

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 50/85/02

DEPT. 51

HONORABLE MITCHELL L. BECKLOFF

JUDGE

J. MANRIQUE

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

8:30 am

BC508502

Plaintiff

Counsel

WADE ROBSON

NO APPEARANCES

VS

Defendant

DOE 1 ET AL

Counsel

R/T: BP117321

NATURE OF PROCEEDINGS:

While it is true plaintiff has alleged Michael Jackson was the owner and President of defendants, little else is alleged about the structure and culture of the defendants. (Michael Jackson's ownership of the stock for defendants is alleged on information and belief in the relevant Certificates of Merit.) Plaintiff has alleged facts suggesting at least one person, Ms. Staikos, had significant decision-making authority within the organizations. (TAC paras. 29, 21, 22 and 30.) Ms. Staikos, according to plaintiff's allegations, "had forced" Michael Jackson to accede to her decision on at least one occasion. (TAC para. 29.)

As the parties are well aware, on a demurrer, the court must construe all allegations of the complaint liberally and allow all reasonable inferences and implications in favor of plaintiff. Given this standard, plaintiff has met his pleading requirement as to this third element of section 340.1, subdivision (b)(2).

The second element of section 340.1, subd. (b)(2) identified by Doe - the perpetrator was an employee, agent or representative of the non-perpetrator defendant and engaged in unlawful sexual conduct - is not challenged here. Certainly, plaintiff has alleged Michael Jackson was a representative or agent of defendants and the complaint specifies the Penal Code violations involved.

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Defendants, however, do raise an argument related to the second element. Defendants argue the relationships between them and plaintiff were incidental to the abuse. Defendants argue this case is similar to Aaronoff v. Martinez-Senftner (2006) 136 Cal.App.4th 910 where the sexual abuse rose from the parent/child relationship and did not arise out of a business relationship and section 340.1, subdivision (b) (2) was found inapplicable.

Defendants argue the sexual abuse here "predated" plaintiff's employment with defendants. (Demurrer p. 11.) Defendants assert the sexual abuse "first started" in 1990 prior to any relationship to plaintiff and defendants. Defendants focus on Aaronoff's use of the language "arisen" and "must arise out of" in describing the relationship between plaintiff and the non-perpetrator entity.

The Supreme Court did not address this notion in Doe. Doe did, however, cite this language from Aaronoff in its opinion.

Plaintiff has alleged sufficient facts of a business environment connection between him and defendants. Certainly, there are allegations Michael Jackson sexually abused plaintiff prior to any business relationship. The allegations concerning the intial molestation and the molestation occurring during two visits in the United States (of a one week and a six week duration) were outside of any business

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environment.

Paragraph 24 alleges, however, defendants arranged for plaintiff and plaintiff's mother's immigration to the United States. Plaintiff's residency in the United States and involvement with Michael Jackson was facilitated and promoted by defendants. Defendants employed plaintiff and his mother to promote the sexual abuse. (TAC paras. 4 and 5.)

As to the last element of section 340.1, subdivision (b)(2) - the non-perpetrator's knowledge or reason to know or was otherwise on notice of unlawful sexual conduct - plaintiff has alleged sufficient facts to survive demurrer. Like the control element, the issue turns, to some extent, on a factual determination.

Pursuant to Doe, an entity has reason to know of the unlawful sexual abuse 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." (Doe v. City of Los Angeles, supra, 42 Cal.4th at 574.)

Paragraph 28 of the TAC alleges in 1989 Ms. Staikos advised an employee (over whom Ms. Staikos had apparent authority) not to leave the employee's son alone with Michael Jackson. Ms. Staikos stated,

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according to the allegations, Michael Jackson should be "glad" that she understood "his problem."

There are many facts alleged supporting this knowledge element. (Paragraphs 39, 35, 36, 14 and 22.) Certainly, the facts alleged are sufficient to raise a factual issue that cannot be determined by demurrer.

The demurrer on the issue of statute of limitations is overruled on the grounds set forth above. Defendants shall answer within 10 days.

The duty raised by defendants in their footnote 1 is also overruled.

The clerk shall give notice.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered

MINUTES ENTERED 50/85/02 COUNTY CLERK

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herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: September 24, 2015

Sherri R. Carter, Executive Officer/Clerk

By: _____

J. Manrique

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