

STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT
WAYNE COUNTY

JANE DOE, a minor by and through
her next friends JULIE DOE
and JOHN DOE; JULIE
DOE, individually; and JOHN
DOE, individually,

Plaintiffs,

Case No. 19- _____ -NO

v.

Hon.

FIRST PRESBYTERIAN
CHURCH OF PLYMOUTH,
MICHIGAN; VICTORIA BARKOFF,
individually and as an agent of First
Presbyterian Church of Plymouth,
Michigan; and LISA WILLIAMS,
individually and as an agent of First
Presbyterian Church of Plymouth,
Michigan;

Defendants.

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There is no other pending or resolved civil action arising out of the same transaction or
occurrence alleged in this complaint.

COMPLAINT AND JURY DEMAND

INTRODUCTION

1. On Palm Sunday, in 2017, the Doe family attended church services as usual, at
their community church, The First Presbyterian Church of Plymouth, Michigan. It was one of

the biggest celebrations of the year, for one of the holiest days, and many Church members were present that day. John and Julie Doe took their children with them to the services and their oldest child, five-year-old Jane Doe, participated in the Church's Sunday School and Palm Sunday performances. What was to have been a time of commemoration and solemn reflection quickly became their and every parent's worst nightmare.

2. The Doe family entrusted their daughter, Jane Doe, to the Church's Sunday School program and believed, based on the Church's representations, that their daughter would be properly supervised and safe. Instead, Jane Doe was completely and dangerously unsupervised. She left the classroom alone, and, during a period of some 20 minutes, an adult man wearing a cross was able to target and accost her, direct her into a bathroom, sexually assault her by digitally penetrating her vagina, exposing his penis and leaving his DNA in her underwear, and disappear without hindrance or detection.

3. The Church's Sunday School security practices and policies were so lacking that it made the assault possible and, then, finding the assailant impossible, even though the assault took place over a period of twenty minutes and the assailant left traces of his DNA. To wit, the Church's Sunday School had no direct supervision over Jane Doe, and no person purportedly performing such function noticed her departure and extended absence from the classroom. There were no limitations or restrictions on who had access to the children during Sunday School, no sign-in sheets identifying those who did, and no security personnel. The Church had no systems or documentation to identify who entered or exited the facility. There were no security cameras in the basement where the Sunday School was held. Church personnel interviewed by the police could not identify the predator or provide other meaningful information. As a result, the police

have been unable to identify the predator – who roams free – despite immediately opening an investigation.

4. The Doe family brings this suit to recover for the significant damages they and their daughter have suffered, and will continue to suffer, as a result of the Church’s negligence and the negligence of its employees. The Does bring this suit to seek justice for Jane Doe, incite change in the Church’s policies, practices, and attitudes toward childcare safety, and ensure that no other child or family suffers similarly.

PARTIES AND JURISDICTION

5. Plaintiff Jane Doe is a minor and resident of Wayne County, Michigan.

6. Plaintiff Julie Doe is the mother and next friend of Jane Doe. She is a resident of Wayne County, Michigan. Plaintiff John Doe is the father and next friend of Jane Doe. He is a resident of Wayne County, Michigan.

7. Defendant First Presbyterian Church of Plymouth, Michigan is a domestic non-profit corporation located and operating in Wayne County, Michigan.

8. Defendant Victoria Barkoff is an individual who was, at all relevant times, an employee of First Presbyterian Church of Plymouth, Michigan. Upon information and belief, she is a resident of Wayne County, Michigan.

9. Defendant Lisa Williams is an individual who was, at all relevant times, an employee of First Presbyterian Church of Plymouth, Michigan. Upon information and belief, she is a resident of St. Louis, Missouri.

10. The claims in this action arise under the common and statutory laws of Michigan.

11. The amount in controversy is at least \$25,000.

12. Jurisdiction and venue are proper in Wayne County. The events giving rise to this suit occurred in Wayne County, Michigan. The Plaintiffs reside in Wayne County, Defendant First Presbyterian Church of Plymouth, Michigan is located and operates in Wayne County, and Defendant Barkoff, upon information and belief, is a resident of Wayne County.

FACTUAL ALLEGATIONS

13. The First Presbyterian Church of Plymouth, Michigan (“the Church”) is located in Plymouth, Michigan, a small town of approximately 9,000 people.

