are not named in the SAC, and there are no allegations that the named Defendants knew, or should have known, that they were unfit to provide care and protect Plaintiff from Fitzpatrick.

The SAC therefore fails to state a claim for negligent hiring, retention, or supervision.

To the extent this claim seeks damages for injuries other than sexual abuse, they are barred by the statute of limitations.

2. Count IV – Failure to Report

The SAC alleges that Plaintiff was abused by Brendan Fitzpatrick between the ages of four and seven. It alleges Plaintiff was 19 in 2015, placing the possible time frame of the abuse from 1999-2003. The applicable version of the mandatory reporting statute, A.R.S. § 13-3620, is the version in effect during those years.

In 2003, A.R.S. § 13-3620's definition of "person" included, among others, medical providers, priests, parents, school personnel, and "[a]ny other person who has responsibility for the care or treatment of the minor."[3] It did not include supervisors of the groups included in the definition of "person." A.R.S. § 13-3620 (2003) (Attached as Ex. 1).

The SAC fails to establish that Defendants, apart from Marayeh Cunningham, were mandatory reporters. None of the other Defendants are alleged to be medical providers,

[3] There were no significant amendments to A.R.S. § 13-3620 from 1999-2003.

members of the clergy, parents or guardians, or school personnel. Nor does the SAC otherwise establish that they had "responsibility for the care or treatment of the minor."

Instead, the SAC alleges that Defendants had "supervisory authority" over members, including childcare. (SAC ¶ 22). The SAC does not allege that Defendants directly cared for or were responsible for Plaintiff; it alleges that Plaintiff was placed in different homes "under the control of rotating adult caretakers." (SAC ¶ 29). The Defendants are not alleged to have been any of those adult caretakers.

Individuals with supervisory authority over mandatory reporters were not required to report abuse prior to the 2019 amendment to A.R.S. § 13-3620. H.B. 2008, 54th. Leg., 1st Reg. Sess. (Arizona 2019) (Attached as Ex. 2). When a statute is amended to add words and phrases, the basic principle of statutory interpretation presuming words, phrases, clauses, and sentences perform a function applies with "particular force." *Hurley Trucking Co., Inc. v. State,* 202 Ariz. 3, 7 (App. 2002). Under that principle, it cannot be presumed that supervisors were mandatory reporters prior to 2019, or else the amendment would have been superfluous.

The SAC's allegations that Defendants had "supervisory authority" over the care of Plaintiff is insufficient to create a claim under the version of A.R.S. § 13-3620 in effect at the time of the alleged abuse.

Additionally, there is no legal basis for this claim against GCCA. A.R.S. § 13-3620 has never defined "person" to be anything other than a person. GCCA is an entity, not a person, and cannot be a mandatory reporter under A.R.S. § 13-3620. Count IV must be dismissed against GCCA.

Count IV also fails to allege a claim against Cunningham, despite sufficiently alleging was a mandatory reporter. Health care professionals are only required to report if they "develop[] the reasonable belief [of sexual abuse] in the course of treating a patient." The SAC fails to allege that Cunningham treated either Plaintiff or Fitzpatrick during the years the sexual abuse is alleged to have occurred. As such, there is also no allegation that she should have learned of the alleged abuse through her treatment of either person. Instead, the SAC alleges that Cunningham and the other Defendants learned of the alleged abuse when "Fitzpatrick later admitted publicly to abusing Plaintiff." (SAC ¶ 45).

Count IV should be dismissed against all Defendants.

3. Count V – Negligence Per Se

The purpose of negligence per se claims is to define the standard of care, the breach of which constitutes negligence per se. While criminal statutes can be the basis for negligence per se claims, they must do more than set a general standard of conduct.

Count V raises a negligence per se claim based on Arizona's child abuse statute, A.R.S. § 13-3623. This statute cannot give rise to a negligence per se claim because it only proscribes intentional, reckless, and criminally negligent acts. Intentional, reckless, and criminally negligent conduct is, by definition, not negligent, and cannot give rise to a negligence per se claim. *E.g., Finn v. Warren Cnty*., 768 F.3d 441, 451 (6th Cir. 2014) (negligence per se claim only valid if plaintiff can prove purposeful or intentional conduct proscribed by the statute); *Martinez-Delacruz v. Stuart Olson Farms, Inc*., 612 F.Supp.2d 1151, 1156 (D. Or. 2007) ("a negligent violation of the criminal statute with an 'intentional and willful' criminal capability standard cannot be actionable as negligence per se."); *Jones v. B.L. Development Corp*., 940

So.2d 961, 267 (Miss. App. 2006) (negligence per se claims based on intentional conduct subject to one year statute of limitations for intentional torts).

