

IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA

MARK EUBANKS, Individually)
 and on behalf of the General Public of the)
 State of Georgia,)
)
 Plaintiff,)
)
 v.)
)
 THE DARLINGTON SCHOOL; ROGER)
 STIFFLEMIRE; DAVID ELLIS,)
 FREDERICK MARQUETTE,)
 CONTINENTAL CASUALTY COMPANY,)
 NORTHERN INSURANCE COMPANY OF)
 NEW YORK, VALIANT INSURANCE)
 COMPANY, ZURICH AMERICAN)
 INSURANCE COMPANY, AMERICAN)
 GUARANTEE AND LIABILITY)
 INSURANCE COMPANY, THE NORTH)
 RIVER INSURANCE COMPANY,)
 PHILADELPHIA INDEMNITY INSURANCE)
 COMPANY, GREAT AMERICAN)
 INSURANCE COMPANY,)
)
)
 Defendants.)

FILED IN OFFICE

FEB 08 2022

Amanda Ruddell

CLERK

Civil Action File No.: 19CV00237

VERIFIED THIRD AMENDED RENEWAL COMPLAINT

Plaintiff MARK EUBANKS, individually and on behalf of the General Citizens of the State of Georgia, by and through his counsel of record, hereby brings this Third Amended Renewal Complaint ("Amended Complaint") for public nuisance, injunctive relief, injuries, and damages sustained as a result of childhood sexual abuse, and injuries sustained as a result of racketeering activity against Defendants Roger Stifflemire, David Ellis and Frederick Marquette. ("the Underlying Lawsuit"). Plaintiff brings this Amended Complaint against the additional Defendants Continental Casualty Company, Northern Insurance Company of New York, Valiant

Plaintiffs Exhibit
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Insurance Company, Zurich American Insurance Company, American Guarantee and Liability Insurance Company, The North River Insurance Company, Philadelphia Indemnity Insurance Company, and Great American Insurance Company for damages resulting from the breach of their duty to defend and indemnify their insured, as direct beneficiaries of the insurance, bad faith, and as judgment creditors.¹ In support of this Complaint, Plaintiff respectfully shows the Court as follows:

INTRODUCTION

“Our strongest obligation is to keep Georgia citizens safe, especially our children. This certainly includes doing everything in our power to keep sexual predators away from our children.”

- Governor Sonny Purdue’s Message Signing H.B. 1059.

It has been the public policy in the state of Georgia to affirmatively act to stop child molestation and make information publicly available since at least the 1950s. Despite this policy, this case brings to light a history of childhood sexual abuse and sexual predation of Darlington School students, and other Georgia citizens, by those entrusted with their very safety - Darlington teachers and their adult acquaintances. The abuse, in some cases, occurred almost forty years ago at Darlington - one of Georgia’s most elite, prestigious private boarding schools.

¹ While “the proper legal procedure to make a coverage determination[,]” “[a]fter an unqualified denial of coverage by an insurer,” is “impleading the insurer into the pending action against the insured by filing a third-party complaint[,]” (*Fireman’s Fund Ins. Co. v. Univ. of Georgia Athletic Ass’n, Inc.*, 288 Ga. App. 355 (2007)), moving to adding the insurance companies as additional defendants is appropriate in this instance since Darlington has assigned its rights, claims, and benefits under the policies of insurance, which allows Plaintiffs to bring claims against the Insurance Companies for breach of their contractual duties to defend and indemnify, as direct beneficiaries of the insurance benefits, bad faith, and as judgment creditors. In addition, this procedure retains the underlying policy benefits of impleader provisions, which “are to be liberally construed to avoid multiplicity of actions, to save time and cost of reduplication of evidence and to assure consistent results from similar evidence and common issues.” GA. PRACTICE & PROCEDURE § 12:14 (2021-2022 ed.) (citing *Vara v. Essex Insurance Company*, 269 Ga. App. 417, 419–420 (2004)).

Rather than act swiftly to protect students by investigating and immediately notifying appropriate civil and criminal authorities to put a stop to this egregious behavior, Darlington turned a blind eye to the pain and suffering of its students. Worse, when Darlington was confronted about these atrocities, it made false public statements that continued the policy of secrecy at all costs and further harmed victims. These deliberate, negligent, and reckless actions and policies directly caused and otherwise resulted in a sustained pattern of childhood sexual abuse of students spanning over at least a twenty-year period and magnified that harm when old wounds were opened through new attempts to cover up and mislead.

By and through these policies and practices, Defendants knowingly, negligently, and recklessly put Darlington students, the Floyd County community, the Citizens of the state of Georgia, and others across the United States, at risk of childhood sexual molestation and its effects. As a direct result of this failure to act and continued conspiracy to mislead, Plaintiff became a victim of childhood sexual abuse when he was a student at the Darlington School, the harm was magnified anew due to recent negligent conduct by Darlington. In addition, other public citizens in Georgia and elsewhere were exposed to this abuse and molestation.

RENEWAL ACTION

1.

This is a renewal action filed within the original statute of limitations pursuant to O.C.G.A. § 9-2-61. The previous suit, filed on June 30, 2017, 17CV01179JFL001 in Superior Court of Floyd County, was voluntarily dismissed without prejudice on December 15, 2017, and the dismissal of this action was not based on the merits. Plaintiff's claims in the present action are the same parties, same claims based on the same facts and circumstances as the original action.

2.

Plaintiff properly served Defendants within the statute of limitations and Defendants responded to Plaintiff's Complaint on October 18, 2017 for Defendant Ellis and October 20, 2017 for Defendants Stifflemire, Marquette and the Darlington School. Plaintiff is entitled to renew his Complaint against these Defendants. The action renewed herein was not void and was such a valid action as may be renewed under O.C.G.A. § 9-2-61.

3.

Pursuant to O.C.G.A. § 9-2-61, Plaintiff is entitled to re-file his suit within six months of the dismissal date.

4.

Plaintiff has paid any and all costs from the dismissed action.

PARTIES, JURISDICTION AND VENUE

5.

Plaintiff Mark Eubanks ("Mr. Eubanks") is currently an adult male citizen and resident of Florida, residing at 7115 Presidio Glen, Lakewood Ranch, Manatee County 34202, and was, at all times relevant to this Complaint, a minor residing in the state of Georgia attending the Darlington School through Fall of 1979 through Spring of 1983. Mr. Eubanks submits himself to the jurisdiction of this Court by filing this Complaint.

6.

Defendant the Darlington School ("Darlington" or the "School") is a private, independent coeducational preparatory school located at 1014 Cave Spring Road, Rome GA, Floyd County, GA 30161. Darlington has entered into a Consent Judgment with Plaintiff and assigned its rights,

claims, and benefits under certain policies of insurance, which allows Plaintiff to bring claims against the insurance companies for breach of their contractual duty to defend and indemnify, as direct beneficiaries of the insurance benefits, bad faith, and as judgment creditors.

7.

Defendant Roger Stifflemire (“Stifflemire”) is a resident of Autauga County, AL and can be served with process at 2140 County Road 85, Deatsville, AL 36022, Autauga County and owns property located at 4995 Chapel Hill Road, Douglasville, Douglas County, GA 30135. At all times relevant to this Complaint, Mr. Stifflemire was employed as an English teacher at Darlington and resided in Floyd County, Georgia.

8.

Defendant Frederick Marquette (“Marquette”) is a resident of Elmore County, AL and can be served with process at 90 Ski Club Drive, Wetumpka, AL 36092, Elmore County. At all times relevant to this Complaint, Mr. Marquette was self-employed.

9.

Defendant David Ellis (“Ellis”) is a resident of Oconee County, GA and can be served with process at 1901 Robinhood Road, Watkinsville, GA. Ellis has entered into a consent judgment with Plaintiff.

10.

Defendants Stifflemire, Marquette and Ellis are collectively referred to as the “Individual Defendants” throughout this Complaint.

11.

Defendant Continental Casualty Company (“Continental Insurance”) is an Illinois corporation with its principal place of business in Illinois. Defendant is registered to do business

in the state of Georgia and can be served with legal process on its registered agent, CT Corporation System, 289 S. Culver St., Lawrenceville, GA 30046. Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia. Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School (“Insured”) in Floyd County, Georgia, and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

12.

Defendant Northern Insurance Company of New York (“Northern Insurance”) is an Illinois corporation with its principal place of business in Illinois. Defendant is registered to do business in the state of Georgia and can be served with legal process on its registered agent, Corporation Service Company, 40 Technology Parkway South, Suite 300, Norcross GA 30092. Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia. Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School in Floyd County, Georgia, and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

13.

Defendant Valiant Insurance Company (“Valiant Insurance”) is an Iowa corporation with its principal place of business in Iowa. Defendant is registered to do business in the state of Georgia and can be served with legal process on its registered agent, Noah W. Payne at 2309 Parklane Drive, NE, Atlanta, GA 30345. Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia.

Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School in Floyd County, Georgia, and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

14.

Defendant Zurich American Insurance Company (“Zurich Insurance”), is a New York corporation with its principal place of business in Illinois. Defendant is registered to do business in the state of Georgia and can be served with legal process on its registered agent, Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, GA 30092. Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia. Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School in Floyd County, Georgia, and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

15.

Defendant American Guarantee and Liability Insurance Company (“American Guarantee Insurance”), is a New York corporation with its principal place of business in Illinois. Defendant is registered to do business in the state of Georgia and can be served with legal process on its registered agent, Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, GA 30092. Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia. Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School in

Floyd County, Georgia, and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

16.

Defendant The North River Insurance Company (“North River Insurance”) is a New Jersey corporation with its principal place of business in New Jersey. Defendant is registered to do business in the state of Georgia and can be served with legal process on its registered agent, CT Corporation System, 289 S. Culver St., Lawrenceville, GA 30046 . Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia. Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School in Floyd County, Georgia, and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

17.

