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FILED
Superior Court of California
County of Los Angeles

MAR 10 2015

Sherri R. Carter, Executive Officer/Clerk
By _____ Deputy
Shaunya Bolden

Fees paid on 6/20/14 $60.00

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

WADE ROBSON, an individual,

Plaintiff,

vs.

MJJ PRODUCTIONS, INC., a California corporation; MJJ VENTURES, INC., a California corporation; and DOES 4-50, inclusive,

Defendants.

Case No. BC 508502

Assigned the Hon. Mitchell L. Beckloff

NOTICE OF HEARING ON DEMURRER AND DEMURRER TO THIRD AMENDED COMPLAINT BY DEFENDANTS MJJ PRODUCTIONS, INC. AND MJJ VENTURES, INC.; MEMORANDUM OF POINTS AN AUTHORITIES IN SUPPORT

Date: June 30, 2015
Time: 8:30 a.m.
Dept: 51

Action Filed: May 10, 2013
Trial Date: Not Set

CIT/CASE: BC508502
LEA/DEF#:

RECEIPT #: CCH465980127
DATE PAID: 03/10/15 04:13 PM
PAYMENT: $60.00 310
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CHECK: $60.00
CASH: $0.00
CHANGE: $0.00
CARD: $0.00

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on June 30, 2015, at 8:30 a.m., or as soon thereafter as the matter may be heard in Department 51 of the Los Angeles Superior Court, located at 111 North Hill Street, Los Angeles, California 90012, defendants MJJ Productions, Inc., and MJJ Ventures, Inc., will bring on for hearing their demurrer to the Third Amended Complaint filed by plaintiff Wade Robson on or around December 16, 2014.

The demurrer will be made pursuant to Code of Civil Procedure § 430.10 on the grounds that Robson's Third Amended Complaint is insufficiently pled because, among other things, it is uncertain and fails to state facts sufficient to constitute timely causes of action against either or both defendants MJJ Productions, Inc., and MJJ Ventures, Inc.

This demurrer is based upon this Notice, the attached Demurrer, the attached Memorandum of Points and Authorities in support of the Demurrer, Robson's Third Amended Complaint, Robson's prior complaints (including his Second Amended Complaint), any requests for judicial notice filed in connection with this matter, any further briefing on this matter, the record and pleadings in this and related actions, and on such other and further written and oral argument as may be presented in connection with any hearing on this matter.

DATED: March 10, 2015

Respectfully Submitted:

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP

By: _____
Howard Weitzman
Attorneys for Defendants
MJJ Productions, Inc. and MJJ Ventures, Inc.

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DEMURRER

Defendants MJJ Productions, Inc., and MJJ Ventures, Inc. (the "Corporate Defendants"), herby demur to all purported causes of action alleged against them in the Third Amended Complaint filed by plaintiff Wade Robson on the following grounds:

1. The first cause of action for "Childhood Sexual Abuse" does not state facts sufficient to support a timely cause of action against the Corporate Defendants. First, this type of cause of action necessarily lies only against a direct perpetrator of the alleged abuse. As a matter of law, a corporation cannot be the direct perpetrator of childhood sexual abuse (at least for purposes of the extended statute of limitations of section 340.1). Code Civ. Proc. § 340.1(a)(1) (extending statute of limitations against direct perpetrators *only* for "persons" and *not* "entities"). Second, even if this cause of action against the Corporate Defendants were within the scope of either or both subdivisions (a)(2) or (a)(3) of § 340.1—and they are not—this action was "filed after the plaintiff's 26th birthday." Code Civ. Proc. § 340.1(b)(1). This cause of action is therefore barred as a matter of law against the Corporate Defendants, unless Robson can allege facts sufficient to bring this action within subdivision (b)(2) of Code of Civil Procedure § 340.1. Robson has alleged no such facts Accordingly, Robson's first cause of action is time-barred as a matter of law as to the Corporate Defendants. No amendment can cure these defects.

2. The fifth cause of action for "Childhood Sexual Abuse – Negligence" does not state facts sufficient to support a timely cause of action against the Corporate Defendants. This action was "filed after the plaintiff's 26th birthday." Code Civ. Proc. § 340.1(b)(1). Accordingly, this cause of action is barred as a matter of law against the Corporate Defendants, unless Robson can allege facts sufficient to bring this action within subdivision (b)(2) of Code of Civil Procedure § 340.1. Robson has alleged no such facts Accordingly, Robson's first cause of action is time-barred as a matter of law as to the Corporate Defendants. No amendment can cure these defects.

3. The sixth cause of action for "Childhood Sexual Abuse – Negligent Infliction of Emotional Distress" does not state facts sufficient to support a timely cause of action against the Corporate Defendants. This action was "filed after the plaintiff's 26th birthday." Code Civ. Proc. § 340.1 (b)(1). Accordingly, this cause of action is barred as a matter of law against the Corporate

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Defendants, unless Robson can allege facts sufficient to bring this action within subdivision (b)(2) of Code of Civil Procedure § 340.1. Robson has alleged no such facts. Accordingly, Robson's first cause of action is time-barred as a matter of law as to the Corporate Defendants. No amendment can cure these defects.

4. The seventh cause of action for "Childhood Sexual Abuse – Breach of Fiduciary Duty" does not state facts sufficient to support a timely cause of action against the Corporate Defendants. This action was "filed after the plaintiff's 26th birthday." Code Civ. Proc. § 340.1(b)(1). Accordingly, this cause of action is barred as a matter of law against the Corporate Defendants, unless Robson can allege facts sufficient to bring this action within subdivision (b)(2) of Code of Civil Procedure § 340.1. Robson has alleged no such facts. Accordingly, Robson's first cause of action is time-barred as a matter of law as to the Corporate Defendants. No amendment can cure these defects..

WHEREFORE, the Corporate Defendants pray that this demurrer to the Third Amended Complaint be sustained as to them without leave to amend, and that the Court grant such other and further relief as the Court deems just and proper.

