

CAUSE NO. 2016-81879

*In re. A. M., a minor at the time
of the events in question.* § IN THE DISTRICT COURT
 §
 § 113th JUDICIAL DISTRICT
 §
 § OF HARRIS COUNTY, TEXAS

PLAINTIFF'S AMENDED ORIGINAL PETITION, REQUEST FOR
TEMPORARY ORDERS AND PERMANENT INJUNCTION,
AND JURY DEMAND

TO THE HONORABLE COURT:

A.M., hereinafter Plaintiff, files this Amended Original Petition, Request for Temporary Orders and Permanent Injunction, and Jury Demand complaining of the conduct of defendants Sean A. McIntosh (hereinafter "McIntosh"), Shawn Baker (hereinafter "Baker"), Jane Doe KFC Managers (hereinafter "Jane Doe Managers"), KFC US Properties, Inc. (hereinafter "KFC Properties"), KFC Corporation (hereinafter "KFC Corp.") and alleges the following:

I. SUMMARY OF CASE

1.1 At sixteen (16) years of age, Plaintiff was repeatedly imprisoned, sodomized, sexually assaulted and had her privacy rights recklessly invaded by defendant McIntosh. McIntosh was aided and abetted in his wrongful conduct by the conscious indifference and grossly negligent conduct of Baker and the Jane Doe Managers sued herein. McIntosh's pedophilic and abusive conduct was known by the owners and operators of the premises (KFC Properties and KFC Corp.)¹ where plaintiff was being physically violated and imprisoned. None of the premises owners and operators took any

¹ At the time Plaintiff was hired the property was owned by KFC Properties. After several months title to the property where the assaults were occurring was conveyed and transferred to KFC Corporation.

action to protect Plaintiff from the misconduct and sexual assaults occurring on the premises nor to provide reasonable security measures to prevent McIntosh from further abusing Plaintiff. Rather than protect the child Plaintiff from known dangers, all defendants conspired and/or actively aided and abetted McIntosh in his abuse of Plaintiff on and away from the premises. The defendants cooperated in maintaining the dangerous and known sexual predation occurring on the KFC premises. Children were being sexually molested by adult KFC managers and the disgusting behavior was being covered up by Baker and the Jane Doe Managers. Because each of the KFC defendants retained sufficient control over the premises and/or owed a duty to plaintiff to report the child abuse, but did nothing reasonable to protect plaintiff, they are now liable for Plaintiff's actual and punitive damages.

1.2 Based on information and belief, Plaintiff sues all individual defendants in both their individual capacity and as vice principals of KFC Properties/KFC Corp. Moreover, McIntosh and the Jane Doe Managers have slandered plaintiff by falsely claiming she consented to the unlawful sexual assaults. As a matter of law, an unemancipated 16 year old in Texas cannot consent to have sex with a 35 year old adult male. Plaintiff sues all defendants for damages exceeding \$5,600,000.00, plus punitive damages of not less than \$1,000,000 or as determined by the jury.

1.3 Additionally, plaintiff asserts her common law claims against all defendants for damages resulting from the imprisonment, assaults, battery, invasion of privacy and reckless conduct of McIntosh, which was aided and abetted by Baker and the Jane Doe Managers. McIntosh performed his reckless conduct against Plaintiff in both his individual and vice principal capacities working for KFC Corp. and KFC Properties. The Jane Doe

Managers and Baker, as vice principals of KFC Corp. and KFC Properties, were negligent and grossly negligent in aiding and abetting McIntosh's conduct. All of the defendants' conduct enhanced plaintiff's damages at the hands of McIntosh when she was imprisoned and assaulted on the property and taken away from the premises and assaulted. Such invasive injuries away from the premises forced the child to lose all control of her private life and created the warped worldview that her entire existence was only to service the sexual appetites of an indulgent adult male. Defendants' conduct was unconscionable. Plaintiff also seeks actual damages of at least \$3,500,000, plus punitive damages of at least \$1,500,000, for false imprisonment and sexual assaults of plaintiff off-site.