Defendant Philadelphia Indemnity Insurance Company (“Philadelphia Insurance”) is a Pennsylvania corporation with its principal place of business in Pennsylvania. Defendant is registered to do business in the state of Georgia and can be served with legal process on its registered agent, CT Corporation System, 289 S. Culver St., Lawrenceville, GA 30046. Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia. Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School in Floyd County, Georgia and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

18.

Great American Insurance Company (“Great American Insurance”) is an Ohio corporation with its principal place of business in Ohio. Defendant is registered to do business in the state of Georgia and can be served with legal process on its registered agent, United Agent Group, Inc., 2985 Gody Parkway, 1st Floor, Marietta GA 30066. Defendant is subject to in personam jurisdiction of this Court as Defendant is an insurance company authorized to do business in the State of Georgia. Defendant transacts substantial business in Georgia, including acts of writing and insuring Darlington School in Floyd County, Georgia, and has consented to the jurisdiction of Georgia courts. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

19.

Defendants Continental Casualty Company, Northern Insurance Company of New York, Valiant Insurance Company, Zurich American Insurance Company, American Guarantee and Liability Insurance Company, The North River Insurance Company, Philadelphia Indemnity Insurance Company and Great American Insurance Company are collectively referred to as the “Insurance Defendants” throughout the Complaint.

20.

Jurisdiction is proper because all Defendants are residents of Georgia or are subject to the exercise of long-arm jurisdiction pursuant to O.C.G.A. § 9-10-91. Defendants have transacted substantial business in Georgia, created and continue to maintain a public nuisance in Georgia, and committed tortious acts and omissions in Georgia, including the tortious acts and omissions giving rise to this Complaint. Further, the Insurance Defendants are each registered to do business in the State of Georgia and therefore are therefore “residents” for jurisdictional

purposes and may be sued to the same extent as a domestic corporation. *Cooper Tire & Rubber Company v. McCall*, 863 S.E.2d 81 (Ga. 2021).

21.

Venue is proper in this Court as one or more of the Defendants reside and maintain a registered agent for service of process in Oconee County, Georgia and this suit is brought against Defendants as joint tortfeasors. G.A. Const. Art. I, § 2, ¶¶ III, IV & VI; O.C.G.A. §§ 9-10-31, 9-10-93, 14-2-510.

22.

This Court has jurisdiction over the subject matter of this Complaint and Defendants.

STATUTE OF LIMITATIONS

Fraud and Misrepresentation

23.

Defendants negligently misrepresented and fraudulently concealed the true nature of the horrific events described in this Complaint and the failure to investigate, verify and prosecute sexual abuse. Plaintiff, therefore, did not discover the fraud and the ultimate harm done until receiving a May 26, 2017 letter from the Darlington School informing him of a current investigation into allegations of *non-physical* sexual abuse by a faculty member at Darlington occurring in the 1980s. Since the misrepresentation and fraudulent concealment of the truth was not discovered until May 26, 2017, and in fact the misrepresentation has continued since that date because the information contained in the letter was false and led to new harm, the statute of limitations should not begin to run against any action alleged by Plaintiff until at least the receipt of the letter. Therefore, Plaintiff's claims are timely brought before the court.

Public Nuisance

24.

Pursuant to Georgia law, “[t]he rule that the statute of limitations does not run in favor of a nuisance, only applies to public nuisances, and grows out of the impropriety of imputing laches to the public.” See *Davis v. City of Forsyth*, 621 S.E.2d 495, 499 (Ga. Ct. App. 2005) (citing *Anneberg v. Kurtz*, 28 S.E.2d 769, 773 (Ga. 1944)). Therefore, Plaintiff’s public nuisance claims are timely brought before the court.

Childhood Sexual Abuse

25.

Pursuant to O.C.G.A. § 9-3-33.1(d)(1), plaintiffs who have suffered injuries resulting from childhood sexual abuse, “shall be permitted to file such actions against the individual alleged to have committed such abuse before July 1, 2017, thereby reviving those civil actions which had lapsed or technically expired.” Therefore, Plaintiff’s claims are timely brought before the court since the original suit was filed within this time period.

RICO

26.

Pursuant to O.C.G.A. § 16-14-8, a plaintiff shall have five years to commence a civil lawsuit based upon the corrupt dealings of an organization. Therefore, Plaintiff’s claims are timely brought before the court.

GENERAL FACTS
Darlington School and its Operating Structure

27.

Founded in 1905, Darlington is self-proclaimed as “one of the leading day and boarding schools in the Southeast.”

28.

Darlington offers private school for pre-kindergarten through 12th grade. Darlington enrolls both day students and boarding students in its 9th through 12th grade. According to Darlington’s website, the current tuition and fees for a boarding student is approximately \$50,000 per/year.

29.

Darlington holds itself, its students and its faculty to the highest standards both on and off campus. Darlington’s mission is “[t]o empower students to learn with passion, act with integrity and serve with respect.”

30.

Darlington’s long-term motto is: “[w]isdom more than knowledge. Service beyond self. Honor above everything.”

31.

Darlington’s website states that its “philosophical foundation stone is integrity of both individual and community” and that Darlington “insists that every member of the [Darlington] community must do his or her own work and respect the rules of community life. [Its] goal is to reinforce in each student the firm belief that success in every endeavor is the result of hard work

honestly done, and that life in community must be based on respect for authority and the rule of law as embodied in our Judeo-Christian tradition.”

32.

Each member of the Darlington community, students and faculty alike, take the following Honor Pledge:

I will not lie. I will not cheat. I will not steal. I will not tolerate dishonorable behavior on the part of myself or others.

Dormitory Life

33.

Based upon most recent statistics, Darlington has approximately 463 students in 9th -12th grade, 180 boarding students, 283 day students, and 40% of faculty and staff live on campus. Darlington enrolls a total of approximately 750 students in grades pre-kindergarten through 12th grade.

34.

Darlington represents to the public, and, in particular, parents of prospective students, that Darlington will help mold its students into future leaders and publicly advertises students' close relationships to faculty members as a selling point for the school.

35.

Darlington also advertises the fact that “with 40% of Darlington’s faculty and staff living on campus, there is never a shortage of helping hands when a student needs extra guidance on a homework assignment, advice about a friend, a shoulder to lean on, or someone to share in his or her successes.”

36.

Dormitory and community life is described as being centered on a “house” system, where “students experience small family within the life of the larger community.” At the head of this house system are the faculty members who serve as the “Dorm Parents” and are responsible for overseeing the safety and wellbeing of the students.

37.

Darlington represents that these Dorm Parents act as an extension of family as “advocates, confidantes, and stand-in parents for each student in their care.” Darlington goes on to describe these faculty members as “[the] immediate point of contact for parents, building lifelong relationships with each student and his or her family. At the same time, they also focus on the little things that make the transition to boarding school easier, like creating a comfortable living space and even celebrating birthdays with cake, pizza and trips to Jandy's for frozen yogurt.” These positions are ones of extreme trust and confidence. Parents entrust the safety, welfare and over-all well-being of their children to the Darlington administration, faculty and specifically the Dorm Parents while their children live on campus.

38.

Darlington invited students such as Plaintiff and his parents, to enroll in attending Darlington and enter into a commercial relationship that included paying Darlington an annual tuition of approximately \$50,000 in exchange for attending Darlington. Darlington also created and engendered a relationship of trust and confidence with Plaintiff by inviting him to enroll and entrust their children to Darlington acting in *loco parentis* to Plaintiff during the school year. Defendants undertook responsibility for the safety of students and delegated that responsibility to

the faculty and those serving as Dorm Parents, all of whom were under Defendants' employment, authority and control.

39.

In exchange for compensation, Darlington warranted that it would provide Plaintiff education, room, board, related supervision, education, and a safe and supportive school environment.

40.

Roger Stifflemire was an English professor at Darlington from approximately 1974-1994. Stifflemire was a Darlington employee, faculty member, representative, and Dorm Parent in South Hall, where he supervised 9th and 10th graders, and Wilcox Hall, where he supervised 11th and 12th graders. In this role, Stifflemire was directly responsible for overseeing the overall health and safety of his students.

41.

During his twenty-year tenure at Darlington, Stifflemire sexually abused Darlington students, and others, both within his dormitory, at other locations on campus, in his car, and off campus on private and public land. For example, he preyed on young boarding students in his dorm, allowing them to stay late beyond curfew and unsupervised in his dorm apartment, supplying them alcohol and drugs, all while sexually abusing them behind closed doors. Stifflemire's abuse ranged not only from sexual abuse such as sodomy, forced masturbation and assault and battery, but also to psychological abuse such as invading students' dorm rooms while they were sleeping and watching them and continuously harassing and propositioning them to enter into a sexual relationship with him. Stifflemire exploited his position as Dorm Parent as pretext to sexually abusing Darlington students.

42.

Stifflemire's actions were, on many occasions, intentional. However, he was sick. He suffered from a mental disorder giving rise to a sometimes uncontrollable compulsion to engage in sexual acts with boys. This compulsion was enhanced with the consumption of alcohol or drugs and led to conduct beyond Stifflemire's control or intention. Many of his acts were beyond foresight or expectation or design.

43.

Stifflemire also acted negligently without intent or design. His negligence in supervising the young boys entrusted to him led to direct contact between Darlington students and other sexual predators like Defendant Fred Marquette. This resulted in additional harm to Plaintiff and helped foster a reckless environment that subjected Darlington students and the general public to the dangers of exposure to sexual predators both on and off campus.

Victim's Stories

44.