14. In 2017, the Church had 789 active members.

15. As part of its regular programs, the Church offers child-care services for infants and toddlers every Sunday morning during church services.

16. The Church also offers a Sunday School program for children from preschool age to fifth grade. The Sunday School program runs during Sunday morning services.

17. Generally, children attend the beginning of services with their parents until the children are called forward and escorted to the Sunday School classrooms in the basement of the Church.

18. Classes are typically separated by children in preschool through kindergarten, and children in first through fifth grade. A team of two adults teaches Sunday School and presents weekly lessons from a set curriculum.

19. Sunday School teachers are both Church staff members and volunteers.

20. Sunday School leaders must be a member of the Church, an adult family member of a child involved in the program, an adult family member of Church staff, or a person known and recommended by a Church staff member.

21. John Doe and Julie Doe (“the Does”) have been members of the Church for many years.

22. John Doe and Julie Doe attended weekly services at the Church and celebrated many special occasions there. The couple was married in the Church, Jane Doe was baptized in the Church, and the Does’ youngest child was set to be baptized in the Church.

23. John and Julie Doe are protective parents. After their second child was born, Julie Doe quit her job to stay home to raise their children, specifically to avoid the need for babysitters and daycare. Before their second child was born, Julie Doe worked part-time only and only her mother watched Jane Doe.

24. The Does work hard to balance protecting their children without sheltering them too much and, as a result, are very selective of whom they allow to take care of their children. The Does had never paid for a babysitter to watch their children and had never left them with anyone besides Julie Doe’s parents or select female relatives.

25. Despite their protective nature, the Does trusted the Church—an institution and community of central importance in their lives—to care for their young child, Jane Doe, while they attended Sunday services. Prior to entrusting the safety of Jane Doe to the Church, Julie and John Doe reviewed and relied upon the Church’s Sunday School safety policies.

The Church’s Sunday School Protocol

26. At all times relevant to this Complaint, the Church maintained a Sunday School Child Safety Protocol and a Ministry with Minors Policy.

27. The Church’s policy required that two adults be present in each classroom, irrespective of the number of children present, the size of the Church event, or the number of non-Church members on the premises.

28. Significantly, Church policy also required that “[a] teacher would take a child to the bathroom and stand outside the door and wait until the child emerged to walk them back to the classroom.”

29. The Church acknowledged that it maintained these policies specifically to avoid child abuse, a known and foreseeable risk of inadequate supervision, as its Ministry with Minors Policy states: “The disturbing and traumatic rise of abuse of children has claimed the attention of our nation and our society. The following statements reflect the commitment of First Presbyterian Church to provide a safe environment for all children, youth, and adults who participate in church-sponsored ministries.”¹

30. The Does relied on these assurances from the Church about their child’s safety when they entrusted Jane Doe’s care and well-being to the Church.

31. Because of the importance of their religious beliefs and spiritual community, their desire to cultivate Jane Doe’s religious education, and the trust they had for the Church, its staff, and its members, the Does allowed Jane Doe to participate in the Church’s Sunday School program, with the understanding that she would be properly supervised at all times.

The Events of Palm Sunday, April 9, 2017

32. On April 9, 2017, John and Julie Doe took their children to Palm Sunday services at the Church.

33. At the time, Jane Doe was only five years old.

34. Palm Sunday is one the Church’s largest yearly celebrations, as it marks the beginning of Holy Week in the Christian faith. Palm Sunday occurs on the Sunday before Easter and commemorates Jesus’s triumphal entry into Jerusalem, commencing a time of solemn reflection on the final week of Jesus’s life.

¹ *Ministry with Minors Policy*, First Presbyterian Church, Plymouth, Michigan (Sept. 21, 2009).

35. The Church held three services that morning: one at 9:00 a.m. and two at 10:30 a.m.

36. Prior to April 9, 2017, Jane Doe had been to Sunday School classes with the 4–5 year old age group approximately 8 to 10 times, but this Palm Sunday she attended, for the first time, a combined K–5 Sunday School class.

37. The Palm Sunday services began with a special processional in which the Sunday School children sang. The children sang at the beginning of each service and Sunday School was held between the 9:00 a.m. service and the 10:30 a.m. services.