Count V should be dismissed. To the extent it states a claim, it must be limited to only damages based on the injuries due the alleged wrongful acts of Defendants that were a cause of sexual abuse.

4. Counts VI and VII– Negligent and Intentional Infliction of Emotional Distress

Counts VI and VII allege negligent and intentional infliction of emotional distress claim. As with Plaintiff's other claims, only the claims of emotional distress based on sexual abuse are within the statute of limitations.

The intentional claim requires allegations that Defendants "intended to inflict injury or engaged in with the realization that injury will result." *Pankratz v. Willis*, 155 Ariz. 8, 15 (App. 1987) (quoting *Davidson v. City of Westminster*, 649 P.2d 894, 901 (Cal. 1982)). The SAC only alleges that Defendants knew, or should have known, of Fitzpatrick's history of sexual misconduct and failed to protect Plaintiff. (SAC ¶ 44). Such allegations are insufficient. *Elders v. The United Methodist Church*, 793 So.2d 1038 (Fla. App. 2001) ("With regard to the church defendants, the plaintiffs' allegations boil down to a claim of negligent failure to supervise Pastor Rivers. This is legally insufficient to establish a claim for intentional infliction of emotional distress.").

While the allegations relating to Defendants' response when they learned of the abuse may be sufficient, claims based on Defendants' actions taken after the abuse occurred are not claims for injuries *based on* negligent or intentional acts that was a *cause* of the sexual abuse, and the statute of limitations is not extended by A.R.S. § 12-514.

Counts VI and VII should be dismissed.

5. Count VIII – Conspiracy

"A civil conspiracy is not actionable in Arizona." *Pankratz v. Willis*, 155 Ariz. 8, 744 P.2d 1182 (Ariz. App. 1987); *Tovrea Land & Cattle Co. v. Linsenmeyer,* 100 Ariz. 107, 131 (1966). Rather, it is a claim for damages that were caused by the specific, wrongful overt acts committed by the Defendants. *Id.* Those wrongful acts are the basis for Plaintiff's other claims. The conspiracy claim itself does not entitle Plaintiff to any further relief.

Even if the claim was not redundant of the other claims, the SAC only generally alleges that Defendants "conspired to conceal Plaintiffs abuse and neglect and at least once conspired to obstruct an investigation into Plaintiffs abuse and neglect." (SAC ¶ 103). It also alleges that Defendants continue to do so regarding other children, but it does not allege any harm Plaintiff has suffered from the continuing acts, and that allegation cannot support Plaintiff's conspiracy claim. (SAC ¶ 104).

The SAC only alleges one overt act with any particularity at all—obstructing an investigation in Plaintiff's abuse and neglect. (SAC ¶ 103). Even that is insufficient to give notice of the alleged wrongful overt acts taken by Defendants. Assuming it is the investigation referenced later in the SAC (and not "realleged" in Count VIII), regarding a 2001 DCS investigation (SAC ¶ 129), the SAC does not allege that this investigation was related to sexual abuse. Any damages caused by this alleged overt act is therefore barred by the statute of limitations.

Nowhere in the SAC is there any other specific act of "concealment" alleged. There are only conclusory assertions that Defendants "concealed" the alleged abuse. Because a

conspiracy claim requires overt acts that gave rise to damages, Count VIII should be dismissed for failure to state a claim.

6. Count IX – Aiding and Abetting

Aiding and abetting is a secondary tort. "[T]he party charged with the tort must have knowledge of the primary violation…" *Wells Fargo Bank v. Arizona Laborers*, 201 Ariz. 474, 485 (2002). The conclusory assertion that Defendants had knowledge is insufficient, where the SAC elsewhere alleges only that Defendants knew or should have known of Fitzpatrick's history of "sexual misconduct." (SAC ¶ 40). Without actual knowledge of the sexual abuse while it was occurring, it is impossible for Defendants to have substantially assisted or encouraged Fitzpatrick's abuse.

Count IX should be dismissed.

