

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA

John Doe II,

Plaintiff,

vs.

Scott Eugene Stern, and Clearwater Central Catholic High School, Inc.,

Defendants.

CASE NO.:

DIVISION:

COMPLAINT

Plaintiff, John Doe II, sues Defendants, Scott Eugene Stern (“Coach Stern”) and Clearwater Central Catholic High School, Inc. (“Clearwater Catholic”), and alleges:

1. This is a claim for damages, exclusive of attorneys' fees and costs, in excess of \$15,000.00.
2. Clearwater Catholic is a Florida corporation that owns, operates, and does business in Pinellas County, Florida as a private High School.
3. During 2011 through 2014, Coach Stern was an employee of Clearwater Catholic serving in, among other capacities, as a coach of the varsity and junior varsity wrestling teams.
4. As the Clearwater Catholic wrestling coach, Coach Stern was placed by Clearwater Catholic in, and enjoyed, a position of power and authority over members of the wrestling team. In addition, Clearwater Catholic designated Coach Stern as the school employee tasked with discipline and monitoring of “problem students,” students “at risk,” and students with known or suspected drug or substance use or addiction problems. This position allowed Coach Stern access and control over these students even during non-school hours as part of his employment with Clearwater Catholic. The “at risk” students over whom Coach Stern had

authority, supervision, and control by virtue of his positions with the school were more vulnerable than other students and easier prey for physical, emotional, psychological and sexual abuse by adults in authority such as Coach Stern.

5. John Doe II was a student enrolled at Clearwater Catholic between 2011 and 2014 and was a member of the school's wrestling team coached by Coach Stern. The true name of John Doe II is being withheld from publication here because of the nature of the allegations and the conduct to which he was subjected by defendants, which conduct and the circumstances surrounding the claims asserted herein cause shame and embarrassment to John Doe II and his public association with the acts alleged herein would cause him still more pain, shame, and embarrassment. The true name of John Doe II is well-known to the defendants and to the extent that there is any doubt or misperception on that issue, each is encouraged to contact the undersigned for confirmation about plaintiff's identity.

6. Coach Stern was at some point during his employment with Clearwater Catholic advised by the school or otherwise perceived John Doe II to be a "problem student," a student "at risk," or a student with a history of actual or perceived substance abuse.

7. In the course and scope of his employment by Clearwater Catholic, and beginning in 2011, Coach Stern physically, emotionally, and sexually abused John Doe II. This abuse occurred on the grounds of Clearwater Catholic and under the auspices of Coach Stern's duties and responsibilities as the Clearwater Catholic employee charged with dealing with students such as John Doe II.

8. Coach Stern subjected John Doe II, his student and mentee, to various types of physical and psychological abuse over many months. This abuse and misconduct was orchestrated by Coach Stern by coercive use of threats of physical harm and threats that Coach

Stern would disclose to others in authority that his student, John Doe II was using illegal substances and that such disclosure would affect John Doe II's personal and school life detrimentally.

9. In the summer of 2011, Coach Stern required John Doe II to take a drug test without the consent or knowledge of John Doe II's mother and only legal guardian. John Doe II tested positive for marijuana and Coach Stern told John Doe II that he could either be punished by Coach Stern or that Coach Stern would notify his mother.

10. John Doe II, for fear of having his mother know of his drug use, chose to allow Coach Stern to discipline him, believing that the discipline would simply consist of routine wrestling conditioning drills.

11. Beginning in 2011 and as part of John Doe II's discipline for failing the drug test, Coach Stern required John Doe II to memorize various literature and recite said literature in the privacy of the wrestling locker room. If John Doe II failed to accurately recite the assigned literature, Coach Stern coerced and required John Doe II to take his clothes off and bend over. After John Doe II would bend over, Coach Stern would hit him with a ruler. This type of conduct occurred on multiple occasions on school grounds. The conduct of Coach Stern continued periodically and after February 2, 2013, and until John Doe II's graduation in 2014.

12. The misconduct and abuse visited upon John Doe II by Coach Stern by use of these coercive tactics also included forced episodes of simulated sexual activities orchestrated and directed by Coach Stern in which John Doe II was required and "taught" to assume sexual positions and to simulate the performance of sexual activities for Coach Stern to observe, critique and salaciously enjoy. This misconduct continued periodically and after February 2, 2013, and until John Doe II's graduation in 2014.

13. Beginning at least as early as September of 2013, Coach Stern also coerced and required John Doe II to place a condom on his penis and simulate masturbation on multiple occasions on school grounds. This misconduct continued periodically and until John Doe II's graduation in 2014.