38. On special occasions, such as Palm Sunday, Sunday School classes are different and often operate on a modified schedule.

39. On Palm Sunday, the Sunday School program was a “combined” class with all K-5 students, as opposed to the normal program, which included separate classes for each age group.

40. On Palm Sunday, the usual Sunday School teachers were given the day off for Spring Break, to allow them either to rest or to attend services with their families, without the obligation of teaching.

41. The Doe family had received an email from Ms. Barkoff, several weeks earlier, informing them that on April 2, the Sunday before Palm Sunday, the Sunday School teachers had the day off and the Church would run a combined Sunday School class.

42. The Does relied on that email and, knowing that the regular teachers had the day off and the class would be larger than normal, chose not to leave Jane Doe alone at Sunday School that day. John Doe stayed with Jane Doe during Sunday School.

43. The Does received other emails from Ms. Barkoff the following week about the schedule for Palm Sunday. The emails only asked that the parents consider having their children sing during both services on Palm Sunday and that the Sunday School class would be combined, but did not state that the regular Sunday School teachers would have the day off.

44. The Does relied on that email in allowing Jane Doe to attend Sunday School alone that day. If the Does had been aware that the regular teachers had the day off, they would not have left Jane Doe alone that day.

45. On that day, Victoria Barkoff and Lisa Williams, both Church employees, were in charge of the Sunday School program.

46. At the time, Ms. Barkoff was the Director of Children's Ministry and oversaw the Church's Sunday School programs and teachers, a position she had held for five years.

47. Ms. Williams was the Director of the Church's Bridge Midweek Program, a family ministry program held on Wednesday evenings. Ms. Williams held the position for four years.

48. Parents and children, including the Does, began to arrive in the basement classroom hallway at 8:35 a.m. As the Does were dropping off Jane Doe to the Sunday School program, they encountered Ms. Barkoff, who assured them Jane was in good hands and led her away to the program.

49. Shortly before the start of the 9:00 a.m. services, Ms. Barkoff and Ms. Williams helped the children, including Jane Doe, line up and waited for the cue for the children to enter the Sanctuary to perform and sing in the processional.

50. After the processional finished, around 9:20 a.m., Ms. Barkoff and Ms. Williams took Jane Doe and the other children and returned to the basement dining room for modified Sunday School class.

51. The modified Sunday School lesson included a short video, lasting approximately 10 minutes, a coloring activity, lasting approximately 15 minutes, and a prayer labyrinth.

52. The first service ended at 10:00 a.m. and many parents returned downstairs to pick up their children.

53. John Doe picked up Jane Doe and went out to their car to have a snack before the second service.

54. John Doe returned Jane Doe to the Sunday School classroom in the Church basement at approximately 10:20 a.m. before he and Julie Doe went upstairs for the second service, during which the children performed a second special processional.

55. At some point during the Sunday School session, Jane Doe needed to use the bathroom.

56. Ms. Barkoff and/or Ms. Williams allowed or told Jane Doe to leave the classroom unaccompanied, walk down the hall by herself, and use the bathroom alone.

57. Jane Doe was unsupervised for 20 minutes, during which time Ms. Barkoff and Ms. Williams either failed to notice Jane Doe's absence or knew that she had left the room alone to go down the hall to use the bathroom.

58. During those 20 minutes when Jane Doe was left alone, unsupervised, and vulnerable, an adult man wearing a cross on a necklace took Jane Doe into the bathroom in the Church basement and sexually assaulted her, digitally penetrating her vagina. The man also exposed his penis to Jane Doe.

59. After Jane Doe returned to the Sunday School classroom, Ms. Barkoff noticed that she was the last to complete the coloring activity and the last one in line for the prayer labyrinth. Ms. Barkoff also noted that Jane Doe seemed upset. Ms. Barkoff never inquired about Jane Doe's distress, nor did she alert Jane Doe's parents to the change in her behavior when they returned to pick her up.

60. Upon information and belief, Ms. Barkoff did not remain in the Sunday School classroom for the entire class period, and left to distribute paperwork in the Church sanctuary.

The Police Investigation

61. After Church services, John and Julie Doe returned home with their children. That night, Jane Doe, sobbing, disclosed the sexual assault to her mother.