II. DISCOVERY PLAN

2.1 This case should proceed under a Level 3 discovery plan. An appropriate docket control order will be requested.

III. PARTIES

3.1 Plaintiff resides in Houston, Harris County, Texas. She was 16 years old when all of the conduct complained of in this suit occurred. Her true name will be filed with the court under seal at an appropriate time because of the sensitive nature of the claims asserted in this suit.

3.2 Defendant Sean McIntosh is an adult who resides in Houston, Harris County, Texas and may be served with process at 8110 Creekbend Drive, Apartment 508, Houston, Texas 77071 or wherever he may be found.

3.3 Defendant Shawn Baker is an individual residing in Texas and may be served with process at his place of employment with the KFC Corporation, identified as Store #150182, located at 3130 FM 1960 Road W. Humble, Texas 77338 or wherever he

may be found.

3.4 Defendant Jane Doe KFC Manager are individual KFC managers whose identities are not yet known but who are believed to reside in Harris County, Texas. Service of process will be requested when their identities and locations are obtained during discovery in this case.

3.5 Defendant, KFC Corporation is a Foreign For-Profit Corporation conducting business in the state of Texas under the name KFC Corporation of Delaware, and may be served with process through its registered agent CT Corporation Systems, located at 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

3.6 Defendant KFC Properties, Inc. owned the property at issue in this case and may be served with process through its registered agent CT Corporation Systems, located at 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

3.7 Defendant Yum! Brands, Inc. is a Foreign For-Profit Corporation with a principal place of business at 1441 Gardiner Lane, Louisville, Kentucky 40213 and conducting business in the state of Texas. Yum! Brands operates numerous restaurants in this judicial district, and has a corporate office located at 7100 Corporate Drive, Plano, Texas 75024. Yum! Brands may be served with process through its registered agent CT Corporation System, located at 1999 Bryan St., Ste. 900, Dallas, Texas 75201.

IV. JURISDICTION

4.1 This Court has subject matter jurisdiction over the claims asserted in this case because the amount in controversy exceeds the minimum jurisdictional amount of this Court, all conditions precedent to bring this suit have occurred, and the events complained of in this case are within this court's constitutional and statutory jurisdiction.

V. VENUE

5.1 Venue in Harris County, Texas is appropriate because all or a substantial part of the acts and omissions giving rise to this suit occurred in Harris County, Texas. See *TEX. CIV. PRAC. & REM. CODE* 15.002(a)(1). Venue is further and independently proper in Harris County, Texas because at least one of the named defendants resides in Harris County, Texas. See *TEX. CIV. PRAC. & REM. CODE* 15.002(a)(2).

VI. PLAINTIFF'S STATEMENT OF DISAFFIRMANCE

6.1 Between September 29, 2013 and March 15, 2015, I worked at a Kentucky Fried Chicken store which I believe was identified as Store #150182. The store was managed by KFC manager Sean McIntosh. When I was hired to work at the Kentucky Fried Chicken store I was 16 years old. I was 16 throughout the entire time that employees were given the choice to accept or reject worker's compensation coverage and any other opportunities that would have forfeited or abandoned my rights to a trial before a judge or jury for injuries I might sustain while working at the store. Further, during the entire time that I worked at the store I was under the age of 18 years. I never attained 18 years of age while working at the KFC store.

6.2 I unconditionally disaffirm any contract for or offer of workers compensation coverage provided by the KFC Store, if any, or any other insurance, contracts, policies or benefits for people working at the KFC store that would deprive me of my right to have my personal injury and damage claims asserted against KFC Corp., KFC US Properties and their managers or anyone else from being adjudicated in a court of law before a judge and jury, and I specifically insist on my unimpaired constitutional right

to have a trial by jury in this lawsuit filed against defendants in this suit. I am 19 years old now when this suit is being filed on my behalf.

VII. NOTICE FACTS

7.1 While a child at the age of 16, A.M. was recklessly sodomized, imprisoned, seduced and repeatedly sexually assaulted by a 35 year old Kentucky Fried Chicken general store manager named Sean McIntosh. McIntosh forced plaintiff into having unprotected oral and vaginal sex at hotels, at the KFC store, at the trash dumpster, in cars and at other off-site locations. In addition to sexually assaulting this child, McIntosh gave no heed or caution to Plaintiff contracting a sexually transmitted disease or becoming pregnant. He insisted that all sex acts be performed without a condom or protective barrier.