14. Beginning at least as early as September of 2013, the sexual activities required and directed by Coach Stern would include episodes in which John Doe II was also instructed and coerced to masturbate in front of Coach Stern on multiple occasions on school grounds. This misconduct continued periodically and until John Doe II's graduation in 2014.

15. After John Doe II graduated in 2014, Coach Stern called and threatened harm to John Doe II if he refused to agree to meet with Coach Stern and if he revealed his prior sexual misconduct to others. These calls and threats aggravated John Doe II's mental and physical injuries resulting from Coach Stern's conduct.

16. John Doe II was not the only or even the first student with whom Coach Stern exercised improperly his position of authority and control.

COUNT ONE
NEGLIGENCE OF DEFENDANT SCOTT EUGENE STERN

17. Plaintiff re-alleges paragraphs one through sixteen.

18. Coach Stern owed Plaintiff a duty of reasonable care to not engage in physically and mentally abusive and improper conduct.

19. Coach Stern breached that duty by engaging in physically and mentally abusive and improper conduct which conduct included the activities described above.

20. As a direct and proximate result of Coach Stern's actions, including those described above, Plaintiff has suffered damages, including physical harm, mental anguish, and mental pain and suffering, severe emotional distress, and shame which continues today and will

so continue into the future. These damages were aggravated by each instance of physical and mental abuse detailed in the preceding paragraphs.

COUNT TWO
INTENTIONAL WRONGFUL CONDUCT OF
DEFENDANT SCOTT EUGENE STERN

21. Plaintiff re-alleges paragraphs one through sixteen.

22. As described above, Coach Stern intentionally touched or struck John Doe II or caused John Doe II to be touched or struck, against his will and without his consent.

23. The conduct of Coach Stern was intentional and reckless and he knew or should have reasonably known that his conduct would subject John Doe II to emotional distress as a likely result. Coach Stern’s conduct was outrageous, went beyond all bounds of decency, and was, is, and would be regarded as odious and utterly intolerable in a civilized community.

24. As a direct and proximate result of Coach Stern’s actions as described above, Plaintiff has suffered damages, including physical harm, mental anguish, severe emotional distress, mental pain and suffering and shame all of which continues to this date and will so continue into the future. These damages were aggravated by each instance of physical and mental abuse detailed in the preceding paragraphs.

COUNT THREE
NEGLIGENCE OF DEFENDANT
CLEARWATER CENTRAL CATHOLIC

25. Plaintiff re-alleges paragraphs one through sixteen.

26. Clearwater Catholic hired Coach Stern, appointed him as the wrestling coach, and placed him in a position of disciplinary responsibility over “troubled students,” students perceived to be “at risk” and those who were known or perceived to have a substance abuse

problem. Clearwater Catholic placed Coach Stern in this position and the position described above over John Doe II, a student perceived to be “at risk,” and one who had or was perceived to have a substance abuse problem.

27. Prior to his employment at Clearwater Catholic, Coach Stern was accused and investigated by other employers for at least two separate instances of similar improper conduct against students at another school where Coach Stern was previously employed. The prior investigations led to his employment termination by those employers.

28. The records for at least one of the investigations were public record and were readily available to Clearwater Catholic to consider in making its hiring decision. The details and information regarding both investigations were available through normal, customary, and routine employment investigatory steps that could and should have been performed by Clearwater Catholic.

29. Additionally, Coach Stern provided the name of an employee of the prior school as reference where the incident allegedly occurred in his job application for Clearwater Catholic.

30. Clearwater Catholic failed to call the references listed by Coach Stern in his job application and, indeed, failed to contact any of Coach Stern’s prior employers or other people who would have knowledge of his prior job performance and quality thereof. Had Clearwater Catholic properly investigated Coach Stern’s background or called his references, it would have learned of his prior instances of misconduct with students.

31. Coach Stern’s abuse of John Doe II was reasonably foreseeable and should have been anticipated by Clearwater Catholic in light of his history of abuse and improper conduct against children from his previous employment.

32. Clearwater Catholic owed a duty of reasonable care to its students and to John

Doe II specifically in the hiring of persons to serve as employees, teachers, coaches, mentors and to serve in the various roles for which it appointed Coach Stern and, if hired, to warn students and parents about Coach Stern's prior improper actions so students could protect themselves. Clearwater Catholic also owed a duty of reasonable care to its students and to John Doe II specifically, in retaining Coach Stern, to reasonably ascertain whether he was qualified and reasonably capable of performing the job and the duties and responsibilities that were assigned for him and that he was expected by Clearwater Catholic to perform. Had it done so, Coach Stern would not and should not have been hired by Clearwater Catholic.