Pursuant to carrying out Darlington's stated mission, Stifflemire befriended Plaintiff and gained his trust and confidence as both a teacher, mentor, counselor and authority figure and Dorm Parent. As a direct result of the representations made by Darlington and by Stifflemire's actions as a faculty member, Plaintiff was conditioned and otherwise encouraged to trust Stifflemire, comply with his directions, and respect him as a person of authority within Darlington on moral and ethical matters, among other things. This course of conduct is known as "Grooming."

45.

Over the course of each Plaintiff's enrollment at Darlington, Stifflemire took specific steps to groom them and undertook various actions to gain trust, all of which was for the sole purpose of facilitating an inappropriate, non-pedagogical personal relationship with each including increased one-on-one time. At other times, Stifflemire unintentionally ended up in the presence of some of the Plaintiffs and sexual encounters occurred without specific design or intent due to his uncontrollable sexual impulses.

46.

Stifflemire would spend increased time alone and unsupervised in his faculty dormitory apartment with each Plaintiff, often after curfew, taking them individually off campus to meals or ice cream, and going on trips with each to isolated locations. Other Darlington staff and faculty failed to stop or report these inappropriate meetings and outings despite knowledge of these overt actions.

47.

Mr. Eubanks was sexually abused by Stifflemire from 1979-1981 while he was a boarding student in Wilcox Hall. During this time, Stifflemire "groomed" Mr. Eubanks and told him about the beauty of the male body, bought him liquor and showed him pornography. Mr. Stifflemire also inappropriately asked Mr. Eubanks to report back to him on the penis size of his other dorm mates and encouraged him to initiate sexual encounters with his roommates and report back to him. Stifflemire regularly asked him, "you sucka the big dick?" This behavior was not limited to the dormitory. In class, Stifflemire would wink and caress his thigh and whisper to him. Although Mr. Eubanks always rebuffed Mr. Stifflemire's advances, Mr. Stifflemire told him that if he was ready to "just to go to his bed and lay back and enjoy it." At

the time, Mr. Eubanks thought that he was the only one with whom Stifflemire acted sexually inappropriate.

48.

However, this was not the case, and Stifflemire abused countless other students, including at least 16 other Plaintiffs who have filed similar actions. Plaintiffs reported Stifflemire's behavior to Darlington faculty and leadership, including Headmasters Joseph Campbell and James Van Es and Associate Head Master Worth Moser. However, Darlington did nothing to protect its students and in some cases even retaliated against the victims.

49.

Stifflemire also brought Darlington students to the home of Defendant Marquette who, at times unknown to Stifflemire, also sexually abused male Darlington students under Stifflemire's supervision. Marquette pled guilty to sodomizing teens during the 1980's. Stifflemire also facilitated other men to meet up with Darlington students where they were sexually molested.

50.

Stifflemire was not the only member of Darlington who sexually abused students. Another victim-Plaintiff, ALL² was abused by Defendant Ellis, who was a student at Darlington and whose father was a faculty member, when he was six years old in 1972. ALL reported this to his parents who in turn reported it to other Darlington faculty but nothing was ever done.

51.

Over his twenty-year tenure at Darlington, Stifflemire engaged in a pattern, sometimes intentionally and at times without foresight or expectation or design, of grooming, harassing,

² Plaintiffs will identify the full names of each Plaintiff to the Court and the Parties once the Court enters a Confidentiality Order.

coercing and sexually abusing Plaintiffs when they were students at Darlington. Stifflemire would gain students' trust and then proposition them by asking if they wanted to have a "special relationship" with him. At other times, Stifflemire used his position of influence on the Discipline Committee to threaten students with expulsion if they did not do his bidding. At the time of the filing of this Complaint, it is impossible to know how many Darlington students were victimized by Stifflemire. At least one victim has since committed suicide and upon information and belief, another victim committed suicide while he was a student at Darlington.

52.

Upon information and belief, students and parents reported Stifflemire's unlawful behavior to Darlington but nothing was done about it and nothing was ever told to the students.

53.

Darlington, through its administration, faculty, Heads of House, and Board of Trustees, encouraged and facilitated the sexual abuse of Plaintiffs by: knowingly allowing students to stay past curfew in Stifflemire's apartment, allowing Stifflemire to take students, unsupervised and unchaperoned by other faculty members, for overnight trips and by allowing and otherwise permitting Stifflemire to openly inappropriately touch and inappropriately dote on the victims he targeted in public. Further, when Stifflemire's abuse was reported at least in 1978 and 1988, incredibly, the Darlington faculty, administrators and board members actually lashed out at some of the victims further compounding the harm done.

54.

Defendant Darlington by admitting students in the school undertook an affirmative duty to protect said students, including Plaintiff, and furthermore assumed responsibility for the students' safety and physical and psychological well-being. Darlington breached this duty by

placing children under the supervisory control of Stifflemire, who Darlington knew or should have known was a child molester. Stifflemire was not the only faculty member who had sexual relationships with students.

55.

As a direct result of Darlington's refusal to take action against Stifflemire for the purposes of protecting and preserving Darlington's reputation and that of its administration, faculty, and Board of Trustees, Plaintiff and other Darlington students were sexually abused by Stifflemire over a twenty-year period. Similarly, the abject failure and refusal to stop Stifflemire's sexually abusive behavior, caused the school to continue to profit during the intervening years by increasing admissions and enrollments.

56.

This conduct caused Plaintiff to experience extreme mental and physical distress which he has carried for his entire adult life. Plaintiff has been required to seek medical and mental health treatment as a result of the sexual abuse caused by Defendants.

Darlington's Failure to Act

57.

Stifflemire not only abused Darlington students for more than twenty years, but through negligence and intent by joint venture and agency, encouraged and permitted other adults to also sexually abuse various Plaintiffs. Specifically, Stifflemire using the power and authority vested in him by Darlington, negligently placed his victims in situations whereby they would be sexually abused by other adult men, and allowed said men to come to the school and take students off school property to be abused at other locations including lake houses, public parks, and nearby restaurants. Perhaps the most egregious of these examples is Stifflemire's repeated

trips with male Darlington students to Marquette's lake cabin in Lake Jordan, AL for overnight trips where they were sodomized and abused by both Stifflemire and Marquette.

58.

Upon information and belief, students and former students reported Stifflemire's sexual abuse from 1974-1994, but Darlington did nothing about it for more than forty years.

59.

Another Plaintiff, Mr. Kyle Knight, reported Stifflemire's inappropriate sexualized behavior to Darlington's Headmaster, Worth Moser, in the Spring of 1979 and informed him that Stifflemire was the reason he would not be returning to Darlington after his freshman year. Mr. Moser assured him that he would look into it, but Mr. Knight was never contacted again by anyone at Darlington.

60.

Yet another Plaintiff, Mr. Timothy Lee, reported Stifflemire's sexual abuse while he was still a student at Darlington in July/August of 1988. Darlington and its agents assured Mr. Lee and his mother that they would investigate the allegations and that they were unaware of any other allegations.

61.

Yet another Plaintiff, Mr. Mark Day, also reported this abuse to a member of Darlington's leadership when he returned from a ski trip with Stifflemire and Marquette.

62.

Another Plaintiff, Mr. Franklin Simmons, also reported Stifflemire's behavior to Darlington Headmaster, Joseph Campbell, who also did nothing.

63.

Other Plaintiffs, Tim Lee and Tom Doe, disclosed the fact that they had been sexually abused by Stifflemire to their respective treatment centers who, upon information and belief, reported the allegations of sexual abuse to Darlington.

64.

Mr. Lee again reported Stifflemire's conduct in 1999 and learned that Stifflemire had left Darlington voluntarily to become Principal at Prattville High School in Prattville, AL.

65.

Darlington responded to Mr. Lee and stated that it was aware of these allegations. However, again, Darlington did nothing. Darlington did not even warn faculty at Prattville High School of the allegations against Stifflemire.

66.

In 2014, Mr. Lee reached out to Darlington for the third time and petitioned to make his allegations public.

67.

Other students and former students came forward and reported Stifflemire's sexual abuse to Darlington administrators and faculty. Consistent with prior policies, practices and institutional behavior, Darlington took no action on the matter.

68.

Finally, more than 29 years after Mr. Lee first came forward, Darlington publicly acknowledged these allegations for the first time in a May 26, 2017 (the "Letter") to its alumni.

69.

Specifically, the Letter acknowledged a former student's allegations of sexual abuse dating back to the 1980s. Darlington represented that its "historical review continues to reveal that Darlington is not a school that promotes a culture of misconduct and abuse, and that the school did its best to promptly address issues brought to its attention at the time. To date, we have not learned of any similar allegations concerning this former faculty member." A true and accurate copy of the letter is attached hereto as **Exhibit A**. These statements in the letter are not true.

70.

Any reasonable review of the circumstances giving rise to this Complaint would have revealed that Darlington was indeed a school that created an atmosphere of recklessness that not only promoted but directly led to misconduct and abuse of students. Darlington knew about complaints of abuse of students going back to at least the 1970s and took no corrective actions. Darlington did not take any steps to promptly address issues brought to its attention at any time before May 26, 2017. And as of today, Darlington has done nothing to address the abuse suffered by the Plaintiffs.

71.

Before the Letter, each Plaintiff believed that they were the only victims of sexual abuse at Darlington. The Letter caused each Plaintiff *new and separate* harm in learning that he was, in fact, not the only one. The recent discovery of the truth tore open old wounds, ripped apart old scars, and traumatized the victims all over again. Further, new harm was done to these victims as the realization of three horrible facts set in: 1) you were not the only one; 2) the responsible adults knew or should have known about it and chose to hide it; and 3) the harm done to you that

you have spent a lifetime trying to overcome could have been avoided if the responsible adults had done something about it. The old injuries are new again and even more harm has been heaped on top.

72.

