

District Court, Douglas County, Colorado Court address: 4000 Justice Way, Castle Rock, CO 80140 Phone number: (303) 663-7200	DATE FILED: January 13, 2022 2:39 PM FILING ID: 7A0DB20BEA832 CASE NUMBER: 2020CV31001
Plaintiff: Emily Stanton <p style="text-align: center;">v.</p> Defendants: Highlands Ranch Community Association, Inc., Matt Muller and William Fearing	
Attorney for Plaintiff: James W. Avery #13037 DENVER INJURY LAW LLC d/b/a AVERY LAW FIRM P.O. Box 6888 Denver, Colorado 80206 Phone: (303) 840-2222	Case Number: 2020cv31001 Division 5
SECOND AMENDED COMPLAINT (with JURY DEMAND)	

The Plaintiff, Emily Stanton, by and through her attorneys, Denver Injury Law, LLC, as her complaint against the Defendants, states and alleges:

Jurisdictional Allegations

1. Plaintiff, Emily Stanton, is and was at all times pertinent hereto a person residing in the Community of Highlands Ranch, in the County of Douglas, Colorado.
2. Defendant Highlands Ranch Community Association, Inc. (hereinafter “HRCA”), is and was at all times pertinent hereto a Colorado non-profit corporation, who is the landowner and operator of Northridge Recreation Center located at 8800 S. University Blvd., Highlands Ranch, Colorado, in the County of Douglas, Colorado.
3. Defendant Matt Muller, is and was at all times pertinent hereto, employed by Highlands Ranch Community Association as the Facilities Supervisor of the Northridge Recreation Center. As such, Muller had responsibility for the overall operation and safety of the facility and its guests (such as Emily Stanton), including the racquetball programs.

4. Defendant William Fearing, is and was at all times pertinent hereto a person residing in Highlands Ranch, Colorado in the County of Douglas, Colorado. Fearing was the Resident Pro and coach (of players such as Emily Stanton) of the Northridge Recreation Center racquetball program.
5. The incident which forms a basis for this complaint occurred at Northridge Community Center, Highlands Ranch, Colorado, in the County of Douglas, Colorado, and involves damages in excess of the jurisdictional limits of this court.
6. Jurisdiction and venue are proper.

General Allegations

7. Beginning in approximately early spring, 2011, when Plaintiff Emily Stanton was 14 years old (DOB: 4/7/96), Defendant William Fearing began grooming her for sexual exploitation while acting in a position of authority (racquetball coach with the HRCA).
8. Defendant Fearing (age 68), acting as a coach and agent for HRCA, obtained the trust and confidence of Plaintiff, and began isolating Emily in the HRCA's Northridge Comm Center (NCC), with the full knowledge and consent of the HRCA.
9. While hidden in the HRCA conference room and other private places, Fearing began inappropriately touching Emily, which conduct escalated throughout the course of 2011, 2012 and 2013, leading to full sexual exploitation occurring on the premises of the NCC.
10. Emily, due to her youth and immaturity, and trust of Fearing, did not understand the inappropriate nature of the sexual exploitation by Fearing, which Fearing promoted and conducted at the HRCA to avoid discovery and prosecution, or the harm that those exploitations were causing to her emotionally and physically.
11. After attaining the age of 18, Emily broke off the relationship with Fearing, and having released herself from the exploitation, immediately began suppressing memories of the filthy relations and sexual contact between them, was unable to acknowledge the sexual assaults or the resulting harm, as a psychological defense mechanism to survive and protect her psyche. Emily started nursing school and stopped going to the NCC or seeing Fearing.
12. In about March, 2018, Emily went to the NCC to see her brother play racquetball and was approached by Fearing. Emily broke down and had a dissociative episode in front of her family. Between March and May, 2018, Emily regained memories of the exploitation by Fearing, and reported the matter to the Douglas County Sheriff's department.

13. Shortly after going to the police with her story, Emily began counseling and was diagnosed as having been suffering from a form of Post-Traumatic Stress Disorder (PTSD) induced by her sexual exploitation by Fearing as a child.
14. As a result of the sexual exploitation in her youth, Emily is highly dysfunctional and suffers many trauma triggering episodes on a daily basis.
15. Fearing was convicted of sexual exploitation of a minor by a person in a position of trust and sentenced to prison in May, 2019.
16. In May, 2020, Emily was given a statement by a witness, "M.R.", who was a female racquetball coach at Colorado Academy and present at the NCC racquetball facility during the years when Fearing was exploiting Plaintiff. MR told Emily that she had observed Fearing with her as a young girl, along with another young girl (possible Emily's sister), conducting himself in an inappropriate manner suggestive of possible exploitation of a minor, and expressed her concerns to the Facilities Supervisor, Matt Muller on behalf of the HRCA (management of the NCC). MR said that Muller did not respond appropriately to her concerns, rather he expressed support for the popularity of the NCC racquetball program promoted by Fearing and the job Fearing was doing to promote it. At this time, Emily began to realize the knowledge and complicity of the HRCA in the Fearing sexual exploitation.