DATED: March 10, 2015

Respectfully Submitted:

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP

By: _____
Howard Weitzman
Attorneys for Defendants
MJJ Productions, Inc. and MJJ Ventures, Inc.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Wade Robson's Third Amended Complaint purports to state seven causes of action against various named and unnamed persons and entities. As relevant to this demurrer, Robson alleges that defendants MJJ Productions, Inc., and MJJ Ventures, Inc. (the "Corporate Defendants") are liable on four of those causes of action. Regardless of the ultimate viability of his causes of action against the other defendants, Robson's claims against the Corporate Defendants fail because they are untimely as a matter of law. Robson complains about alleged misconduct by the Corporate Defendants that occurred over two decades ago. His claims are therefore time-barred unless he can avail himself of section 340.1 of the Code of Civil Procedure, a statute providing for an unusually long statute of limitations for certain claims involving allegations of childhood sexual abuse. As explained below, however, Robson's allegations against the Corporate Defendants do not come within the scope of section 340.1 as a matter of law. Thus, all causes of action against the Corporate Defendants are barred and this demurrer should be sustained as to those defendants without leave to amend.

II. THE ALLEGATIONS OF THE THIRD AMENDED COMPLAINT

This is a general demurrer. As such, the Corporate Defendants recognize that the Court must treat the properly pleaded facts of the Third Amended Complaint as undisputed for present purposes. *Charles J. Vacanti, M.D., Inc. v. State Comp. Ins. Fund*, 24 Cal.4th 800, 807 (2001). Lest there be any doubt, however, the Corporate Defendants categorically and unequivocally deny Robson's allegations. Those allegations are contrary to Robson's sworn testimony in a roundly discredited criminal prosecution in 2005, where Michael Jackson was cleared of all wrongdoing by a jury of twelve. Whether Robson would be entitled to relief in this civil action—where he could *only* prevail if a jury found that he perjured himself and obstructed justice in a criminal proceeding—need not be decided. Robson's claims against the Corporate Defendants are not viable as a matter of law even under the liberal pleading standards applicable here.

Regarding both Corporate Defendants, Robson alleges that Michael "was the president/owner and a representative agent" of both MJJ Productions (TAC at ¶ 4), and MJJ

Ventures. (TAC at ¶ 5.) Robson alleges that MJJ Productions is a California corporation and "was a company established by [Michael] as his primary business entity and the entity that held most or all of the copyrights to [Michael's] music and videos." (TAC at ¶ 4.) Robson alleges that MJJ Ventures is a California corporation and "was a company established by [Michael] in part for the purpose of employing [Robson] to work with [Michael] on various projects." (TAC at ¶ 5.) Robson further alleges that both Corporate Defendants were Michael's "alter egos for the childhood sexual abuse alleged herein." (TAC at ¶ 6.; *see also* Second Amended Complaint (dated Feb. 19, 2014) at ¶¶ 5, 34-53 (repeatedly alleging alter ego status of Corporate Defendants).)

Wade Robson was born in Australia on September 17, 1982. (TAC at ¶ 8.) Robson alleges that he was molested by the late Michael Jackson when Robson was a child between 1990 and 1997. (TAC at ¶ 12.) From the age of 2, before he met Michael, Robson was fascinated with Michael. His first memory was of watching a video about Michael and then trying to "emulate [Michael's] dance moves." (TAC at ¶ 8.) Thereafter, "his fascination with [Michael] and dancing and being like him grew into an obsession. [Michael] became 'God' to" Robson. (*Ibid.*)

Robson met Michael in Australia in 1987 when Robson entered and won a dance competition allegedly run by Defendant MJJ Productions. (TAC at ¶ 9.) Years later, and unrelated to Michael, Robson's family traveled from Australia to California in 1990, where Robson's dance company had been invited to perform at Disneyland. While in California, Robson's mother then attempted to contact Michael so that Robson, his mother, and Michael could reconnect. Robson's mother eventually made contact with Norma Staikos (alleged to be Michael's "personal assistant" and "the Executive Administrator of MJJ Productions"). (TAC at ¶ 10.) Ms. Staikos arranged for Robson and his family to visit Michael at a recording studio in Van Nuys. Michael then invited the family to visit the Neverland Ranch in Santa Barbara County. (*Ibid.*)

Robson alleges that he was molested by Michael at Neverland on that trip. (TAC at ¶¶ 11-16.) Robson returned to Australia with his family after his visit. (TAC at ¶ 16.) Robson allegedly kept in contact with Michael in the subsequent years. In September 1991, Robson, his sister, and his mother all moved to California. (TAC at ¶ 16.) "In order to arrange for their immigration to the United States, [Michael allegedly] had Defendants MJJ Productions and MJJ Ventures hire

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[Robson] and his mother," and utilized those companies to obtain visas for Robson, his sister and his mother. (TAC at ¶ 24.)

Michael was allegedly Robson's mother's supervisor during her employment with one of the Corporate Defendants. Michael apparently directed Robson's mother to arrange visits between Michael and Robson. (TAC at ¶ 26.) There is no allegation that Robson's mother (an alleged employee of the Corporate Defendants) knew about the alleged abuse. (*Ibid.*) At age 11, Robson was signed to Michael's record label. (TAC at ¶ 31.) The abuse supposedly ceased sometime after Robson turned 14 in 1997. (TAC at ¶¶ 33-34.)

This action was filed on May 8, 2013. Robson turned 18 on September 17, 2000. (TAC at ¶ 8.) At the time this action was filed, Robson was 30 years-old. (*Ibid.*) When suit was filed, Michael was deceased and had been deceased for almost four years. (TAC at ¶ 2.)

III. LEGAL ARGUMENT

The standards governing demurrers are familiar. A demurrer shall be sustained if the pleading "does not state facts sufficient to constitute a cause of action." Code Civ. Proc. § 430.10. In ruling on a demurrer, the Court must assume that the plaintiff can prove all "properly pleaded" facts, but it must "not assume the truth of contentions, deductions, or conclusions of fact or law." *Leyva v. Nielson*, 83 Cal.App.4th 1061, 1063 (2000).

A. The Statute of Limitations Generally.

Robson turned 18 on September 17, 2000, and filed this complaint on May 8, 2013. (TAC at ¶ 8.) His complaint concerns events allegedly occurring in or before 1997. (TAC at ¶ 33.) Without the benefit of Code of Civil Procedure § 340.1, the applicable limitations period would be one year from when Robson's causes of action accrued, "and ordinarily the cause of action accrued at the time of the alleged abuse." *Quarry v. Doe I*, 53 Cal.4th 945, 960-61 (2012). "For persons who were minors when the alleged abuse occurred, the limitations period was tolled until one year after the time the plaintiff reached the age of majority, that is, until the age of 19." *Id.* at 961, citing Code Civ. Proc. § 352. Thus, unless Robson can show that his claims are within the scope of section 340.1, the statute of limitations for any claims arising out of Robson's allegations ran when he turned 19 in 2001. (TAC at ¶ 8.) As we show below, however, Robson's allegations

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are not within the scope of section 340.1, and this demurrer must therefore be sustained.