At the time of the abuse, each Plaintiff suffered physical and psychological damages causing them to be incapable of speaking about the abuse or processing their experience for decades. Likewise, as is the case with many sexual abuse victims, the Plaintiffs were so traumatized that they were mentally incapable of investigating the abuse, or alternatively, the level of difficulty experienced in trying to do so was so profound that it exceeded what a reasonable victim of abuse would have been expected to attempt.

73.

Science shows that the average victim of childhood sexual abuse is not able to come forward and acknowledge the harm done until the age 42. Further, science shows that the average serial child molester will abuse over 100 victims in their lifetime. Stifflemire and Marquette, through intent and accident by mental illness, are serial child molesters.

74.

Prior to, during, and after Plaintiff's actual physical abuse, Darlington engaged in a forty-year long public relations campaign to represent to the government, the public, and the Darlington community, including the Plaintiff and his family, that Darlington was a safe and morally upright school that was physically, emotionally and spiritually beneficial for its students. Defendants additionally represented that the faculty members, who were their agents, were appropriate and trustworthy mentors and leaders for the young students.

75.

Darlington actively concealed their knowledge that Stifflemire had been accused of childhood sexual abuse.

76.

Prior to, during, and after Plaintiff's actual physical abuse, Darlington also conveyed the aforementioned misrepresentations through explicit language, publications and literature to prospective students, faculty and alumni, including but not limited to its Honor Code and representations to the public and its students that Heads of House could be trusted and were "like an extension of your family."

77.

Despite these affirmative representations (which Plaintiffs assert were actually *misrepresentations*), Darlington took no steps to investigate, verify allegations, report to appropriate lawful local and state authorities, and remove Stifflemire from his position. Nor did Darlington undertake any actions to warn students, parents of students, prospective students and their families, or faculty members after Darlington received and was otherwise made aware of credible allegations of sexual abuse against Stifflemire. Stifflemire was allowed and otherwise permitted by Darlington to act with utter and complete impunity. Darlington ignored the truth of Stifflemire's behavior and allowed him to continue on as a Dorm Parent, showered him with awards, including Most Influential Teacher in 2002 and the Hanks Faculty Recognition Plaque in 2007. Stifflemire left Darlington in or about 1994 to take a position as Principal of Prattville

High School in Alabama. Upon information and belief, Darlington never informed Prattville of any of the allegations of sexual abuse against Stifflemire.

Insurance Defendants

78.

The Insurance Defendants sold liability insurance policies to Darlington School, as identified in Exhibit A to the Consent Judgment, including those in effect at the time of the initial injuries alleged in Plaintiff's Complaint.

79.

The Insurance Defendants were each presented with timely notice of a claim and demand for a defense under the respective policies.

80.

The facts alleged in Plaintiff's Complaint brought claims within the coverage of the respective policies.

81.

Each of the Insurance Defendants issued letters to Darlington and Stifflemire denying coverage.

82.

The Insurance Defendants, without any justification in bad faith, have failed to defend and indemnify despite having the contractual obligation to retain counsel and provide Darlington and Stifflemire with a thorough and vigorous defense.

Consent Judgment and Assignment

83.

Darlington has assigned to Plaintiff all rights, claims, rights of action, benefits, and/or proceeds under the insurance policies attached as an exhibit to the to the Consent Judgment and Assignment (the Assignment and List of Insurance Policies are collectively attached hereto as Exhibit "A"). This Assignment specifically includes, but is not limited to, any and all actions and damages Darlington may have for breach of contract for failing to defend Darlington and/or failing to provide indemnification under the policies of insurance and bad faith and gives Plaintiff the additional right to pursue claims against the Insurance Defendants as a direct beneficiary of the insurance and as a judgment creditor. The Assignment and List of Insurance Policies is attached hereto as Exhibit "A". (Assignment attached hereto as Exhibit "B").

84.

The total amount of this Assignment to Plaintiff is the sum of the policy limits of the individual policies identified in Exhibit "A." The amount of this Assignment is a direct result of the insurers' failure to provide a defense in breach of the contracts of insurance. In addition, the Assignment amount is a direct result of the insurers' failure to provide indemnification for the claims brought by Plaintiff in further breach of the contract.

85.

Darlington has executed a Consent Judgment in the form provided in Exhibit "C." The total amount of the Consent Judgment is the sum of the policy limits of the individual policies identified in Exhibit "A."

86.

The Consent Judgment is not a dismissal, discharge, or release of liability for Plaintiff's claims under O.C.G.A. § 9-10-31(d), but instead is a legal resolution of liability under *Nalley v. Baldwin*, 261 Ga. App. 713, 714 (2003).

CAUSES OF ACTION

COUNT I: FRAUD

(Against All Original Defendants)

87.

Darlington faculty, staff, and Board of Trustees had either actual or constructive knowledge of allegations of childhood sexual abuse against Stifflemire as set forth in this Complaint. Specifically, Darlington faculty and staff were either aware of actual report of childhood sexual abuse or had reason to suspect inappropriate conduct by the Individual Defendants.

88.

Despite this knowledge, Darlington faculty, staff, Board of Trustees failed to investigate the allegations, report the allegations to law enforcement, or take any adverse action against the Individual Defendants, such as remove Stifflemire from his position as Dorm Parent or terminate his employment from Darlington.

89.

Despite this knowledge, as alleged in this Complaint, Darlington publicly advertised on its website, mailings and other information and public statements that Darlington provided a safe school environment for children and that they would be protected while under the supervision of Darlington.

90.

These statements and representations were not only false, but the May 26, 2017 Letter falsely represented that Darlington was not aware of any other allegations against the faculty members other than the one allegation of “non-physical” contact. The Letter also contained other misrepresentations as specifically set forth in this Complaint. Based on this Letter, the statute of limitations did not begin to run until at least May 26, 2017.

91.

Prior to Darlington’s May 26, 2017 Letter, Plaintiff was not aware that there were multiple victims and believed he was the only one. Based on Darlington’s actions, Plaintiff was unable to come forward until the discovery that he was not alone and Plaintiff has suffered *new and distinct harm* in realizing that he was not the only one, these issues were known, and Darlington took no action to prevent the conduct or address the harm.

92.

Defendants conspired to conceal knowledge of Stifflemire’s past crimes and the risk he posed by fraudulently continuing to represent that Darlington was a safe environment for students.

93.

At the time the representations were made, Darlington knew they were false or should have known they were false and were made with the specific intention of deceiving Plaintiff, his parents, and the general public. Specifically, Darlington knew that Stifflemire had been accused of sexual abuse and/or inappropriate conduct and did nothing about it.

94.

But-for Defendants' active concealment of Stifflemire's crimes and the risk he posed to the students, the rape and sexual abuse of Darlington students would not have occurred and the new harm brought by the recent misrepresentations would not have occurred. Therefore, Plaintiffs relied upon such representations to their detriment.

95.

As a result of Defendant's fraud and conspiracy to conceal knowledge of Stifflemire's crimes and the risk he posed, Plaintiff was sexually abused by Stifflemire.

96.

As a result of Defendant's fraud and conspiracy to conceal Stifflemire's crimes and the risk he posed to children, Plaintiff has suffered great pain of mind and body, shock, severe emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life.

COUNTS II and III
FRAUDULENT MISREPRESENTATION AND FRAUDULENT CONCEALMENT
(Against Darlington)

97.

The facts which support both of these claims are largely the same. Therefore, Plaintiff has set forth the facts which support both of these claims in this action.

98.

The facts herein also constitute actionable fraud, specifically fraudulent breach of a duty to disclose that exists because of a relationship of trust and confidence, which serves as the basis for the tolling of the statute of limitations for all of Plaintiff's subsequent claims.

99.

At all times relevant to this Complaint, Darlington invited and encouraged Plaintiff (and his family) to enroll and remain as a student at Darlington, which it administered and controlled. This invitation created a special relationship wherein Plaintiff and his parents justifiably relied upon Darlington's years of experience and judgment in selecting morally upright and trustworthy individuals to serve as faculty and oversee students.

100.

Darlington invited Plaintiff, through his parents, to enter into a commercial relationship by requiring the payment of yearly tuition and other fees in exchange for private education and boarding. Plaintiff, through his parents, gave authority to Darlington to act in loco parentis over Plaintiff while he was at Darlington.

101.

Some of the fraudulent misrepresentations and instances of concealed information are as follows:

- a. Darlington did not disclose that its policy was to *not* to report possible and actual incidents of sexual abuse, as required by Georgia law.
- b. Darlington fraudulently misrepresented, failed to disclose and actively concealed the dangers and prevalence of child molesters at Darlington.
- c. Darlington fraudulently misrepresented, failed to disclose and actively concealed the danger posed by the Individual Defendants
- d. Darlington fraudulently misrepresented, failed to disclose and actively concealed its knowledge of the danger posed by the Individual Defendants.
- e. Darlington represented that its campus was safe and that the faculty Dorm Parents it selected, controlled, approved, and supervised were appropriate and trustworthy mentors and leaders for young students. Darlington promoted its campus and grounds as being safe and beneficial for students, including Plaintiff.

- f. Darlington misrepresented and concealed the fact that Stifflemire had been accused of sexual abuse on numerous occasions and never made this information public but still continued to warrant that the school was a safe environment for students all for pecuniary gain.

102.

Darlington knew or should have known that any student left unsupervised in the presence of Stifflemire was at risk of being abused whether Stifflemire intended to do so or not.

Darlington knew or should have known that Stifflemire was sick and had uncontrollable sexual desires for boys. Darlington conspired to fraudulently conceal from students, parents, faculty, the Board of Trustees and the general public, of the dangers Stifflemire posed to Plaintiff and other students. Perhaps as stated best by one of Darlington's own students, Darlington's "administration tended to turn a blind eye."

103.