7. Count X – TVPRA - 18 U.S.C. §§ 1589, 1590, 1595

Count X is a statutory cause of action brought under 18 U.S.C. § 1589. Any action brought under 18 U.S.C. § 1595, the provision authorizing a private cause of action, must be brought no later than 10 years after the conduct occurred, or 10 years after the Plaintiff turned 18. 18 U.S.C § 1595 (C).

The Complaint alleges that Plaintiff was 19 in June 2015. She would have been at least 29 in October, 2025, when the original Complaint was filed. On its face, the SAC is barred by 18 U.S.C. § 1589(c).

A.R.S. § 12-514 does not extend the statute of limitations for this claim. The statute only extends that would otherwise be time barred under A.R.S. §§ 12-505, 12-511 and 12-542.

None of those are applicable to the limitation period in 18 U.S.C. § 1589(c). Had the legislature intended A.R.S. § 12-514 to extend the time to file all claims for sexual abuse, it would have language such as "notwithstanding any other law," rather than "[n]otwithstanding sections 12-505, 12-511 and 12-542."

Even if it were not barred by the statute of limitations, the conclusory recitations of the statutory elements are insufficient to state a claim and contradict the more detailed allegations in the SAC. For example, in support of Count X the SAC alleges "Defendants also violated 18 U.S.C. § 1590 by recruiting, harboring, transporting, providing, and obtaining Plaintiff for labor and services through coercion, threats, psychological manipulation, and isolation, even when interstate movement was not involved." (SAC ¶ 114). But the only allegation in the SAC relating to moving or obtaining Plaintiff simply states that she moved to the community as an infant when her parents joined. (SAC ¶ 27).

Nor does the allegation that "*some"* parents were required to sign documents regarding custody of their children if one were to leave the community support the claim. (SAC ¶ 111). There is no allegation that Plaintiff's parents signed an agreement. Regardless, the agreements that some parents signed is not "legal process."

Count X should be dismissed.

8. Count XI – Arizona State Trafficking Laws

Ariz. Rev. Stat. § 13-1307 does not create a private cause of action. Count XI must be dismissed for this reason.

Even if there were private cause of action, it would be barred by the one-year statute of limitations for statutory causes of action in A.R.S. § 12-541.

Even if not barred by the statute of limitations, the claim would still require dismissal. There are no allegations in the SAC that Plaintiff was trafficked while over the age of 18 to perform prostitution or sexually explicit performances, so there can be no claim under A.R.S. § 13-1307.

Any claim under A.R.S. § 13-1308 relating to forced labor is, by definition, not based on damages for sexual abuse, and A.R.S. § 12-514 does not extend the statute of limitations. The claim should be dismissed.

9. Count XII – Premises Liability

Count XII asserts conclusory allegations to claim damages based on premises liability due to a fence surrounding the property. (SAC ¶ 122). There is no allegation that the fence injured Plaintiff, nor that she was injured by any other aspect of the property. The alleged injuries are all alleged to have been caused by individuals.

Additionally, the sexual abuse claims—the only claims not barred by the statute of limitations—are alleged to have occurred between 2000 and 2003, when Plaintiff was four to seven years old (or 12 to 15 years prior to when she "escaped in 2015). The SAC alleges that GCCA was located in Sedona until 2009. There are no allegations relating to any dangerous conditions at the Sedona property.

Count XII fails to state a claim and should be dismissed.

10. Count XIII – Vicarious Liability

Count XIII relies on only conclusory allegations to assert that "GCCA is liable for the acts and omissions of its leaders, employees, counselors, and agents all of which occurred in the course and scope of their assigned duties and in furtherance of GCCA's operations." (SAC

¶ 124). It does not identify any person, nor the acts those persons are alleged to have committed. The vague, conclusory assertion is insufficient to state a claim.

There is no allegation that Fitzpatrick was an employee, leader, counselor, or agent of GCCA as a teenager when he allegedly sexually abused Plaintiff. Even if such allegations were raised, the "virtually unanimous" majority rule is that sexual abuse is outside the scope of employment and an employer is not vicariously liable, even in the context of a priest. *Doe v. Roman Catholic Church of the Diocese of Phx*., 255 Ariz. 483, 492 (App. 2023); *see also, Rita M. v. Roman Catholic Archbishop of L.A.*, 187 Cal. App. 3d 1453, 1461 (1986) ("It would defy every notion of logic and fairness to say that sexual activity between a priest and a parishioner is characteristic of the Archbishop of the Roman Catholic Church..."); *Elders v. United Methodist Church*, 793 So. 2d 1038, 1041 (Fla. 3d DCA 2001) ("As a matter of common sense, having sexual relations with a counselee is not part of the job responsibilities of a minister.").