B. Section 340.1 of the Code of Civil Procedure.

Code of Civil Procedure section 340.1 creates unusually long limitations periods for certain causes of action involving childhood sexual abuse. Thus, Robson principally relies on that statute in his complaint for his allegations that this action is timely. Section 340.1 is therefore critical to this case. A discussion of that statute and how it operates is a necessary prerequisite to discussing the viability of Robson's alleged causes of action against the Corporate Defendants. (For ease of reference, we have provided the entire code section (as it exists today) as an appendix to this brief.) To fully appreciate the statute, it is helpful to briefly walk through its history, which is set out in the Supreme Court's decision in *Quarry v. Doe I*, 53 Cal.4th 945, 960-72 (2012).

In its original form as enacted in 1986, section 340.1 only applied to sexual abuse claims against members of a minor's household. *Id.* at 962. In 1990, the statute was revised to apply to claims against all direct perpetrators of childhood sexual abuse. *Id.* at 963. However, the statute was *only* applicable against the actual perpetrator of the abuse; it was not "applicable to third party defendants." *Id.* at 963; *Debbie Reynolds Prof. Rehearsal Studios v. Superior Court*, 25 Cal.App.4th 222, 233 (1994) ("Here, the Legislature specifically provided that section 340.1 was to apply only to those who perpetrate intentional acts of sexual abuse.").

In 1998, the Legislature "for the first time included certain third party defendants within the scope of the enlarged limitations period" of section 340.1. *Quarry*, 53 Cal.4th at 965. The 1998 amendments thus enacted subdivision (a) of section 340.1 as it exists today. The subdivision contemplates three potential types of claims:

> (1) An action against any *person* for committing an act of childhood sexual abuse.
>
> (2) An action for liability against any *person or entity* who owed a duty of care to the plaintiff, where a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.
>
> (3) An action for liability against any *person or entity* where an intentional act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.

Code Civ. Proc. § 340.1(a) (emphasis added).

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As is apparent from the emphasized language, the statute distinguishes between actions against a "person" and actions against an "entity." Subdivision (a)(1) contemplates liability *only* against a "person" alone, and not against an "entity." The subdivision has therefore been interpreted to refer *only* to "a natural person," and not to a corporation or other "entity." *Boy Scouts of Am. Nat. Found. v. Superior Court*, 206 Cal.App.4th 428, 448 (2012). Stated otherwise, only a "natural person" may be sued as a direct perpetrator of "childhood sexual abuse." *Id.* at 448-49. Actions under subdivisions (a)(2) and (a)(3), however, may be brought against *either* a "person or [an] entity." Code Civ. Proc. § 340.1(a)(2-3). These subdivisions are directed not to the actual perpetrator of the abuse, but to third parties "whose negligent or intentional act was a legal cause of the abuse." *Aaronoff v. Martinez-Senftner*, 136 Cal.App.4th 910, 920 (2006).

When it enacted subdivisions (a)(2) and (a)(3) in 1998, the Legislature was crystal clear that it did *not* intend to create any new theories of liability against third parties, but merely to extend the statute of limitations for already existing liability theories against third parties. This Legislative intent is written directly into subdivision (t) of the statute: "Nothing in the amendments to this section enacted at the 1998 portion of the 1997-98 Regular Session is intended to create a new theory of liability." Code Civ. Proc. § 340.1(t), formerly § 340.1(r).

Finally, in the 1998 enactment, the Legislature provided that, unlike actions against the individual perpetrator of the abuse (who can be sued anytime within three years of discovery of the injury regardless of the plaintiff's age), the extended statute of limitations against third parties expires forever "on or after the plaintiff's 26th birthday." *Quarry*, 55 Cal.4th at 965-66.

In 2002, the Legislature revisited section 340.1 again and, among other things, provided one exception to the 26th birthday cutoff by creating "a new subcategory of third party defendant who henceforth would not receive the protection of the absolute cutoff of age 26." *Id.* at 968. It is the language of the 2002 enactment, which controls today. Subdivision (b)(1) of the statute still provides for the 26th birthday cut-off for all third party claims: "No action described in paragraph (2) or (3) of subdivision (a) may be commenced on or after the plaintiff's 26th birthday." Code Civ. Proc. § 340.1(b)(1). However, subdivision (b)(2) carves out "a special *exception* to the age 26 cutoff" and "provide[s] a longer limitations period for childhood sexual abuse claims, subject to

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the statutory [three year] delayed discovery rule already defined by subdivision (a) of the statute." *Quarry*, 55 Cal.4th at 968 (emphasis in original). The precise contours of subdivision (b)(2) are discussed in detail below in subsection III.D of this brief. Suffice it to say that the subdivision is directed to a "subcategory" of third party defendants who had the ability to exercise control over the direct perpetrator such that they could take take "reasonable steps and [ ] implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by" the perpetrator. Code Civ. Proc. § 340.1(b)(2). This makes sense when one recalls that the Legislature enacted subdivision (b)(2) to extend the limitations period "in the wake of public exposure of sexual abuse by priests against children that had been condoned and covered up by the Catholic Church for so many years." *Quarry*, 53 Cal.4th at 988. Organizations like churches, schools and the Boy Scouts were in a position to fire or remove perpetrators if they learned of past abuse because the organizations had control over their teachers, pastors, or troop leaders.

C. Robson's First Cause of Action Is Time-Barred.

Robson's first cause of action is for "childhood sexual abuse" and is alleged against all defendants. (TAC at p. 1, ll. 4-6.) The cause of action alleges that "decedent" and unidentified "Does 46 through 50, inclusive" engaged in various "act[s] of childhood sexual abuse," Code Civ. Proc. § 340.1(a)(1), by violating several Penal Code provisions. (TAC at ¶¶ 49-68.)