Darlington made these misrepresentations with the intent of inducing Plaintiff, Plaintiff's parents, and the public to rely on Defendant's misrepresentations so that they would continue to trust Darlington faculty and enroll in the School. Defendant also made misrepresentations with the intent of shielding Darlington from scrutiny and negative publicity to ensure that students continued to enroll, to benefit Defendant's financial position and reputation.

104.

Plaintiff relied upon Defendant's misrepresentations regarding faculty, Dorm Parents, and the safe, trustworthy and mentorship position with faculty in deciding to enroll at Darlington.

105.

Defendant had a duty to disclose known threats to health and safety of minors involved with their school because Darlington had a special relationship of trust and confidence with

Plaintiff and Darlington exercised in loco parentis responsibilities over students, including Plaintiff.

106.

Alternatively, or in addition to the duty arising from a special relationship, Darlington's recruitment and invitation to apply and if accepted, enroll in Darlington upon the payment of a hefty tuition required Darlington to disclose all matters vital to entering into a commercial transaction.

107.

The incidents of child molestation by faculty such as Stifflemire, was vital and material information relevant to Plaintiff and his parents entering into and maintaining their enrollment with Defendant Darlington.

108.

Due to Darlington's active concealment of the prevalence of child molestation by Stifflemire, Plaintiffs could not have obtained access to this information such that they could have been aware that they had a cause of action against Defendant. Upon information and belief, other faculty members at Darlington also had sexual relationships with Darlington students. A culture of inappropriate faculty-student contact was the norm at Darlington.

109.

Due to Plaintiff's inability to discover the truth and Defendant's full knowledge of it, Darlington was required to disclose the prevalence of molestation by Stifflemire as well as the admitted prior molestation experience by other students by Stifflemire.

110.

Darlington's knowledge of the dangers posed by Stifflemire was a material fact because Plaintiff and his parents would not have entered a relationship or continued a relationship with Defendant Darlington if Plaintiff and his parents had been aware of any such dangers.

111.

Plaintiff and his parents justifiably and reasonably relied on Defendants' misrepresentations by allowing Plaintiff to enroll in Darlington, remain in Darlington, and engage in a trust relationship with the students and their faculty, such as Stifflemire. Their reliance was justified because Plaintiff and his parents could not conduct an investigation of Defendant's claim that Darlington faculty were safe and trustworthy, given that the records that would disprove the fraud – such as complaints – were never created or were not available so that Plaintiff and his parents did not know of Defendant's knowledge of their abuser.

112.

Darlington made false representations to Plaintiff with reckless disregard for the truth, including, but not limited to numerous representations in various school publications and sent a letter to Darlington alumni as recently as May 26, 2017. This Letter tolls the statute of limitations for all of Plaintiff's claims.

113.

These false representations were made with the intent of inducing Plaintiff and others to rely on these statements, and for parents to enroll their students in Darlington.

114.

Darlington acted fraudulently to conceal this information and stop Plaintiff from obtaining knowledge of the danger posed by Stifflemire as to shield itself from scrutiny, liability and police action and to continue to ensure a financial and reputational benefit.

115.

Plaintiff and his parents justifiably relied on the fraudulent misrepresentations in enrolling Plaintiff at Darlington and allowing him to be supervised by Stifflemire.

116.

Defendant's affirmative false and fraudulent representations that Darlington did not know about any prior allegations of Stifflemire's history of sexual abuse, prevented Plaintiff from discovering the truth and his potential cause of action against Defendants, and constituted fraudulent concealment.

117.

Defendant stood in a special relationship with Plaintiff, built on a fiduciary, trust, and/or other confidential relationship, such that Defendant was required to disclose facts that would give rise to Plaintiff's cause of action. Defendant's failure to disclose Darlington's knowledge of Stifflemire's prior sexual abuse constituted fraudulent concealment.

118.

Due to Defendant's fraudulent misrepresentations and fraudulent concealment of the danger posed to Plaintiff by Defendant Stifflemire as well as Defendants' fraudulent concealment of their superior knowledge of the danger posed to Plaintiff by Stifflemire, Plaintiff

was harmed. Based on Darlington's actions, Plaintiff was unable to come forward until now and Plaintiff has suffered new and distinct harm in realizing that he was not the only one.

119.

As a direct and proximate cause of Defendants' acts, Plaintiff was seriously injured. These damages include both physical and emotional injury.

COUNT IV: PUBLIC NUISANCE (COMMON LAW)
(Against All Original Defendants)

120.

Darlington and the Individual Defendants actively engaged in efforts to: (1) conceal from the general public the sexual assaults committed by faculty members including Stifflemire; (2) conceal from the general public the identities of and pedophilic/ephebophilic tendencies of faculty members as agents of Darlington; and (3) protect their agents from criminal prosecution for their sexual assaults against students.

121.

Despite the knowledge that to a moral certainty there have been and are to this day predators operating within its school, Darlington continues to hold itself out as an institution of integrity and safety to students and their parents and actively solicits the general public for new students.

122.

Notwithstanding the fact that Darlington had been aware of this danger for over forty years, it and the Individual Defendants have used and continue to use public spaces for various Darlington events. While some of these events are for Darlington students only, many are open to the public, and are advertised in public forums and on the Internet. Darlington's grounds are also open to the public and places on campus, such as Darlington's reflecting pool, are popular

places where the public comes to go fishing. As a result, Darlington actively endangered the general public by allowing sexual predators access to young students on public land with no warning to the public in general.

123.

In addition, Darlington faculty, such as Stifflemire, and the Individual Defendants posed a threat to the Floyd County community and the public in general. For example, in addition to being a Darlington faculty member, Stifflemire was also a Boy Scouts Scoutmaster. In this role, Stifflemire took members of the public to public camping grounds and it was on one of these such trips that he first attempted to molest another Plaintiff, James Doe 1.

124.

The actions of Darlington and the Individual Defendants are directly responsible for bringing Darlington faculty and pedophiles into contact with the general public, including Plaintiff. Defendants' conduct, deception and concealment has knowingly and/or recklessly created or maintained a condition which unreasonably endangers the safety and health of a considerable number of persons, including but not limited to, children and other members of the general public. Defendants' failure to report or investigate allegations of sexual assault and abuse of students has knowingly and/or recklessly endangered the safety and health of a considerable number of the general public by allowing child molesters to avoid prosecution and remain living freely in unsuspecting communities. These child molesters, known to Defendants but not the general public, pose a threat of abuse to the general public as a whole and are manifestly injurious to the children's health and safety. It is self-evident that close, sustained proximity to child molesters directly harms their children's safety by enabling the possibility of further, more extreme harm.

125.

As a faculty member and agent of Darlington, Stifflemire was allowed to build and maintain special relationships requiring the trust and vulnerability of children entrusted to the Defendant. These special relationships cause harm to any and all children who come into contact with child molesters through Darlington and the Individual Defendants. Formalized relationships with child molesters tend greatly to corrupt the manners and morals of children for a variety of reasons including, but not limited to, the perversion of a normal, healthy, and supportive mentorship relationship between adult and child into one whose purpose is horrifying and destructive of well-being. Beyond differences in the purpose of the relationship, the “grooming” techniques and strategies that child molesters ordinarily use to select and prepare their victims for abuse change the way each child experiences the relationship. Children who come into contact with child molesters in their formal capacity as adult supervisors thus learn an inherently harmful pattern of altered behavior that they carry over into other relationships, causing them confusion, shame, and guilt and making them more susceptible to further abuse.

126.

The negligence and/or deception and concealment by Darlington and the Individual Defendants was and is injurious to public health and safety and Plaintiff, specifically, by corrupting the manners and morals of the public, including, but not limited to, residents in Floyd County and all other members of the general public who come into contact with the Darlington community. It was and continues to be harmful to public health and safety when the Defendant failed to warn, identify, and disclose the presence of current and/or former accused molesters to parents. Additionally, nondisclosure of the patterns of predators grooming and sexually

assaulting students creates an impairment of the safety of children in the neighborhoods in Georgia where Darlington recruited and continues to recruit new students.

127.

Darlington and the Individual Defendants had a duty to warn, identify, and disclose the presence of the current and/or former credibly accused molesters to parents and have failed to warn the public of patterns of “grooming” and sexual assault on children. These failures to act were and continue to be harmful to public health and safety and impair the safety of all children in Georgia communities where Darlington conducts its business.

128.

It offends the public’s morals in that the general public and Plaintiff cannot trust Defendants to warn parents of the presence of current and/or former credibly accused molesters, or to disclose their histories or pattern of conduct in grooming and sexually assaulting children, all of which create an impairment to the safety and welfare of children and the general public in the areas all over Georgia where Darlington conducted, and continues to conduct, its business.

129.

The tortious actions and omissions of Defendants constitute a public nuisance, causing damages to all members of the public who come into contact with it, and caused special damage to Plaintiff, including but not limited to, mental and emotional damage and physical pain and suffering. Because of the tortious actions of Darlington and the Individual Defendants, Plaintiff has not been able to receive timely medical treatment to properly address the damages he suffered and continues to suffer as a result of the abuse.

130.

Defendants thereby knowingly and/or recklessly subjected a considerable and increasing number of children from the public at large to the harm inherent in building and maintaining relationships of trust and confidence with child molesters.

131.

The tortious actions of Defendants constitute a public nuisance and caused special damage to Plaintiff's health, including but not limited to, mental and emotional damage and physical pain and suffering. In the alternative, the tortious actions of Defendants created a private nuisance that harms Plaintiff and other students who were molested by Defendants and poses a risk of harm to Plaintiff and other students who were at imminent risk of being molested. Because of the tortious actions of Defendants, Plaintiff has not been able to receive timely medical treatment to properly address the damages he suffered and continues to suffer as a result of the abuse.

132.