Count XIII should be dismissed.

11. Count XIV – Arizona Civil Racketeering

Count XIV alleges violations of Arizona's racketeering laws, A.R.S. § 13-2301 and 13-2314.04. This statutory cause of action contains its own statute of limitations, which can be no longer than 10 years after the Plaintiff turned 18. A.R.S. § 13-2314.04(F). Since Plaintiff was at least 29 years old when the original complaint was filed, this claim should be dismissed.

The SAC also fails to state that a copy of the complaint was served on the attorney general within 30 days of filing the action, as required by the statute. "This requirement is jurisdictional." A.R.S. § 13-2314.04(H). Count XIV should be dismissed for this reason alone.

Further, the SAC is not verified, as required by subsection (O). That verification certifies that the claim is well grounded in fact and warranted by existing law. A.R.S. § 13-2314.04(P).

Due to the lack of a good faith argument for this claim being within the statute of limitations, not being properly verified, and failing to send to the attorney general, the Court should award Defendants their attorney's fees and costs incurred relating to this claim pursuant to A.R.S. § 13-2314.04(A).

12. Count XV – Fraudulent Concealment

Fraudulent concealment requires the parties to be part of a transaction with each other. *Wells Fargo Bank v. Arizona Laborers*, 201 Ariz. 474, 38 P.3d 12 (Ariz. 2002) ("Arizona recognizes the tort of fraudulent concealment: One party to a transaction who by concealment or other action intentionally prevents the other from acquiring material information is subject to the same liability to the other, for pecuniary loss as though he had stated the nonexistence of the matter that the other was thus prevented from discovering."). The SAC does not allege Defendants and Plaintiff entered into a transaction, in which Defendants concealed material information from Plaintiff. Count XV fails to state a claim and should be dismissed.

13. Count XVI – Breach of Fiduciary Duty

Count XVI recites conclusory allegations to claim that "by controlling Plaintiff's upbringing, caretakers, housing, and daily existence, Defendants undertook fiduciary duties and breached them." (SAC ¶ 134). There is no indication which of the alleged damages was caused by the breach of the undefined fiduciary duties. For that reason, it is impossible to discern the scope of the fiduciary duty allegedly owed, how it was breached, and how the

breach was a negligent or intentional act that caused sexual abuse. The claim should be dismissed because it is insufficiently pled.

14. Count XVII – Reckless Endangerment

Count XVII is insufficiently pled. Indeed, it is unclear what it is even trying to allege. The extent it is claiming a statutory cause of action based on A.R.S. § 13-1201, the statute does not create a private cause of action. To the extent it is alleging negligence per se, A.R.S. § 13-1201 does not proscribe specific conduct, but only sets out a general standard of care and cannot give rise to a negligence per se claim. *Ibarra v. Gastelum*, 249 Ariz. 493, 497 (App. 2020). Nor does A.R.S. § 13-1201 define any particular class of persons to which Plaintiff could belong.

To the extent Count XVII is alleging a common law cause of action, Defendants are not aware of any Arizona case determining that such an action even exists, and other jurisdictions that have addressed it have held that it is not a cause of action. *E.g., Duran v. Detroit News, Inc*., 504 N.W.2d 715, 725 (Mich. App. 1993); *Kovalev v. Lidl US, LLC*, 647 F.Supp.3d 319, 351 (E.D. Pa. 2022); *Faltas v. State Newspaper*, 928 F.Supp. 637, 654 (D. S.C. 1996); *Hartline v. Nat'l Univ.*, No. 2:14-CV-0635 KJM-AC, 2015 WL 4716491, at *9 (E.D. Cal. Aug. 7, 2015).

The claim should be dismissed.

15. Count XVIII – Failure to Report

Count XVIII is duplicative of Count IV and should be dismissed for the same reasons. To the extent it is asserting additional claims, it is conclusory and vague. If the citation to A.R.S. § 13-2409 is meant to allege a statutory cause of action, none exists, and it is too

general, lacking a specific group to be protected, and proscribes only intentional conduct, so it cannot be the basis of a negligence per se claim.

The claim should be dismissed.