This cause of action against the Corporate Defendants fails for the simplest of reasons: there is no allegation that the Corporate Defendants "commit[ted] an act of childhood sexual abuse." Code Civ. Proc. § 340.1(a)(1). All the alleged acts were supposedly committed by the "decedent" or by "Does 46 through 50." (TAC at ¶¶ 49-68.) That Robson mentions subdivisions (a)(2) and (a)(3) in this cause of action—*e.g.*, TAC at ¶¶ 6, 7, 71—is meaningless. When the Legislature enacted subdivisions (a)(2) and (a)(3), "the enactment specified that the amendments did not 'create a new theory of liability.'" *Quarry*, 53 Cal.4th at 982, citing Code Civ. Proc. § 340.1(t). This is consistent with common sense. Section 340.1 is a statute of limitations, i.e., it specifies a time limitation on when a cause of action must be brought; it does not itself create a substantive theory of liability. Section 340.1 no more creates a substantive cause of action for "Childhood Sexual Abuse" than Code of Civil Procedure § 336 creates a substantive cause of

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action for "Mesne Profits," or § 348 creates a cause of action for "Deposit of Money," or § 343 creates a cause of action for "Actions Not Provided For in the Foregoing."

To the extent that Robson intends to argue that his first cause of action comes within the scope of subdivisions (a)(2) and (a)(3) as against the Corporate Defendants, the argument fails. Those subdivisions apply, respectively, to causes of action alleging either: a viable negligence theory; or an intentional tort theory whereby the intentionally wrongful acts of a third party are the legal cause (i.e., the proximate cause) of the *perpetrator's* sexual abuse. *Joseph v. Johnson*, 178 Cal.App.4th 1404, 1410-11, 1415 (2009). "Juxtaposed as [subdivisions (a)(2) and (a)(3)] are with the subdivision dealing specifically with the perpetrator [i.e., subdivision (a)(1)], they cannot be read to apply to the perpetrator." *Aaronoff*, 136 Cal.App.at 920.

Simply put, a cause of action for "childhood sexual abuse" alone—as opposed to a viable negligence theory or a third party intentional tort theory—can only gain the benefit of the extended statute of limitations if it meets the requirements of subdivision (a)(1). Here, a cause of action against Corporate Defendants cannot fall within the scope of that subdivision because they are not "persons" under the statute. *Boy Scouts*, 206 Cal.App.4th at 445-48. Accordingly, "[e]ven assuming that [Robson's] action was brought against the [Corporate Defendants] in the capacity of perpetrators (whether as aiders and abettors or as child procurers under Penal Code section 266j), the [Corporate Defendant] remain, as alleged in the complaint, corporate entities to which subdivision (a)(1) of section 340.1 does not apply." *Id.* at 445.

That Michael was allegedly the Corporate Defendants' agent or alter ego (TAC at ¶¶ 4-6) changes nothing. Subdivision (a)(1) does not have such exceptions for entities, but provides that *only* natural persons can be sued with the benefit of the extended statute of limitations thereunder.

Finally, the fact that in two paragraphs of his first cause of action Robson parrots the language from § 340.1(b)(2) is irrelevant. (TAC at ¶¶ 71-72.) By its plain language, subdivision (b) only applies to claims under subdivisions (a)(2) and (a)(3), and the cause of action for "childhood sexual abuse" is not such a claim. Regardless, merely parroting the statute's language is not enough to comply with the requirements to plead *facts* consistent with subdivision (b)(2). Robson's allegations, which basically just quote the statute, are textbook examples of

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"contentions, deductions, or conclusions of fact or law," which the Court must ignore on a demurrer. *Black v. Dep't of Mental Health*, 83 Cal.App.4th 739, 745 (2000).

For all these reasons, the Corporate Defendants respectfully request that the first cause of action for "childhood sexual abuse" be dismissed as to them without leave to amend.

D. All Causes of Action Are Time-Barred Because Robson Is Over Age 26, and He Has Not and Cannot Plead Facts Consistent With Section 340.1(b)(2).

This action was filed after Robson's 26th birthday. Thus, all of his causes of action are time-barred under subdivision (b)(1) of section 340.1: "No action described in paragraph (2) or (3) of subdivision (a) may be commenced on or after the plaintiff's 26th birthday." Code Civ. Proc. § 340.1(b)(1). The only way Robson can get around this is if his pleadings have successfully stated allegations bringing the Corporate Defendants within the "subcategory of third party defendant who [do] not receive the protection of the absolute cutoff of age 26." *Quarry*, 53 Cal.4th at 968. That "subcategory" is found in subdivision (b)(2) of section 340.1. [1]

Section 340.1(b)(2) provides that suit may be filed against an entity "after the plaintiff's 26th birthday" *only* when the "entity knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee, volunteer, representative, or agent, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by that person, including, but not limited to, preventing or avoiding placement of that person in a function or environment in which contact with children is an inherent part of that function or environment." Code Civ. Proc. § 340.1(b)(2).

---

[1] Separate from subdivision (b)(2), we do not agree that the fifth through seventh causes of actions sufficiently plead facts to support those causes of action. In particular, Robson does not sufficiently allege a "duty" and "special relationship" such that the Corporate Defendants had a negligence based duty to protect him as alleged in his fifth cause of action. *Roman Catholic Bishop of San Diego*, 42 Cal.App.4th 1556, 1567-1568 (1996). Robson's sixth cause of action for negligent infliction of emotional distress fails for the same reasons. "We have repeatedly recognized that '[t]he *negligent* causing of emotional distress is not an independent tort, but the tort of *negligence*.'" *Burgess v. Superior Court*, 2 Cal.4th 1064, 1072 (1992) (emphasis in original). Finally, the seventh cause of action for breach of fiduciary duty does not come close to alleging facts to support a fiduciary relationship, particularly in light of recent Supreme Court authority effectively limiting this tort to certain specific relationships. *See generally City of Hope Nat. Med. Ctr. v. Genentech, Inc.*, 43 Cal. 4th 375, 385-92 (2008).