Defendants failed to act on their knowledge of prior crimes, and failed to act to correct, prevent, or warn of prior criminal activity of sexual abuse of Stifflemire, and the dangerous environment created on the subject properties and events. Defendants' failure to take appropriate action to remedy or reduce the danger to the public, including Plaintiff, and allowed the dangerous environment on the subject properties to continue to exist unabated, thereby creating a nuisance that continues to this day.

133.

As a direct and proximate result of Defendants' failure to appropriately address and reveal the sexual abuse of children within Darlington and by the Individual Defendants, and the

public nuisance created thereby, Plaintiff and the general public have sustained and continue to sustain damages.

134.

The harm includes: 1) ongoing harm to the general public by failing to notify them of the presence of child molesters in the community in violation of Georgia's public policy, 2) ongoing harm to the general public by failing to have child molesters investigated, arrested and removed from society, 3) ongoing harm to the general public by actively misleading them about the safety of the Darlington school, 4) ongoing harm to the general public by actively allowing the public to be exposed to known and suspected child molesters, 5) special harm to Plaintiff as a result of being molested, and 6) special harm to Plaintiff when he discovered the fraudulent concealment of these facts which triggered him to relive everything they had been trying to put behind him.

135.

Further, by reason of the foregoing, Plaintiff is entitled to injunctive relief pursuant to O.C.G.A. § 9-5-1 and O.C.G.A. § 41-1-3 requiring Defendants to properly disclose to the general public and appropriate authorities the identities of child molesters such as Stifflemire, credibly accused of molesting students, the identities of which are known to Defendants and not the general public.

136.

By reason of the foregoing, Plaintiff is entitled to recover damages from Defendant for compensatory damages for past, current and future physical and mental suffering, pain, emotional distress and harm and medical expenses, in such an amount as may be shown by the evidence and determined by the enlightened conscience of the jury.

COUNT V: PUBLIC NUISANCE (O.C.G.A. § 41-1-1)
(Against All Original Defendants)

137.

A public nuisance is one that “tends to the immediate annoyance of the public in general, is manifestly injurious to the public health or safety, or tends greatly to corrupt the manners and morals of the public.” The negligence and/or deception and concealment by Defendants was and is injurious to public health and safety and contributes to the corruption of the manners and morals of the public, including, but not limited to, residents in Floyd County and all other members of the general public who live in communities where Defendants are active. Darlington’s grounds are open to the public and places such as the reflecting pool, are popular places where the public comes to go fishing. The corruption of the manners and morals of the public and injury to public health and safety stems directly from the fact that Defendants actively concealed the identities of faculty accused of sexual molestation and failed to report these individuals to the proper authorities or even investigate the claims thereby exposing the general public to faculty and others who they either know or should reasonably know are a danger to students.

138.

Defendants have conspired, continue to conspire, and actively engaged in efforts to: (1) conceal from the general public the acts committed by Darlington’s agents, including the Individual Defendants; (2) conceal from the general public the identities of and pedophilic/ephebophilic tendencies of faculty members of Darlington; and (3) protect their agents from criminal prosecution for their acts against children.

139.

Despite knowledge that to a moral certainty there have been and are to this day predators operating within their school, Darlington continues to hold itself out as an organization of integrity and safety to students and their parents and actively solicits the general public for new students.

140.

Notwithstanding the fact that Darlington has been aware of this danger for years, it actively solicits the general public for new students, has used and continues to use public spaces for various student events. While some of these events are for students only, many are open to the public, and are advertised in public forums and on the Internet. As a result, Darlington actively endangered the general public by allowing sexual predators access to the general public with no warning.

141.

In addition, Darlington faculty, such as Stifflemire, posed a threat to the Floyd County community and the public in general. For example, in addition to being a Darlington faculty member, Stifflemire was also a Boy Scouts Scoutmaster. In this role, Stifflemire took members of the public to public camping grounds and it was on one of these such trips that he first attempted to molest another Plaintiff, James Doe 1.

142.

The actions of Defendants are directly responsible for bringing Stifflemire and others into contact with the general public. Defendants' conduct, deception and concealment knowingly and/or recklessly created or maintained a condition which unreasonably endangers the safety and health of a considerable number of persons, including but not limited to, children and other

members of the general public. Defendants' failure to report or investigate multiple allegations of sexual assault and abuse of children knowingly and/or recklessly endangered the safety and health of a considerable number of the general public by allowing child molesters to avoid prosecution and remain living freely in unsuspecting communities. These child molesters, known to Defendants but not the general public, pose a threat of abuse to the general public as a whole and are manifestly injurious to the children's health and safety. It is self-evident that close, sustained proximity to child molesters directly harms their safety by enabling the possibility of further, more extreme harm.

143.

The negligence and/or deception and concealment by Defendants was and is injurious to public health and safety and Plaintiff specifically by corrupting the manners and morals of the public, including, but not limited to, residents in Floyd County and all other members of the general public who come into contact with Defendants. It was and continues to be harmful to public health and safety when the Defendants failed to warn, identify, and disclose the presence of current and/or former accused molesters to parents. Additionally, nondisclosure of the patterns of predators grooming and sexually assaulting children creates an impairment of the safety of children in the neighborhoods in Georgia where Darlington conducted and continues to conduct, its business.

144.

The negligence and/or deception and concealment by Defendants was and is injurious to public health and safety and Plaintiff specifically by corrupting the manners and morals of the public, including, but not limited to, residents in Floyd County and all other members of the general public who live in communities where Defendants are active. It was and continues to be

harmful to public health and safety when the Defendants fail to warn, identify, and disclose the presence of the current and/or former accused molesters to parents. Additionally, nondisclosure of the patterns of predators' grooming and sexually assaulting children creates an impairment of the safety of children in the neighborhoods in Georgia where Darlington conducted, and continues to conduct, their business.

145.

Defendants have a duty to warn, identify, and disclose the presence of the current and/or former credibly accused molesters to parents and have failed to warn the public of patterns of grooming and sexual assault on children. These failures to act were and continue to be harmful to public health and safety and impair the safety of all children in Georgia communities where the Defendants conduct business.

146.

It offends the public's morals in that the general public and Plaintiff cannot trust Defendants to warn parents of the presence of current and/or former credibly accused molesters, or to disclose their histories and their pattern of conduct in grooming and sexually assaulting children, all of which create an impairment to the safety and welfare of children and the general public in the areas all over Georgia where Defendants conducted, and continue to conduct, their business.

147.

Defendants thereby knowingly and/or recklessly subjected a considerable and increasing number of children from the public at large to the harm inherent in building and maintaining relationships of trust and confidence with child molesters.

148.

The tortious actions and omissions of Defendants constitute a public nuisance, causing damages to all members of the public who come into contact with it, and caused special damage to Plaintiff, including but not limited to, mental and emotional damages and physical pain and suffering. Because of the tortious actions of Defendants, Plaintiff has not been able to receive timely medical treatment to properly address the damages suffered and continues to suffer as a result of the abuse.

149.

Defendants failed to act on knowledge of prior crimes, and failed to act to correct, prevent, or warn of prior criminal activity of sexual abuse of Darlington, and the dangerous environment created on the subject properties and events. Defendants' failure to take appropriate action to remedy or reduce the danger to the public, including Plaintiff, and allowed the dangerous environment on the subject properties to continue to exist unabated, thereby creating a nuisance that continues to this day.

150.

As a direct and proximate result of Defendants failing to appropriately address and reveal the sexual abuse of children within Darlington and the public nuisance created thereby, Plaintiff and the general public has sustained and continue to sustain damages.

151.

The harm includes: 1) ongoing harm to the general public by failing to notify them of the presence of child molesters in the community in violation of Georgia's public policy, 2) ongoing harm to the general public by failing to have child molesters investigated, arrested and removed from society, 3) ongoing harm to the general public by actively misleading them about the safety

of the Darlington school, 4) ongoing harm to the general public by actively allowing the public to be exposed to known and suspected child molesters, 5) special harm to Plaintiff as a result of being molested, and 6) special harm to Plaintiff when he discovered the fraudulent concealment of these facts which triggered him to relive everything they had been trying to put behind him.

152.

By reason of the foregoing, Plaintiff is entitled to recover damages from Defendants for compensatory damages for past, current and future physical and mental suffering, pain, emotional distress and harm and medical expenses, in such an amount as may be shown by the evidence and determined by the enlightened conscience of the jury.

153.

Further, by reason of the foregoing, Plaintiff is entitled to injunctive relief pursuant to O.C.G.A. § 9-5-1 and O.C.G.A. § 41-1-3 requiring Defendants to properly disclose to the general public and appropriate authorities the identities of former or current faculty at Darlington credibly accused of molesting students, the identities of which are known to Defendants and not the general public.

COUNT VI: CHILDHOOD SEXUAL ABUSE
(Against Stifflemire, Marquette and Ellis)

154.

Under O.C.G.A. § 9-3-33.1, childhood sexual abuse is committed when a perpetrator commits child molestation, sexual battery, entices a child for indecent purposes, or commits statutory rape.

155.

The Individual Defendants committed the offenses of child sexual abuse when they subjected Plaintiff and others to illegal and unwanted sexual acts, which constitute childhood

sexual abuse as defined in O.C.G.A. 9-3-33.1, including, but not limited to, sodomy, child molestation and aggravated child molestation.

156.

The Individual Defendants committed the offense of sexual battery when they made physical contact with the “intimate parts” of the bodies of the Plaintiff and others as defined by O.C.G.A. § 16-6-22.1 which includes contact with genitals and oral sex with Plaintiff and others, without their consent.

157.

By committing child molestation, sexual battery, enticement of a child for indecent purposes, and statutory rape upon Plaintiff and others, the Individual Defendants committed the offenses of child sexual abuse.

158.

At all times relevant to the physical sexual abuse, Plaintiff was under the age of 16.

159.