7.2 McIntosh did not hide his sexual objectification and predation on women. He often posted public comments on his social media sites showing his insatiable sexual practices. His reckless sexual practices should have been well-known by the property and business owners just from his postings. But Plaintiff will show that in addition to his notorious postings, McIntosh actually shared his sexual predation with other users of the property. McIntosh, Baker, and the Jane Doe Managers aided and abetted one another to allow McIntosh's sexual abuse of Plaintiff to go unaddressed. McIntosh was so confident he would suffer no repercussions for his disclosed sexual activities that he did nothing to hide his predatory appetite from anyone. It was such conscious indifference to the rights and sexual integrity of A.M. that resulted in plaintiff being imprisoned by McIntosh, sexually abused and humiliated on and off of the KFC premises. Just a casual review of McIntosh's postings reveals the utter disrespect he had for women. Following are just a few of his postings:

- December 8, 2012: "I hate it when people rub things in my face...unless it's boobs."
- January 6, 2014: "I came here to flip cars and get bitches....AND I'M ALL OUT OF CARS."
- September 22, 2013: "True love is, when he holds your hair back while you're giving him a blowjob."
- November 27, 2012: "Never look down on someone unless they are giving you head or eating you out."
- November 9, 2012: "(WOMAN SAYS) My gynecologist says I can't have sex for 2 weeks...."(MAN SAYS): What did your dentist say?"
- October 14, 2012: "I'll slap that Ass 'til it's Fifty Shades of RED"
- October 20, 2012: (With picture of a female stripper on stripper pole) "I SUPPORT SINGLE MOTHERS."

7.3 In addition to posting derogatory comments about women, McIntosh was callous enough to post an actual video of a scantily clad woman showing her near naked derriere in the camera. This 1:20-minute-long-video was posted for everyone to see. Screen shots from the video are attached as Exhibit "1."

7.4 McIntosh was not content with simply broadcasting his deviant sexual desires, he also proceeded to groom and seduce the minor plaintiff just days after she was employed to work at KFC Store #150182. He began "accidentally" bumping into her body, then proceeded to gain the confidence of the child by promising her personal favors and a video game, and eventually began more intrusive behavior ultimately ending in full blown oral and vaginal sex with the child. McIntosh would trap plaintiff in offices and start undressing her against her will. His conduct became increasingly reckless, unconscionable and malicious deserving of punitive damages. McIntosh invaded A.M.'s privacy rights and took advantage of her immaturity.

7.5 McIntosh insisted on the 16 year old providing unprotected sex between 50-100 times over 11 months. The sex acts occurred both on the KFC premises as well as away from the premises when McIntosh would take Plaintiff to places to have sex. His

pedophilic conduct occurred at multiple locations (around trash dumpsters, at a hotel, in automobiles, and other places). McIntosh threatened A.M. on many occasions to force her to have sex with him. He abused her so often that she had to consult healthcare practitioners because she feared she had become pregnant and wanted confirmation that she had not contracted a sexually transmitted disease. McIntosh did not care that he was depriving plaintiff of her dignity, privacy or respect.

7.6 McIntosh's sexual predation on plaintiff was aided and abetted by Baker and the Jane Doe KFC Managers. Specifically, he made no secret of his sex acts with A.M. He told other KFC managers of his despicable conduct and reached an agreement with them that they would keep silent about his offensive conduct and in exchange he would continue to protect their sexual misconduct. Plaintiff will show at trial that at least two other adult Jane Doe KFC managers had reason to believe that A.M. was being sexually abused by McIntosh and refused to intervene or report the abuse. Baker in particular was actually told of the predation on A.M. and did nothing to stop it. Such silence also permitted other managers and staff to have sex with other minors and females on the premises. McIntosh and the KFC staff were essentially operating a sex brothel that abused females while serving KFC chicken and Yum! Brand Food to the public. The KFC property was the site of sexual predation and abuse of children.