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The Supreme Court has explained that this subdivision "is targeted at third party defendants who, by virtue of certain specified relationships to the perpetrator (i.e., employee, volunteer, representative, or agent), could have employed safeguards to prevent the sexual assault. It requires the sexual conduct to have arisen through an exploitation of a relationship over which the third party has some control.'" *Doe v. City of Los Angeles*, 42 Cal.4th 531, 544 (2007), quoting *Aaronoff*, 136 Cal.App.4th at 921. The statute "requires the sexual conduct to have arisen through an exploitation of a relationship over which the third party has some control. In other words, the perpetrator's access to the victim must arise out of the perpetrator's employment with, representation of, agency to, etc., the third party, and the third party must be in such a relationship with the perpetrator as to have some control over the perpetrator. The child must be exposed to the perpetrator as an inherent part of the environment created by the relationship between the perpetrator and the third party." *Ibid.*

Applying the language from the cases to the allegations here, Robson needs to plead that the Corporate Defendants could have employed safeguards to prevent the alleged sexual assault by Michael, "the president/owner" of both Corporate Defendants. (TAC at ¶¶ 4-5.) Robson needs to plead that there is a "necessary relationship between [the Corporate Defendants] and the perpetrator [implying] that the former was in a position to exercise some control over the latter" such that the Corporate Defendants could have prevented the abuse. *Doe v. City of Los Angeles*, 42 Cal.4th at 544. Robson must plead that Robson was "expos[ed] to [Michael] as an inherent part of the environment created by the relationship between [Michael] and [the Corporate Defendants]." *Aaronoff*, 136 Cal.App.4th at 921. Robson has not and cannot plead any of this. Indeed, the allegations of the operative Complaint are contrary to these requirements and fail for three independent reasons, each of which is sufficient on its own to defeat the complaint.

1. Robson Was Not Exposed to the Alleged Perpetrator as an Inherent Part of the Environment Created by the Relationship Between the Perpetrator and the Corporate Defendants.

The complaint makes clear that Robson was not exposed to Michael "as an inherent part of the environment created by the relationship between [Michael] and [the Corporate

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Defendants]." *Ibid.* According to the allegations of the operative complaint, Robson was exposed to Michael as a result of Michael's individual fame: Robson was "fascinat[ed]" with Michael before he ever met him. (TAC at ¶ 8.) Indeed, the alleged abuse first started in 1990, when Robson was seven—there is *no connection whatsoever* between that alleged abuse and the Corporate Defendants. Rather, Robson and his family had visited California in 1990, independent of Michael, after Robson's dance company was invited to perform at Disneyland. (TAC at ¶ 10.) While there, Robson's mother contacted Michael's representatives. Robson and his family visited a recording studio and then Neverland Ranch, where Robson was allegedly abused. None of this has anything to do with the Corporate Defendants, let alone does it show that Robson was "expos[ed] to [Michael] as an inherent part of the environment created by the relationship between [Michael] and [the Corporate Defendants]." *Aaronoff*, 136 Cal.App.4th at 921.

Although there are later references in the complaint to Robson's and his family's relationship to the Corporate Defendants, those relationships were incidental to the alleged abuse. In this regard, the case is analogous to the Court of Appeal's decision in *Aaronoff*, where the Court sustained a demurrer without leave to amend against a complaint by a daughter against her parents and her parents' business. There, plaintiff alleged that her father and mother both worked at and owned defendant car dealerships. *Id.* at 917. The plaintiff also had been hired by her parents to work at the car dealerships when she was eight years old, and continued to work there at least through the time she was thirteen. *Ibid.* The complaint alleged that the father molested the plaintiff from when she was four years-old until she was thirteen years-old, including during business hours at the car dealerships where both were employed. *Id.* at 917. Allegedly, plaintiff's mother, Gloria, knew about and witnessed the abuse by plaintiff's father, James, but took no steps to prevent it. *Ibid.* The operative complaint in *Aaronoff* alleged that "Gloria was fully aware of the extent and scope of the depraved pattern of sexual abuse carried out by James against plaintiff, and hence was his aider, abettor and co-conspirator in carrying out and concealing the sexual abuse and molestation. Furthermore, Gloria was an officer and employee of [defendant car dealership corporations] and had a duty to take reasonable safeguards to prevent employees and/or agents of those businesses from committing acts of unlawful sexual conduct against minors." *Ibid.* The trial

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court sustained a demurrer without leave to amend and the Court of Appeal affirmed. The Court held that the abuse simply did not arise out of the business relationship such that the business, or the mother in her capacity as an officer of the business, could be liable for abuse that allegedly took place on the business's premises. *Id.* at 921-23

This exact reasoning applies here. Like the relationship between the abuse and the daughter's work at the car dealerships in *Aaronoff*, Robson's alleged abuse did not arise out of Michael's employment or relationship with the Corporate Defendants. Rather, the alleged abuse predated Robson's employment with the Corporate Defendants by years. And even when the Corporate Defendants enter the picture, according to the Third Amended Complaint, they are not doing anything. Rather, the *alleged perpetrator is directing the Corporate Defendants* what to do. For example, at paragraph 24 of the operative Complaint, Robson alleges: "In order to arrange for their immigration to the United States, *decedent had* Defendants MJJ Productions and MJJ Ventures hire [Robson] and his mother, and arranged for [Robson], his mother and sister to move permanently to California." (TAC at ¶ 24 (emphasis added).) The complaint specifically and repeatedly alleges that Michael used the Corporate Defendants as his "facilitators" for the alleged abuse. (TAC at ¶¶ 4-5.) These are actions of the alleged perpetrator, not the actions of the Corporate Defendants.

In short, the complaint is clear that Robson was *not* "expos[ed] to [Michael] as an inherent part of the environment created by the relationship between [Michael] and [the Corporate Defendants]." *Aaronoff*, 136 Cal.App.4th at 921. Accordingly, this is a first of three independent reasons why Robson has not, and cannot, plead facts consistent with subdivision (b)(2).

2. The Corporate Defendants Were Not in a Position To Control the Alleged Perpetrator and To Stop the Alleged Abuse.

As noted above, section 340.1(b)(2)'s "enumeration of the necessary relationship between the nonperpetrator defendant and the perpetrator implies that the former was in a position to exercise some control over the latter." *Doe v. City of Los Angeles*, 42 Cal.4th at 544, quoting *Aaronoff*, 136 Cal.App.4th at 921. Setting aside the conclusory legal allegations that the Corporate Defendants "had the ability to exercise control over [Michael's] business and personal affairs,"

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(TAC at ¶¶ 4, 5, 71, 97), the *factual* allegations are contrary to any contentions that the Corporate Defendants could control Michael such that they would be in a position to have stopped the abuse.