33. In particular, and because of the positions for which Stern was retained and appointed, Clearwater Catholic had a duty and responsibility to perform an appropriate investigation to determine whether Coach Stern was qualified to be a wrestling Coach and the school employee responsible for troubled children as described above and to do so in a manner within the standard of care and the duties of reasonable care by other similarly situated high schools.

34. In assigning Coach Stern to perform his duties and responsibilities as a mentor, supervisor, authority figure, and confidant to its students and to John Doe II, Clearwater Catholic knew or in the exercise of reasonable care should have known that Coach Stern was unqualified for the position, duties, and responsibilities that had been assigned to him.

35. For instance, Clearwater Catholic knew or in the exercise of reasonable care should have known that while Coach Stern may have had previous training and experience as a wrestling coach, he had no training as a psychologist, social worker, mental health professional and had no training, education, or expertise to counsel, supervise, identify, mentor, or assume any authority of control over "at risk" or "troubled" students or, specifically, John Doe II.

36. In addition, Clearwater Catholic knew, or in the exercise of reasonable care should have known, that the performance of a reasonable investigation would have revealed Coach Stern had, while at previous educational employments, been the subject of prior incidents of impropriety and complaints, including but not limited to, a prior history of child abuse allegations as contained in the 1999 Pinellas Park Police Department Report. Clearwater Catholic either knew about this prior incident or, in the exercise or reasonable care, should have known about the reported incident and thereafter investigated the incident as part of its decision-making when hiring.

37. A reasonable investigation into Coach Stern's background would have then reasonably required further investigation, which investigation and questioning of Coach Stern himself would have revealed information that reasonably would have and should have disqualified Coach Stern from being the school wrestling coach or the school employee with supervision and responsibilities over children – both positions of which permitted Stern with unique and private access to Clearwater Catholic students outside of normal school hours and under circumstances where Coach Stern would be able to meet with students in private without the presence of other students or teachers and himself without supervision or oversight by responsible adults.

38. Because of the nature of Coach Stern's duties and responsibilities and particularly in light of his "off hours" private access to students, Clearwater Catholic had a duty to supervise Coach Stern in the performance of his duties.

39. Clearwater Catholic was negligent and breached that duty to Plaintiff by failing to train, supervise, instruct, develop, and implement appropriate policies and procedures regarding the interaction of teachers and coaches, such as Coach Stern, and by hiring him and assigning to him the duties and responsibilities over John Doe II described above.

40. Clearwater Catholic had a duty to John Doe II, and its students, to take reasonable steps to ensure individuals, like Coach Stern, were not permitted to interact with its students as employees or otherwise.

41. Clearwater Catholic was negligent and breached its duty when it failed to take reasonable steps to protect John Doe II from harm caused by Coach Stern by allowing Coach Stern to have unsupervised control over John Doe II.

42. Clearwater Catholic was negligent and breached its duty of reasonable care by failing to investigate properly and appropriately Coach Stern's prior employment and in failing to discover complaints regarding his interaction with students.

43. Clearwater Catholic was negligent and breached its duty of reasonable care by deciding to hire Coach Stern and also by giving him the duties and responsibilities disclosed above.

44. Clearwater Catholic was negligent and breached its duty of reasonable care by failing to warn students and parents of Clearwater Catholic that students were not to be alone with Coach Stern and to warn them about the potential misconduct and actions that could occur if a student was left alone with Coach Stern.

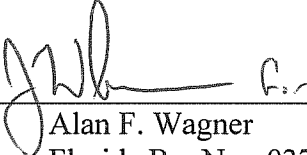
45. As a direct and proximate result of the negligence of Clearwater Catholic as described above, Coach Stern was hired by Clearwater Catholic and was then given the means and opportunity to commit the actions described above, which actions and conduct were reasonably foreseeable or should have been reasonably foreseeable to Clearwater Catholic and, as a proximate result of the negligence of Clearwater Catholic, John Doe II suffered damages, including physical harm, emotional distress, mental anguish, and mental pain, suffering and shame all of which continues to this date and will so continue into the future. These damages

were aggravated by each instance of physical and mental abuse detailed in the preceding paragraphs.

WHEREFORE, Plaintiff, John Doe II demands judgment against the Defendants Scott Stern and Clearwater Catholic for compensatory damages in an amount in excess of Fifteen Thousand (\$15,000.00), exclusive of interest and taxable costs and demand trial by jury of all issues triable as of right by a jury.

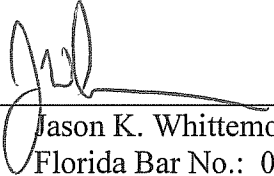
Dated this 2nd day of February, 2017

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