7.7 Upon turning 17, Plaintiff again insisted that McIntosh stop his sexual advances toward her. Here refused.

7.8 McIntosh performed many of his sexual assaults against A.M. while acting as a vice principal of KFC Properties and KFC Corp. Also, Baker and the Jane Doe managers kept silent about the misconduct when they had a duty to speak. They likewise

were acting as vice principals of KFC Properties and KFC Corp. and/or Yum! Brand Foods.

7.9 Yum! Brand Foods, Inc., KFC Corp., and KFC Properties were the premises owners and operators at all times when plaintiff was being imprisoned and sexually abused on the premises and elsewhere. These defendants knew there was a KFC pedophile on the premises and took no reasonable steps to remove him from the property or to protect plaintiff from his outrageous conduct. Further, Plaintiff will show that the corporate defendants ratified, approved and/or endorsed the reprehensible conduct of their vice principal defendants which resulted in plaintiff being imprisoned and raped.

XIII. CAUSES OF ACTION

Reckless Abuse and Assault of a Child

8.1 Plaintiff asserts her common law claim to be free from physical assault and physical abuse. McIntosh, individually and as a corporate vice principal of the KFC corporate defendants, was reckless and unconscionable in causing injury and damages to plaintiff. McIntosh was negligent in his, imprisonment, seduction, sexual abuse, invasion of privacy, and manipulation of plaintiff which caused life-altering and enhanced damages. Plaintiff seeks actual and punitive damages resulting from such conduct.

Invasion of Privacy

8.2 Plaintiff had a reasonable expectation that the integrity of her body would not be invaded by a 35 year old man. McIntosh invaded her body integrity by initially "bumping" into her butt, "squeezing" by her body in such a manner as to have his groin rub up against the body of this minor, taking photos of plaintiff's body without her knowledge, "trapping" her in small spaces on the premises and eventually groping and

feeling on her breasts, butt and other body parts. Such conduct, even before there was vaginal or oral penetration, were invasions of her privacy rights for which Plaintiff now brings suit. She seeks actual and punitive damages for defendant McIntosh's invasion of her privacy rights.

Assault and Battery of a Child

8.3 Defendant McIntosh engaged in reckless sexual assaults and common law assaults against the minor plaintiff. This defendant is liable for actual and punitive damages for his more than 50-100 times of unprotected vaginal and oral penetration of the minor plaintiff.

Defamation of a Child

8.4 As a matter of law, a 16 year old unemancipated child cannot consent to have sex with a 35 year old man. Despite this clear law, defendants blamed the child for the wrongdoing of the adult KFC managers. Such false representations about plaintiff lead to her being violently accosted and confronted by third parties. Further, plaintiff was lied to by McIntosh about his intentions to marry her and then falsely accusing her of causing the very vile acts he insisted on being performed on and with him. Plaintiff seeks actual and punitive damages for defendant's defamation, including defamation by the other named defendants in this case.

Unconscionable Conduct

8.5 McIntosh and Baker's conduct was unconscionable. Their conduct was reprehensible and against all reasonable tenets of a civilized society. A 35 year old man imprisoning and forcing sexual penetration of a 16 year old unemancipated child is reprehensible. Such conduct constitutes indecency with a child and is actionable as

unconscionable conduct under Texas common law. Baker's cooperation in the silence if equally reprehensible and actionable.

Premises Liability

8.6 The owners and operators of the premises are liable for premises liability damages, both actual and punitive damages. Plaintiff was a business invitee on the premises and defendants breached their duties owed to plaintiff which caused and enhanced her damages.

Negligence

8.7 The defendants were all negligent and grossly negligent for which plaintiff seeks actual and punitive damages.

IX. AIDING AND ABETTING CLAIMS AGAINST ALL DEFENDANTS

9.1 In agreeing to conceal, commit, and/or permit the assaults on Plaintiff to continue, all defendants acted in concert with one another with the reasonable knowledge and intent that the minor would continue to be abused and assaulted. To accomplish the object of their agreement, McIntosh physically assaulted Plaintiff on numerous occasions and Baker and the Jane Doe Managers aided, abetted and engaged in a cover-up of the behavior. The continual assaults on Plaintiff enhanced her damages.