In particular, the complaint makes clear that Michael "was *the* president/owner" of both Corporate Defendants—we emphasize use of the definite article to show that there were no other "owner." (TAC at ¶ 4, 5.) As a matter of hornbook corporate law, the sole shareholder had full and ultimate control over both Corporate Defendants. In particular, majority shareholders of a corporation necessarily have the "power to control corporate activities" but "[a]ny use to which they put the corporation or their power to control the corporation must benefit all shareholders proportionately." *Jones v. H. F. Ahmanson & Co.*, 1 Cal.3d 93, 108 (1969) (Traynor, C.J.). Here, where there is only one shareholder, it necessarily follows that Michael had absolute control over the Corporate Defendants. Indeed, the allegations of the Third Amended Complaint fully support this conclusion. The allegations repeatedly refer to Michael directing the Corporate Defendants, and their employees to do things. (*E.g.*, TAC at ¶ 5 (MJJ Ventures was set up by Michael, allegedly for purpose of employing Robson), ¶ 6 (Corporate Defendants were Michael's "alter egos"), ¶ 24 (Michael "had" the Corporate Defendants arrange for Robson's immigration), ¶ 26 (Michael directing Robson's mother, whom he supervised, to drop Robson off at his apartment).)

Robson's allegation that Norma Staikos, an alleged employee of MJJ Productions, told people not to leave children alone with Michael (TAC at ¶15, 28) does not mean that Ms. Staikos—let alone MJJ Productions—had control over Michael. The Court of Appeal addressed a similar allegation in *Joseph v. Johnson*, 178 Cal.App.4th 1404. There, an alleged victim sought to hold the wife of his abuser liable for delegating her babysitting duties to her husband who abused the victim. "Plaintiffs' only allegation with respect to control is that [wife] could have controlled [husband's] conduct 'by not allowing him to be alone with [plaintiffs] while babysitting.' But the fact that [wife] might not have permitted [husband] to be alone with the plaintiffs does not mean that she had the right to control his behavior. *Joseph*, 178 Cal.App.4th at 1412 (sustaining demurrer without leave to amend for failure to make allegations consistent with § 340.1(b)(2).

Robson's attempt to somehow separate out the corporations from their sole owner as two different parties fails by the very fact that the complaint specifically alleges that the Corporate

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Defendants were Michael's "alter egos." (TAC at ¶ 6.) The term "alter ego," of course, is a term of art in corporate law. A corporation is an "alter ego" of an individual when, among other things, the individual exercises such domination and control over the corporation that there is "such unity of interest and ownership that the separate personalities of the corporation and the individual no longer exist." *Mesler v. Bragg Mgmt. Co.*, 39 Cal.3d 290, 300 (1985).

Simply put, the attempt to separate the Corporate Defendants from Michael—such that the corporation could "control" Michael with respect to his (alleged) most personal dealings—leads to absurd and circular reasoning under the circumstances here. The corporations were owned by Michael; Michael was the president of the corporations; but the corporations controlled Michael? That makes no sense. "A corporation is simply a form of organization used by human beings to achieve desired ends. … Corporations, 'separate and apart from' the human beings who own, run, and are employed by them, cannot do anything at all." *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. _, 134 S. Ct. 2751, 2768 (2014).

What Robson is really arguing is that the *alleged* acts of Michael in his bedroom can somehow be imputed to the Corporate Defendants as acts of the corporations. But California courts have consistently and repeatedly held that corporations are *not* vicariously liable for alleged sexual abuse by their officers or employees. *Quarry*, 53 Cal.4th at 962 n. 4. In so holding, these courts all conclude that the alleged sexual abuse by a corporate officer or employee are outside the scope of employment by the corporation, i.e., they are unconnected to the corporation's business and purpose. [2] Here, the relationship between the corporations and the alleged abuse is even more

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[2] In addition to the cases cited in *Quarry*, there are countless other cases rejecting vicarious liability for alleged acts of sexual abuse. *See, e.g., C.A. v. William S. Hart Union High School District*, 53 Cal.4th 861,865 (2012); *Lisa M. v. Henry Mayo Newhall Memorial Hospital*, 12 Cal.4th 291,306 (1995); *John R. v. Oakland Unified School District*, 48 Cal.3d 438,452-453 (1989); *K.G. v. County of Riverside*, 106 Cal.App. 4th 1374, 1380-1383 (2003); *Richelle L. v. Roman Catholic Archbishop of San Francisco*, 106 Cal.App. 4th 257, 282, fn. 15 (2003); *Doe 1 v. City of Murrieta*, 102 Cal.App. 4th 899, 906-910 (2002); *John Y v. Chaparral Treatment Center, Inc.*, 101 Cal.App. 4th 565, 576 (2002); *Maria D. v. Westec Residential Security, Inc.*, 85 Cal.App. 4th 125, 146-149 (2000); *Juarez v. Boy Scouts of America, Inc.*, 81 Cal.App. 4th 377, 393-94 (2000); *Mark K. v. Roman Catholic Archbishop of Los Angeles*, 67 Cal.App. 4th 603, 610 (1998); *Alma W v. Oakland Unified School District*, 123 Cal.App. 3d 133, 144 (1981).

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tenuous than in the vicarious liability cases. The Corporate Defendants did not, and could not, "control" Michael such that they could have taken reasonable steps to prevent the alleged abuse. *See, e.g., Joseph*, 178 Cal.App.4th at 1412 (sustaining demurrer without leave to amend because wife did not have ability to control husband/abuser); *Aaronoff*, 136 Cal.App.4th at 921(same); *Roman Catholic Bishop of San Diego*, 42 Cal.App.4th 1556, 1567-1568 (1996) (Church did not have "duty to protect" minor parishioner, and was not liable for alleged abuse by priest where "nearly all of the contact [victim] had with [priest] occurred when [priest] took [victim] from her home to various public places and hotels. [Victim] did not attend a church school, where an affirmative duty to protect students may exist.").

Accordingly, this is a second independent reason why the complaint has not, and cannot, plead facts consistent with section 340.1(b)(2).

3. The Corporate Defendants Did Not Know, Have Reason To Know or Were Otherwise on Notice of Alleged Unlawful Sexual Abuse.