As a result of the above-described conduct, Plaintiff has suffered and continues to suffer irreparable and ongoing harm, including but not limited to physical injuries, extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as economic losses, in amounts to be proven at trial.

COUNT VII: ASSAULT
(Against Stifflemire, Marquette and Ellis)

160.

On numerous occasions between 1978 and 1988, Stifflemire intended to cause, did cause, and engaged in illegal sexual conduct and contact with Plaintiff.

161.

On the occasions referenced above and others, the Individual Defendants intended to cause and did cause Plaintiff and others to suffer apprehension of an immediate harmful sexual contact.

162.

These illegal and unwanted sexual acts perpetrated against Plaintiff and others by the Individual Defendants constituted child molestation or aggravated child molestation under the laws of the state of Georgia.

163.

The illegal and unwanted sexual acts perpetrated against Plaintiff and others by the Individual Defendants constitute childhood sexual abuse as that term is defined in O.C.G.A. § 9-3-33.1.

164.

As a result of the above-described conduct, Plaintiff has suffered and continues to suffer irreparable and ongoing harm, including but not limited to: extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as economic losses, in amounts to be proven at trial.

COUNT VIII: BATTERY
(Against Stifflemire, Marquette and Ellis)

165.

The Individual Defendants subjected Plaintiff and others to unwanted and illegal sexual acts.

166.

These illegal and unwanted sexual acts perpetrated against Plaintiff and others constituted child molestation or aggravated child molestation under the laws of the state of Georgia.

167.

The illegal and unwanted sexual acts perpetrated against Plaintiff and others by the Individual Defendants constituted childhood sexual abuse as that term is defined in O.C.G.A. § 9-3-33.1.

168.

The Individual Defendants' sexual abuse of Plaintiff and others showed negligence, gross negligence, recklessness, willful misconduct, malice, wantonness and an entire want of care that raises the presumption that they were consciously indifferent to the consequences of their actions.

169.

As a result of the above-described conduct, Plaintiff has suffered and continues to suffer irreparable and ongoing harm, including but not limited to: extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as economic losses, in amounts to be proven at trial.

COUNT IX: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Against Stifflemire, Marquette and Ellis)

170.

On numerous occasions between at least 1974-1989, the Individual Defendants subjected Plaintiff and others to unwanted and illegal sexual acts, constituting extreme and outrageous

conduct towards Plaintiff and others, with the intention to cause or with reckless disregard for the probable ability of causing Plaintiff and others severe emotional distress.

171.

These illegal and unwanted sexual acts perpetrated against Plaintiff and others constitute attempted or actual child molestation or aggravated child molestation under the laws of the state of Georgia.

172.

The illegal acts perpetrated against Plaintiff and others by the Individual Defendants constitute childhood sexual abuse as that term is defined in O.C.G.A. § 9-3-33.1.

173.

The Individual Defendants' sexual abuse of Plaintiff and others showed willful misconduct, malice, wantonness and an entire want of care that raises the presumption that Defendants were consciously indifferent to the consequences of their actions.

174.

As a result of the above-described conduct, Plaintiff has suffered and continue to suffer irreparable and ongoing harm, including but not limited to: extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as economic losses, in amounts to be proven at trial.

175.

Plaintiff has suffered damages as a direct and proximate result of Defendants' wrongful acts.

COUNT X:
GEORGIA RICO (RACKETEER INFLUENCE AND CORRUPT ORGANIZATIONS)
(Against All Defendants)

176.

The Georgia RICO Act prohibits any person from engaging in certain enumerated activities through a pattern of racketeering or conspiracy.

177.

Defendants constitute an “enterprise” under O.C.G.A. § 16-14-3(3). Defendants’ enterprise has, and has had, for all times relevant to this Complaint, a continuity of structure and a shared common purpose and scheme or pattern for protecting and hiding known sexual predators or those accused of being sexual predators.

178.

The Individual Defendants and others whose names are unknown to Plaintiff at this time were employed by or were associated with Darlington as defined by O.C.G.A. § 16-14-4(b).

179.

Defendants are jointly and severally liable to Plaintiff for this Racketeer Influenced and Corrupt Organizations (“RICO”) cause of action, and Defendants are each an agent of one another and a co-conspirator with the other relating to the acts alleged herein.

180.

Defendants agreed to enter into a conspiracy to violate Georgia law, including but not limited to O.G.C.A. § 16-14-3(5)(A)(v), which resulted in the assault, battery, and child sexual abuse as well as coverup and concealment of the abuse in violation of O.C.G.A. § 16-14-3(5)(A)(v).

181.

These offenses were part of a systematic and ongoing pattern of racketeering activity over a number of decades, which Darlington and the Individual Defendants and other unnamed parties participated directly or indirectly in the conduct of the affairs of Darlington, through a pattern of racketeering activities.

182.

Through this behavior Defendants engaged in racketeering activities as defined in O.C.G.A. § 16-14-3(2) and (5)(A) including, but not limited to, attempts to coerce or intimidate others and the actual commission of crimes chargeable by indictment under the following laws of this State including (v) assault and battery, (vii) pimping or pandering and (xxii) false statements and concealment of facts.

183.

Defendants conspired to keep secret the above-mentioned acts from any investigative body, from others interested in the well-being of Plaintiff and others, acted to conceal the injuries and harm done to Plaintiff and others, so as to cover up accusations of and confirmed instances of child sexual abuse within Darlington thereby engaging in a pattern of racketeering activities. Defendants conspired to conceal the Individual Defendants' crimes and the danger posed to Darlington students and members of the general public as well as the prevalence of sexual abuse at Darlington generally through a pattern of deliberate fraudulent practices to maximize profitability, preserve and protect their reputations in the community and avoid criminal and civil litigation.

184.

The procedural policies of Defendant Darlington in handling credible allegations of sexual abuse, and its failure to do anything and allowing Stifflemire to remain on campus as a Dorm Parent shows an interconnectedness between the instances of sexual abuse experienced by Plaintiff.

185.

Defendants' refusal to release information continues to the present day and they continue to engage in practices that put Darlington students and members of the public at risk of sexual abuse. Therefore, the RICO violations are within five years from the time that the prohibited conduct was performed. O.C.G.A. § 16-14-8.

186.

Darlington sends out magazines to alumni through the U.S. Postal Service. Upon information and belief, none of these mailings ever mentioned the possibility of a student being abused by a faculty member. In so doing, committed mail fraud by utilizing the United States mail to cover up accusations of and confirmed instances of child sexual abuse within the Darlington organization for the purpose of depriving Plaintiff and others of money and property by enticing them to make donations and/or to enroll themselves or their children at Darlington.

187.

Most recently, the May 26, 2017 letter from Darlington falsely states that Darlington was not aware of any other allegations of sexual abuse. The letter made false representations that "[o]ur historical review continues to reveal that Darlington is not a school that promotes a culture of misconduct and abuse, and the school did its best to promptly address issues brought to its

attention at the time. To date, we have not learned of any similar allegations concerning this former faculty member.” At no time did Darlington reveal that it was aware of prior reporting of instances where students were sexually abused. Darlington also issued a follow-up email in August of 2017. These communications constitute the additional predicate acts of mail fraud and wire fraud for the purpose of depriving Plaintiff and others of money and property by enticing them to make donations and/or to enroll their children at Darlington.

188.

Darlington was aware that these statements were not true as it refused to investigate these allegations while Stifflemire was employed, including but not limited to the reports of Mr. Lee in 1988, 1999 and 2014, all while making claims that Darlington is a safe organization. This constitutes racketeering activity by the Defendants which was part of a common and continuous pattern of fraudulent schemes, perpetrated for the same or similar purposes and constituting a “pattern of racketeering activity.”

189.

Through racketeering activities, the Defendants deceived and victimized Plaintiff and others, whereby Plaintiff was damaged all for Defendants’ pecuniary and selfish gain which was invested into the enterprise since tuition paid by Plaintiff and his parents helped fund salaries of Defendant Stifflemire and Darlington, so as to further the enterprise.

190.

The unlawful and immoral acts of the Defendants, as described throughout this Complaint, are the proximate cause of severe damage to Plaintiff and the general public.

191.

Due to the acts of the Defendants and resulting harm, Plaintiff is entitled to judgment against Defendants in an amount to be determined by a jury.

COUNT XI: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(Against Darlington)

192.

Darlington was negligent in publishing the May 26, 2017 letter, which falsely stated that Darlington was not aware of any other allegations of sexual abuse and that Darlington is a safe organization despite refusing to investigate credible allegations of abuse while Stifflemire was employed.

193.

Darlington's publication of the May 26, 2017 letter was done with reckless disregard of the probability of causing Plaintiff emotional distress and physical injury.

194.

Before the Letter, Plaintiff believed he was the only victim of sexual abuse at Darlington. The Letter caused Plaintiff new and separate harm in learning that he was, in fact, not the only one. The discovery of the truth tore open old wounds, ripped apart old scars, and traumatized Plaintiff all over again. Further, new harm was done to Plaintiff as the realization of three horrible facts set in: 1) he was not the only one; 2) the responsible adults knew or should have known about it and chose to hide it; and 3) the harm done to Plaintiff that he has spent a lifetime trying to overcome could have been avoided if the responsible adults had done something about it.

195.

In addition to the new harm, Darlington's negligent conduct directed towards Plaintiff resulted in the aggravation of Plaintiff's mental health.

196.

Darlington's conduct was extreme and outrageous and directly caused Plaintiff to suffer severe psychological and emotional distress.

197.

Darlington's conduct directed toward Plaintiff was malicious, willful, and/or wanton, and evidenced an entire want of care raising the presumption of conscious indifference to the consequences of such actions.

198.

As a result of Darlington's negligent acts and omissions, Plaintiff suffered and continues to suffer severe emotional distress.