9.2 The conduct of all Defendants was committed with legal malice and conscious indifference to Plaintiff's rights and justifies an award of punitive damages as to each defendant.

9.3 Defendants also breached the contract and oral agreements they made to the then minor Plaintiff in the corporate policies and procedures. Plaintiff also seeks breach of contract damages.

**X. GROSS NEGLIGENCE, UNCONSCIONABLE AND
WILLFUL MISCONDUCT – PUNITIVE DAMAGES**

10.1 Plaintiff re-alleges and incorporates by reference the allegations made above.

10.2 Defendants' conduct constitutes gross negligence, unconscionable and willful misconduct, and aid and abetting unlawful acts against a minor. All Defendants have acted in such a willful and conscious manner and with disregard for Plaintiff's rights so as to allow for the imposition of punitive damages. Defendants have specifically intended conduct that has caused substantial injury to Plaintiff, and Defendants have acted in flagrant disregard of the rights, welfare and safety of others, and with actual awareness. Defendants' actions and inactions constitute intentional, knowing and willful misconduct. Therefore, Plaintiff is entitled to recover from Defendants exemplary damages in an amount determined by the jury to be appropriate and fitting under the circumstances.

XI. EGGHELL PLAINTIFF

11.1 Under black letter Texas law, a defendant takes a plaintiff as he finds her. In the instant case, Defendants must accept Plaintiff in the condition in which she was. As such, Plaintiff relies on the eggshell plaintiff doctrine.

XII. ATTORNEY'S FEES AGAINST ALL DEFENDANTS

12.1 Consistent with Texas statutory provisions, Plaintiff seeks to recover her reasonable attorney's fees. Therefore, Plaintiff seeks recovery of her reasonable attorney's fees under TEX. CIV. PRAC. & REM. CODE ANN. 38.001, *et seq.* Pursuant to Rule 195.2 of the Texas Rules of Civil Procedure, Plaintiff hereby designates the undersigned attorneys as her experts to testify as to reasonable and necessary attorneys' fees. Plaintiff

also designates any other counsel associated with the undersigned law firm who may be handling this suit at the time of trial as its expert on the issue of reasonable and necessary attorneys' fees incurred by Plaintiff in the preparation, discovery, hearing of this case, and post-hearing activities.

XIII. INCORPORATED PLEADING

13.1 Plaintiff incorporates by reference her previously filed Original Petition, Request for Temporary Orders and Permanent Injunction, and Jury Demand, with attachments, that has already been filed in this case, and re-urges her request for the relief sought in that pleading including injunctive relief.

XIV. JURY DEMAND

14.1 Plaintiff demands a jury trial and tenders the required jury fee.

XII.DAMAGES

Plaintiff now seeks and requests from the Court a jury trial and entry of judgment granting at least the following relief:

1. Actual damages of not less than \$10,600,000.00;
2. Reasonable and necessary attorneys' fees through the time of trial, and such further attorneys' fees in the event this matter is appealed;
3. Injunctive Relief as previously requested in the incorporated pleading;
4. Exemplary damages;
5. Costs;
6. Pre-judgment and post-judgment interest; and,
7. Such other and further relief, general and special, legal and equitable, to which Plaintiff may be justly entitled.

Respectfully submitted,

THE HALL LAW FIRM

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VERIFICATION

BEFORE ME, the undersigned authority, personally appeared Benjamin L. Hall, III, whose identity is known to me, and after being duly sworn stated upon his oath that the allegations and facts contained in the foregoing Plaintiff's Amended Original Petition, Request for Temporary Orders and Permanent Injunction, and Jury Demand in support of the request for injunctive relief are true and correct.



Benjamin L. Hall, III

SWORN TO AND SUBSCRIBED before me the undersigned authority on the 2nd day of December, 2016.



Notary Public in and for
The State of Texas