In *Doe v. City of Los Angeles*, the Supreme Court addressed what type of knowledge an entity must have to meet the requirement of § 340.1(b)(2) that the "entity knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee, volunteer, representative, or agent." Code Civ. Proc. § 340.1(b)(2). The Court held that the knowledge the entity must have is of "the perpetrator's *unlawful sexual conduct*." *Doe v. City of Los Angeles*, 42 Cal.4th at 545 (emphasis in original). Knowledge of facts that might cause reasonable people to suspect abuse or to inquire about abuse is *not* sufficient. *Ibid.* Thus, in *Doe*, the Supreme Court affirmed a trial court's order sustaining a demurrer without leave to amend against the LAPD despite the fact that the operative complaint alleged that it was "common knowledge" to LAPD officers that: the police officer/abuser "sought out and befriended boys" in an LAPD program for troubled youths; that the officer was a friend of "a known pornographer who specialized in pornographic movies featuring boys"; that the officer invited young boys from the LAPD youth program "into his home outside of sanctioned program events and activities" and allowed them to drink and watch pornography; and that the officer often travelled to Thailand, "a known haven for pedophiles" and had been observed by officers there with a young boy. *Id.* at 537-38, 551-52.

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As a result of these allegations, the victim alleged that the LAPD "knew or had reason to know, or was otherwise on notice" of the abusers "unlawful sexual conduct." Code Civ. Proc. § 340.1(b)(2). The trial court and the Supreme Court disagreed, and held that these facts, at best, would put a reasonable person on "inquiry notice" regarding potential abuse. But that is insufficient; "the Legislature's use of a "reason to know" standard is not the same as the inquiry notice described in Civil Code section 19." *Doe v. City of Los Angeles*, 42 Cal.4th at 547. Rather, an entity has "reason to know" only when the entity "has information from which a person of reasonable intelligence or of the superior intelligence of the actor would infer that the fact in question exists, or that such person would govern his conduct upon the assumption that such fact exists." *Ibid.* And the "otherwise on notice" language in the statute also does not create a duty of inquiry based on knowledge of conduct which is not itself "unlawful sexual conduct." *Id.* at 548-59. "[C]onstruing the subdivision as a whole, the knowledge or notice requirement refers to knowledge or notice of *past* unlawful sexual conduct by the individual currently accused of other unlawful sexual conduct." *Id.* at 549 (emphasis in original).

Here, there are virtually no allegations regarding the Corporate Defendants alleged knowledge of "unlawful sexual conduct" prior to when the alleged abuse began, or at any time prior to the 1993 allegations (which likely still do not suffice under the Supreme Court's reasoning in *Doe v. City of Los Angeles*) to support a finding that the Corporate Defendants "knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct." Code Civ. Proc. § 340.1(b)(2). Indeed, the facts here are nowhere close to the allegations in *Doe v. City of Los Angeles*, which the Supreme Court held were *insufficient* as a matter of law at the demurrer stage. At best, the facts alleged here would put a corporation inquiry notice, which is not enough under the statute. For this third independent reason, Robson has not pleaded facts—and cannot plead facts—to bring this case within section 340.1(b)(2). Accordingly, this demurrer must be sustained.

IV. CONCLUSION

For the reasons stated, the Corporate Defendants respectfully request that this demurrer be sustained without leave to amend.

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DATED: March 10, 2015

Respectfully Submitted:

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By: _____

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CCP § 340.1

CODE OF CIVIL PROCEDURE

PART 2. OF CIVIL ACTIONS [307 - 1062.20] (Part 2 enacted 1872.)

TITLE 2. OF THE TIME OF COMMENCING CIVIL ACTIONS [312 - 366.3] (Title 2 enacted 1872.)

CHAPTER 3. The Time of Commencing Actions Other Than for the Recovery of Real Property [335 - 349.4] (Chapter 3 enacted 1872.)

§ 340.1. Childhood sexual abuse; certificates of merit executed by attorney; violations; failure to file; name designation of defendant; periods of limitation; legislative intent.

(a) In an action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within eight years of the date the plaintiff attains the age of majority or within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later, for any of the following actions:

(1) An action against any person for committing an act of childhood sexual abuse.

(2) An action for liability against any person or entity who owed a duty of care to the plaintiff, where a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.

(3) An action for liability against any person or entity where an intentional act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.

(b) (1) No action described in paragraph (2) or (3) of subdivision (a) may be commenced on or after the plaintiff's 26th birthday.

(2) This subdivision does not apply if the person or entity knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee, volunteer, representative, or agent, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by that person, including, but not limited to, preventing or avoiding placement of that person in a function or environment in which contact with children is an inherent part of that function or environment. For purposes of this subdivision, providing or requiring counseling is not sufficient, in and of itself, to constitute a reasonable step or reasonable safeguard.

(c) Notwithstanding any other provision of law, any claim for damages described in paragraph (2) or (3) of subdivision (a) that is permitted to be filed pursuant to paragraph (2) of subdivision (b) that would otherwise be barred as of January 1, 2003, solely because the applicable statute of limitations has or had expired, is revived, and, in that case, a cause of action may be commenced within one year of January 1, 2003. Nothing in this subdivision shall be

construed to alter the applicable statute of limitations period of an action that is not time barred as of January 1, 2003.

(d) Subdivision (c) does not apply to either of the following:

(1) Any claim that has been litigated to finality on the merits in any court of competent jurisdiction prior to January 1, 2003. Termination of a prior action on the basis of the statute of limitations does not constitute a claim that has been litigated to finality on the merits.

(2) Any written, compromised settlement agreement which has been entered into between a plaintiff and a defendant where the plaintiff was represented by an attorney who was admitted to practice law in this state at the time of the settlement, and the plaintiff signed the agreement.

(e) "Childhood sexual abuse" as used in this section includes any act committed against the plaintiff that occurred when the plaintiff was under the age of 18 years and that would have been proscribed by Section 266j of the Penal Code; Section 285 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 286 of the Penal Code; subdivision (a) or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 288a of the Penal Code; subdivision (h), (i), or (j) of Section 289 of the Penal Code; Section 647.6 of the Penal Code; or any prior laws of this state of similar effect at the time the act was committed. Nothing in this subdivision limits the availability of causes of action permitted under subdivision (a), including causes of action against persons or entities other than the alleged perpetrator of the abuse.

(f) Nothing in this section shall be construed to alter the otherwise applicable burden of proof, as defined in Section 115 of the Evidence Code, that a plaintiff has in a civil action subject to this section.

(g) Every plaintiff 26 years of age or older at the time the action is filed shall file certificates of merit as specified in subdivision (h).

(h) Certificates of merit shall be executed by the attorney for the plaintiff and by a licensed mental health practitioner selected by the plaintiff declaring, respectively, as follows, setting forth the facts which support the declaration:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one mental health practitioner who is licensed to practice and practices in this state and who the attorney reasonably believes is knowledgeable of the relevant facts and issues involved in the particular action, and that the attorney has concluded on the basis of that review and consultation that there is reasonable and meritorious cause for the filing of the action. The person consulted may not be a party to the litigation.