16. Count XIX – Punitive Damages

Only claims for damages based on negligent or intentional acts that caused sexual abuse possibly survive the statute of limitations, and only those claims can provide the basis for the punitive damages claim. The allegations claiming that Defendants' negligence was a cause of sexual abuse amount to failing to protect Plaintiff from Fitzpatrick despite knowledge of his history of "sexual misconduct," which consisted of "exposing himself to children" and "engaging in bestiality." (SAC ¶ 44). There is no allegation that Fitzpatrick had a history of sexually assaulting children.

Theses allegations are insufficient to warrant punitive damages. Punitive damages require both an "evil hand" and "evil mind." *Swift Transp. Co. of Ariz. L.L.C. v. Carman*, 253 Ariz. 499, 503 (Ariz. 2022). "Neither gross negligence nor reckless indifference [are] sufficient any longer for a punitive damage claim." *Id.* It requires a " knowing culpability." *Id.* at 505.

The most generous interpretation of the allegations in the complaint establish only that Defendants were indifferent to the possibility that Fitzpatrick would not only continue to engage in "sexual misconduct," but escalate it into sexually abusing Plaintiff. That is far short of the required showing that Defendants knew Fitzpatrick would sexually abuse Plaintiff and acted to ensure that it would occur. The punitive damages claims are insufficient and should be dismissed.

Additionally, the SAC inexplicably cites A.R.S. § 12-653.02 as the apparent basis for the claim for punitive damages. Section 12-653.02 applies to defamation cases where the defendant failed to retract the defamatory statements. There are no allegations to support such a claim, and, if the SAC seeks punitive damages under A.R.S. § 12-653.02, the claim should be dismissed.

17. Counts XX and XXI – RICO

Count XX raises a statutory cause of action authorized by 18 U.S.C. § 1964. It is subject to a four-year statute of limitations. *Agency Holding Corporation v. Associates, Inc Crown Life Insurance Company v. Associates, Inc*, 483 U.S. 143,156 (1987). The four-year statute ran long ago and the claims is time-barred. A.R.S. § 12-514 does not purport to overturn United States Supreme Court precedent, nor could it alter the statute of limitations for federal claims. *Id.* at 147 ("The characterization of a federal claim for purposes of selecting the appropriate statute of limitations is generally a question of federal law").

Even in time-barred, the complaint fails to state a claim. 18 U.S.C. § 1964 limits the authorized civil action to a person "injured in his business or property." There is no allegation of an injury to Plaintiff's business or property in the SAC, and even if there were, the claims would not be for damages based on sexual abuse and the statute of limitations is not extended by A.R.S. § 12-514.

The Conspiracy claim in Count XXI must also be dismissed for the same reasons. Plaintiff has no claim for damages due the alleged RICO violations; any alleged conspiracy does not create new damages or otherwise expand the scope of claims authorized by 18 U.S.C. § 1964.

Count XX and XXI should be dismissed.

Conclusion

All claims must be dismissed if Plaintiff turned 18 more than 12 years before October 17, 2025. If the complaint was filed within the 12-year period allowed under A.R.S. § 12-514, only the claims based on damages for sexual abuse or the failure to report sexual abuse are timely, and the remaining claims must be dismissed.

Defendants should be awarded attorneys' fees and cost, plus any other sanction deemed appropriate, for defending the claim brought pursuant to A.R.S. § 13-2314.04. Further, Defendants also request an award of fees and costs or other appropriate sanction pursuant to A.R.S. § 12-349. The majority of the claims are clearly time-barred on their face, and this is no reasonably argument that A.R.S. § 12-514 extends the statute of limitations found in any applicable statute other than A.R.S. § 12-514. The 21-count SAC needlessly expanded a simple negligence into a federal affair, requiring substantial time to address each allegation.

Dated: March 17, 2026

STACKHOUSE LAW, PLC

By: */s/Timothy Stackhouse*
Timothy P. Stackhouse
Attorney for Defendants

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March 17, 2026 to:

Thea Gilbert
GILBERT LAW FIRM, PC
1661 N. SWAN RD., STE. 258
Tucson, AZ 85712
gilbertlaw5000@gmail.com

Karen Barth Menzies
Kelly Guagenty
Keith Smith
JUSTICE LAW COLLABORATIVE LLC
210 Washington Street
North Easton, MA 02356
kelly@justicelc.com
keith@justicelc.com
karen@justicelc.com

Attorneys for Plaintiff

By: *Timothy P. Stackhouse*