62. The next morning, Julie Doe and John Doe went to the Plymouth Police to report their daughter had been sexually assaulted at the Church.

63. The Does told the responding officer about several men they had seen in the Sunday School room around the children, and suggested the officer talk to Ms. Barkoff, who they understood surely would be able to identify the man who had taken Jane Doe to the bathroom.

64. Julie Doe also gave the responding officer Jane Doe's dress, tights, and underwear that she had worn the previous day to Church, and all three were tagged as evidence.

65. Jane Doe's clothes tested negative for semen, but positive for unknown male DNA.

66. The Plymouth Police contacted Ms. Barkoff, who reported that two men had been in the Sunday School classroom the morning before. She later remembered two additional men who, for some unknown reason, had been in the basement that day, along with two high-school

age males—both of whom she knew to have behavioral issues—who routinely and regularly were allowed to roam unsupervised through the Church hallways, although she could not remember whether either had been present on Palm Sunday.

67. The Plymouth Police thoroughly investigated. After a 17-month investigation, exhausting all investigative leads, and without additional information from the Church on possible suspects, the police closed the investigation into Jane Doe’s assault.

68. Throughout the police investigation, the Church leadership only minimally cooperated with the detectives, focusing instead on minimizing the incident and protecting itself.

69. The Church did not notify other parents in the congregation that the police were investigating reported sexual abuse during Sunday School until one month after the incident. During that time, parents continued to send their children to the Church’s Sunday School Program, unaware of the ongoing criminal investigation and potential danger to their children.

70. Even once the Church informed parents of the report and investigation, the message was vague and referred only to “an alleged incident,” including no indication of the serious nature of the report. The only indication about what had happened was the Church’s announcement of its new bathroom policy for its Sunday School program.

71. Despite the Church’s documented knowledge of the risk of child abuse and supposed concern about preventing child abuse in its Sunday School program, Defendants failed to keep any accurate records of who attended Palm Sunday services that day, monitor who had access to the children participating in Sunday School in the basement, or maintain any policies or practices for increased supervision of children during high-attendance Church events.

72. The Church did not have any video cameras or other security measures in the Church hallways, nor did they take any steps to prevent persons unassociated with the Sunday School program from accessing and secluding children.

73. Due to the Defendants' many egregious failures, even the police have been unable to identify the individual who perpetrated sexual assault against Jane Doe.

74. Since the assault, Jane Doe has suffered diagnosed post-traumatic stress disorder ("PTSD"), along with persistent headaches and stomachaches, difficulty sleeping and eating, chronic sadness, anger, shame, dissociation, and withdrawal. Julie Doe and John Doe also have suffered from diagnosed PTSD due to the sexual assault against their daughter.

75. Both Ms. Barkoff and Ms. Williams resigned from their respective positions in 2017.

76. The Doe family has since left the Church, feeling ostracized and unsupported by the Church leadership.

COUNT I
Negligence
(Against the Church)

77. The allegations of the preceding paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

78. The Church, individually and through its agents, owed a duty to all of the children in its care for whom it had assumed control of their safety, including Jane Doe, to use reasonable care to protect those children from injury or harm.

79. The Church, individually and through its agents, owed a duty to Jane Doe based on the special relationship between a teacher and a student.

80. The Church, individually and through its agents, owed a statutory duty of care under MCL 722.622 to act reasonably to prevent the sexual abuse of Jane Doe, for whom it was responsible.

81. The Church had or should have knowledge of the foreseeable risk of child abuse in the absence of proper child supervision.

82. The Church breached those duties and was negligent, by:

- a. understaffing its Sunday School program on Palm Sunday;
- b. maintaining inadequate and insufficient childcare policies and practices;
- c. failing to adequately train its employees to properly supervise, monitor, or protect the children in their care;
- d. failing to adequately supervise its employees;
- e. failing to adequately monitor or keep track of who attended Church services;
- f. failing to document or monitor non-Church members who attended special services;
- g. failing to monitor, keep track of, or otherwise control who had access to the children during Church services;
- h. failing to place security cameras in the Church basement; and
- i. was otherwise negligent.