199.

As a direct and proximate result of the Darlington's tortious acts, Plaintiff suffered and continues to suffer irreparable and ongoing harm, including but not limited to: severe emotional distress, humiliation, anguish, and mental and physical pain and suffering, and other adverse physical consequences.

200.

As a direct and proximate result of Darlington's tortious acts, Plaintiff has incurred medical expenses as well as economic and pecuniary losses, in amounts to be proven at trial.

COUNT XII: BREACH OF CONTRACT
(Against Insurance Defendants)

201.

The Insurance Defendants issued certain policies of insurance to Darlington, as identified in Exhibit "A."

202.

The Insurance Defendants were each presented with timely notice of a claim and demand for a defense under the policies.

203.

Each of the Insurance Defendants had a duty to defend because the facts and claims alleged in Plaintiff's Complaint were "arguably" within the coverage of each of the respective policies.

204.

Instead of providing a defense under a reservation of rights and seeking a declaratory judgment, Insurance Defendants wrongfully refused to indemnify or defend based upon their mistaken belief that the claims against its insureds were excluded from the policies' scope of coverage.

205.

By refusing to undertake a defense of the action against its insureds based upon claims within the coverage of the insurance policies, Insurance Defendants breached the contracts of insurance and waived the provisions of the policies against a settlement by their insureds.

206.

Insurance Defendants are jointly and severally liable to Plaintiff to collect the policy limits in one or each of the filed cases.

207.

Plaintiff is entitled to all damages resulting from Insurance Defendants' refusal and breach, including the full amount of the settlement, expenses incurred by its insured, post-judgment interest, and reasonable attorneys' fees.

COUNT XIII: BAD FAITH
(Against Insurance Defendants)

208.

The Insurance Defendants issued certain policies of insurance to Darlington, as identified in Exhibit "A."

209.

The Insurances Defendants were each presented with timely notice of a claim and demand for a defense under the policies.

210.

Each of the Insurance Defendants had a duty to defend because the facts and claims alleged in Plaintiff's Complaint were "arguably" within the coverage of each of the respective policies.

211.

Instead of providing a defense under a reservation of rights and seeking a declaratory judgment, Insurance Defendants wrongfully refused to indemnify or defend based upon their mistaken belief that the claims against its insureds were excluded from the policies' scope of coverage.

212.

By refusing to undertake a defense of the action against its insureds based upon claims within the coverage of the insurance policies without justification, Insurance Defendants acted in bad faith and waived the provisions of the policies against a settlement by their insureds.

213.

Insurance Defendants are jointly and severally liable to Plaintiff to collect the policy limits in one or each of the filed cases.

214.

Plaintiff is entitled to all damages resulting from Insurance Defendants' refusal and breach, including the full amount of the settlement, expenses incurred by its insured, post-judgment interest, and reasonable attorneys' fees.

COUNT XIV: DIRECT INSURANCE BENEFITS
(Against Insurance Defendants)

215.

The Insurance Defendants issued certain policies of insurance to Darlington, as identified in Exhibit "A."

216.

The Insurance Defendants were each presented with timely notice of a claim and demand for a defense under the policies.

217.

Each of the Insurance Defendants had a duty to defend because the facts and claims alleged in Plaintiff's Complaint were "arguably" within the coverage of each of the respective policies.

218.

Instead of providing a defense under a reservation of rights and seeking a declaratory judgment, Insurance Defendants wrongfully refused to indemnify or defend based upon their mistaken belief that the claims against its insureds were excluded from the policies' scope of coverage.

219.

By refusing to undertake a defense of the action against its insureds based upon claims within the coverage of the insurance policies, Plaintiff has been assigned all rights and claims to the applicable insurance benefits under the policies. As the owner of the right to the insurance benefits, Insurance Defendants are legally obligated to provide all available insurance benefits under the policies to Plaintiff.

220.

Insurance Defendants are jointly and severally liable to Plaintiff to collect the policy limits in one or each of the filed cases.

221.

Plaintiff is entitled to all damages resulting from Insurance Defendants' refusal and breach, including the full amount of the settlement, expenses incurred by its insured, post-judgment interest, and reasonable attorneys' fees.

COUNT XV: JUDGMENT CREDITOR
(Against Insurance Defendants)

222.

The Insurance Defendants issued certain policies of insurance to Darlington, as identified in Exhibit "A."

223.

The Insurance Defendants were each presented with timely notice of a claim and demand for a defense under the policies.

224.

Each of the Insurance Defendants had a duty to defend because the facts and claims alleged in Plaintiff's Complaint were "arguably" within the coverage of each of the respective policies.

225.

Instead of providing a defense under a reservation of rights and seeking a declaratory judgment, Insurance Defendants wrongfully refused to indemnify or defend based upon their mistaken belief that the claims against its insureds were excluded from the policies' scope of coverage.

226.

By refusing to undertake a defense of the action against its insureds based upon claims within the coverage of the insurance policies, Insurance Defendants are legally responsible to pay Plaintiff, as a judgment creditor, all insurance benefits available under the insurance policies to satisfy the Consent Judgment entered in favor of Plaintiff.

227.

Insurance Defendants are jointly and severally liable to Plaintiff to collect the policy limits in one or each of the filed cases.

228.

Plaintiff is entitled to all damages resulting from Insurance Defendants' refusal and breach, including the full amount of the settlement, expenses incurred by its insured, post-judgment interest, and reasonable attorneys' fees.

COUNT XVI: PUNITIVE DAMAGES
(Against Original Defendants)

229.

Plaintiff incorporates and re-allege all preceding paragraphs as if set forth fully herein.

230.

Defendants' knowing and intentional conduct warrants punitive damages to be determined by the enlightened conscience of a jury.

231.

Defendants' actions demonstrate willful misconduct, malice, wantonness, and an entire want of care that raises the presumption of conscious indifference to the consequences of such actions.

232.

Punitive damages should be imposed on the Defendants in an amount to be determined at trial.

COUNT XVII: ATTORNEY'S FEES AND EXPENSES OF LITIGATION
(Against All Defendants)

233.

Plaintiff incorporates and re-alleges all preceding paragraphs as if set forth fully herein.

234.

Defendants' actions constitute willful, intentional, and tortious conduct. Every intentional tort involves an element of bad faith that entitles a person to recover the expenses of litigation, including attorney's fees.

235.

The actions of Defendants and their agents and representatives have caused Plaintiff unnecessary trouble and expense.

236.

Plaintiff is entitled to recover his attorneys' fees and the expense of litigation from the Defendants pursuant to O.C.G.A § 13-6-11.

WHEREFORE, Plaintiff respectfully prays that this Court:

- a. Grant Plaintiff a trial by jury as to all triable issues in the above styled case;
- b. Award Plaintiff his general and special damages on Counts I-XIX in an amount to be determined at trial;
- c. Award Plaintiff Special damages representing the principal amount of the Consent Judgment, in judgment which the Insurance Defendants are jointly and severally liable;
- d. Award injunctive relief, requiring Defendants to fully disclose the identities of faculty or former faculty accused of molesting students;
- e. Award Plaintiff punitive damages pursuant to O.C.G.A. § 51-12-5.1;
- f. Award Plaintiff interest on any damages awarded;
- g. Award Plaintiff's attorneys' fees, and costs and expenses associated with bringing this action;
- h. All post-judgment interest accruing on the judgment; and
- i. Award Plaintiff such further relief as this Court deems proper.

Respectfully submitted this ____th day of February, 2022.

PENN LAW

/s/ Darren W. Penn

DARREN W. PENN

Georgia Bar No. 571322

darren@pennlawgroup.com

ALEXANDRA "SACHI" COLE

Georgia Bar No. 696892

sachi@pennlawgroup.com

KEVIN M. KETNER

Georgia Bar No. 418233

kevin@pennlawgroup.com

4200 Northside Parkway, NW

Building One, Suite 100

Atlanta, Georgia 30327

Phone/Fax: (404) 961-7655

PAUL MONES

13101 Washington Blvd.

Los Angeles, CA 90066

California Bar No. 128329

paul@paulmones.com

(Pro Hac Vice Pending)

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing VERIFIED THIRD AMENDED RENEWAL COMPLAINT by using the PeachCourt e-filing system, which will automatically send email notification of such filing to the attorneys of record as follows:

Clifford Cleveland
The Cleveland Law Firm, LLC
711 McQueen Smith Road S.
Prattville, AL 36066
Attorney for Defendant Stifflemire

Robert L. Berry
Brinson, Askew, Berry,
Seigler, Richardson & Davis, LLP
C. King Askew
Samuel L. Lucas
Lee B. Carter
P.O. Box 5007
Rome, Georgia 30161
Attorneys for Defendant Darlington School

Robert H. Smalley, III
McCamy, Phillips, Tuggle & Fordham, LLP
PO Box 1105
Dalton, GA 30722
Attorney for Defendant Stifflemire

S. Lester Tate III
Akin & Tate, P.C.
P.O. Box 878
Cartersville, GA 30120
Attorney for Defendant Marquette

Terry O. Brantley, Esq.
Alex McDonald
Swift, Currie, McGhee & Heirs, LLP
The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, Georgia 30309
Attorney for Defendant Stifflemire

Barbara A. Marschalk
Drew, Eckl & Farnham, LLP
303 Peachtree Street, NE
Suite 3500
Atlanta, Georgia 30308
Attorney for Defendant David Ellis

Respectfully submitted this th day of February, 2022.

PENN LAW

/s/ Darren W. Penn

DARREN W. PENN
Georgia Bar No. 571322
darren@pennlawgroup.com
4200 Northside Parkway, NW
Building One, Suite 100
Atlanta, Georgia 30327
Phone/Fax: (404) 961-7655
Attorney for Plaintiff