(2) That the mental health practitioner consulted is licensed to practice and practices in this state and is not a party to the action, that the practitioner is not treating and has not treated the plaintiff, and that the practitioner has interviewed the plaintiff and is knowledgeable of the relevant facts and issues involved in the particular action, and has concluded, on the basis of his

or her knowledge of the facts and issues, that in his or her professional opinion there is a reasonable basis to believe that the plaintiff had been subject to childhood sexual abuse.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificates required by paragraphs (1) and (2) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificates required by paragraphs (1) and (2) shall be filed within 60 days after filing the complaint.

(i) Where certificates are required pursuant to subdivision (g), the attorney for the plaintiff shall execute a separate certificate of merit for each defendant named in the complaint.

(j) In any action subject to subdivision (g), no defendant may be served, and the duty to serve a defendant with process does not attach, until the court has reviewed the certificates of merit filed pursuant to subdivision (h) with respect to that defendant, and has found, in camera, based solely on those certificates of merit, that there is reasonable and meritorious cause for the filing of the action against that defendant. At that time, the duty to serve that defendant with process shall attach.

(k) A violation of this section may constitute unprofessional conduct and may be the grounds for discipline against the attorney.

(l) The failure to file certificates in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(m) In any action subject to subdivision (g), no defendant may be named except by "Doe" designation in any pleadings or papers filed in the action until there has been a showing of corroborative fact as to the charging allegations against that defendant.

(n) At any time after the action is filed, the plaintiff may apply to the court for permission to amend the complaint to substitute the name of the defendant or defendants for the fictitious designation, as follows:

(1) The application shall be accompanied by a certificate of corroborative fact executed by the attorney for the plaintiff. The certificate shall declare that the attorney has discovered one or more facts corroborative of one or more of the charging allegations against a defendant or defendants, and shall set forth in clear and concise terms the nature and substance of the corroborative fact. If the corroborative fact is evidenced by the statement of a witness or the contents of a document, the certificate shall declare that the attorney has personal knowledge of the statement of the witness or of the contents of the document, and the identity and location of the witness or document shall be included in the certificate. For purposes of this section, a fact is corroborative of an allegation if it confirms or supports the allegation. The opinion of any mental health practitioner concerning the plaintiff shall not constitute a corroborative fact for purposes of this section.

(2) Where the application to name a defendant is made prior to that defendant's appearance in the action, neither the application nor the certificate of corroborative fact by the attorney shall be served on the defendant or defendants, nor on any other party or their counsel of record.

(3) Where the application to name a defendant is made after that defendant's appearance in the action, the application shall be served on all parties and proof of service provided to the court, but the certificate of corroborative fact by the attorney shall not be served on any party or their counsel of record.

(o) The court shall review the application and the certificate of corroborative fact in camera and, based solely on the certificate and any reasonable inferences to be drawn from the certificate, shall, if one or more facts corroborative of one or more of the charging allegations against a defendant has been shown, order that the complaint may be amended to substitute the name of the defendant or defendants.

(p) The court shall keep under seal and confidential from the public and all parties to the litigation, other than the plaintiff, any and all certificates of corroborative fact filed pursuant to subdivision (n).

(q) Upon the favorable conclusion of the litigation with respect to any defendant for whom a certificate of merit was filed or for whom a certificate of merit should have been filed pursuant to this section, the court may, upon the motion of a party or upon the court's own motion, verify compliance with this section by requiring the attorney for the plaintiff who was required by subdivision (h) to execute the certificate to reveal the name, address, and telephone number of the person or persons consulted with pursuant to subdivision (h) that were relied upon by the attorney in preparation of the certificate of merit. The name, address, and telephone number shall be disclosed to the trial judge in camera and in the absence of the moving party. If the court finds there has been a failure to comply with this section, the court may order a party, a party's attorney, or both, to pay any reasonable expenses, including attorney's fees, incurred by the defendant for whom a certificate of merit should have been filed.

(r) The amendments to this section enacted at the 1990 portion of the 1989–90 Regular Session shall apply to any action commenced on or after January 1, 1991, including any action otherwise barred by the period of limitations in effect prior to January 1, 1991, thereby reviving those causes of action which had lapsed or technically expired under the law existing prior to January 1, 1991.

(s) The Legislature declares that it is the intent of the Legislature, in enacting the amendments to this section enacted at the 1994 portion of the 1993–94 Regular Session, that the express language of revival added to this section by those amendments shall apply to any action commenced on or after January 1, 1991.

(t) Nothing in the amendments to this section enacted at the 1998 portion of the 1997–98 Regular Session is intended to create a new theory of liability.

(u) The amendments to subdivision (a) of this section, enacted at the 1998 portion of the 1997–98 Regular Session, shall apply to any action commenced on or after January 1, 1999, and to any action filed prior to January 1, 1999, and still pending on that date, including any action or causes of action which would have been barred by the laws in effect prior to January 1, 1999. Nothing in this subdivision is intended to revive actions or causes of action as to which there has been a final adjudication prior to January 1, 1999.

(Amended by Stats. 2002, Ch. 149, Sec. 1. Effective January 1, 2003.)

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 808 Wilshire Boulevard, 3rd Floor, Santa Monica, CA 90401.

On March 10, 2015, I served true copies of the following document(s) described as **NOTICE OF HEARING ON DEMURRER AND DEMURRER TO THIRD AMENDED COMPLAINT BY DEFENDANTS MJJ PRODUCTIONS, INC. AND MJJ VENTURES, INC.; MEMORANDUM OF POINTS AN AUTHORITIES IN SUPPORT** on the interested parties in this action as follows:

Henry Gradstein, Esq.	*Attorneys for Wade Robson*
Maryann R. Marzano, Esq.	Tel: 323-302-9488
Matt Slater, Esq.	Fax: 323-931-4990
Gradstein & Marzano, P.C.	hgradstein@gradstein.com
6310 San Vicente Boulevard, Suite 510	mmarzano@gradstein.com
Los Angeles, CA 90048	mslater@gradstein.com

☒ **BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Kinsella Weitzman Iser Kump & Aldisert LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a courtesy copy of the document(s) to be sent from e-mail address choffman@kwikalaw.com to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed above or on the attached Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 10, 2015, at Santa Monica, California.

Candace Hoffman

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