83. As a direct and proximate result of the Church's negligence, Jane Doe, John Doe, and Julie Doe sustained and continue to sustain injuries for which they are entitled to be compensated.

COUNT II
Negligent Misrepresentation
(Against the Church)

84. The allegations of the preceding paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

85. The Church made material representations to the Does about the safety and security of its Sunday School program. For example, the Church stated in its policy that a teacher would take a child to the bathroom, stand outside the door, and wait until the child finished to walk them back to the classroom. The Church also stated that teams of two adults would supervise all Sunday School classes and if too few teachers were available to supervise Sunday School classes, the class would be cancelled.

86. The Church knew the falsity of the statements or made such positive assertions recklessly, without any knowledge of their truth.

87. The Church made the statements with the intention that the Does and other families would act on them, entrusting the care and supervision of their children to the Church.

88. The Does relied on the representations, statements, and assertions made by the Church as to the safety and security of Jane Doe while she was in the Church's care.

89. As a direct and proximate result, Jane Doe, John Doe, and Julie Doe suffered harm and injury.

COUNT III
Negligence
(Against Barkoff and Williams)

90. The allegations of the preceding paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

91. Barkoff and Williams owed a duty to all of the children in their care for whom they had assumed control of their safety, including Jane Doe, to use reasonable care to protect those children from injury or harm.

92. Barkoff and Williams owed a duty to Jane Doe based on the special relationship between a teacher and student.

93. Barkoff and Williams owed a statutory duty of care under MCL 722.622 to act reasonably to prevent the sexual abuse of Jane Doe, for whom they were responsible.

94. Barkoff and Williams had or should have knowledge of the foreseeable risk of child abuse in the absence of proper child supervision.

95. Barkoff and Williams breached those duties and were negligent, by:

- a. failing to adequately supervise Jane Doe;
- b. failing to observe or know who was present in the classroom or the Church basement or who had access to the children during the time Jane Doe was unsupervised;
- c. allowing or affirmatively telling Jane Doe to leave the classroom alone, walked down the hallway unsupervised, and use the bathroom by herself;
- d. failing to prevent Jane Doe's sexual abuse;
- e. failing to report Jane Doe's observed behavioral changes to John Doe or Julie Doe; and
- f. were otherwise negligent.

96. As a direct and proximate result of the Church's negligence, Jane Doe, John Doe, and Julie Doe sustained and continue to sustain injuries for which they are entitled to be compensated.

COUNT IV
Vicarious Liability
(Against the Church)

97. The allegations of the preceding paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

98. At all relevant times, Ms. Barkoff and Ms. Williams were agents or employees of the Church, acting within the scope of their agency or employment.

99. Pursuant to the doctrine of *respondeat superior* or vicarious liability, the Church is vicariously liable for all damages caused by its agents.

100. For such injuries proximately resulting from the conduct of Ms. Barkoff and Ms. Williams, as described and fully set forth herein, the Church is liable.

COUNT V
Tortious Infliction of Emotional Distress
(Against All Defendants)

101. The allegations of the preceding paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

102. John Doe and Julie Doe are Jane Doe's parents and members of her immediate family.

103. The sexual abuse and injury inflicted on Jane Doe was serious and of a nature to, and did, cause severe mental disturbance to her parents, John and Julie Doe.

104. John and Julie Doe suffered severe shock fairly contemporaneous with Jane Doe's abuse.

105. The shock that John and Julie Doe suffered caused them physical harm. Both John and Julie Doe have been diagnosed with Post-Traumatic Stress Disorder as a result of Jane Doe's abuse.

106. As set forth more fully above, Jane Doe's injury and John and Julie Doe's subsequent emotional distress were the direct and proximate result of the Church and its agents' negligence.

107. As a direct and proximate result of the Church and its agents' negligence, John Doe and Julie Doe sustained and continue to sustain injuries for which they are entitled to be compensated.

JURY DEMAND

108. The Plaintiffs demand a trial by jury.

PRAYER FOR RELIEF

Plaintiffs pray the Court for judgment against Defendants as follows: (1) compensatory damages in an amount to be proven at trial; (2) exemplary damages; (3) pre- and post-judgment interest; and (4) such other further relief as the Court deems just and proper.

Date: January 3, 2019

/s/ Monica H. Beck
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