FIRST CLAIM FOR RELIEF
(Premises Liability)

17. Plaintiff hereby incorporates by reference each of the foregoing allegations as though fully set forth herein.
18. At all times pertinent hereto, HRCA was the legal owner and operator, who was legally responsible for the activities conducted on the Northridge Community Center.
19. At all times pertinent hereto, Defendant HRCA qualified as a "landowner" under the Premises Liability Act, § 13-21-115, C.R.S. 2010.
20. At all times pertinent hereto, Plaintiff Emily Stanton was an "invitee" under the Premises Liability Act, § 13-21-115, C.R.S. 2010.

21. According to the Premises Liability Act, § 13-21-115(3)(c)(I), C.R.S. 2010, a landowner must “exercise reasonable care” to protect invitees from dangers of which the landowner knew or should have known.
22. At times pertinent hereto, HRCC failed to exercise reasonable care to protect Emily Stanton from sexual exploitation by Defendant Fearing at the NCC.
23. As a direct and proximate result of HRCC’s failure to exercise reasonable care, Emily Stanton was sexually exploited by Defendant Fearing at the NCC, causing her to suffer and incur extreme emotional and physical distress, loss of enjoyment of life, embarrassment, loss of self-image, depression, anxiety, disassociation from self and life circumstances, and other economic damages such as counseling expenses and loss of earning capacity.

Second Claim for Relief
(Negligence)

24. Plaintiff hereby incorporates by reference each of the foregoing allegations as though fully set forth herein.
25. Defendants Muller and Fearing, at all times pertinent hereto, had a duty to exercise reasonable care to protect Emily Stanton, as a person entrusted the role of coach of a minor.
26. At all times pertinent hereto, Defendants Muller and Fearing failed to exercise reasonable care, Emily Stanton was sexually exploited at the NCC, causing her to suffer and incur extreme emotional and physical distress, loss of enjoyment of life, embarrassment, loss of self-image, depression, anxiety, disassociation from self and life circumstances, and other economic damages such as counseling expenses and loss of earning capacity.

Third Claim for Relief
(Failure to Report-CRS § 19-3-304)

27. Plaintiff hereby incorporates by reference each of the foregoing allegations as though fully set forth herein.
28. At all times pertinent hereto, Defendant Muller, as a Director of NCC, was a person employed by a private sports organization or program as contemplated by C.R.S. § 19-3-304.

29. At times pertinent hereto, Defendant Muller had reasonable cause to know or suspect that a child (Emily Stanton) was being subjected to abuse and had a statutory duty to report or cause a report to be made of such fact pursuant to C.R.S. § 19-3-304.
30. As a direct and proximate result of Defendant Muller's failure to report as required by C.R.S. § 19-3-304, the sexual abuse of a child (Emily Stanton) continued to be perpetrated by the offender, William Fearing, and therefore, Defendant is liable for damages proximately caused thereby pursuant to C.R.S. § 19-3-304(4)(b).

Fourth Claim for Relief
(Action for Sexual Misconduct Against Minor-C.R.S. § 13-20-1201)

31. Plaintiff hereby incorporates by reference each of the foregoing allegations as though fully set forth herein.
32. Defendant Fearing, (the "actor") was a coach in an HRCA sanctioned racquetball program, and as such was an adult 'in a position of trust' pursuant to C.R.S. 13-20-1201 who engaged in "a pattern of sexual misconduct" pursuant to C.R.S. 13-20-1201(8). Defendant Muller, as an aider and abetter, also qualifies as an "actor" under the Act.
33. Defendant HRCA, is a 'managing organization' pursuant to C.R.S. 13-20-1201(4) which organized a youth-related activity or program at NCC which engaged the services of Defendants Muller and Fearing as an employee or volunteer.
34. Defendants Fearing and Muller were 'agents' of the HRCA at all times pertinent hereto pursuant to C.R.S. § 13-20-1201(2). Defendants Fearing and Muller engaged in a civil conspiracy to commit a pattern of sexual misconduct against the minor Plaintiff.
35. As a managing organization with knowledge of the circumstances and possible illicit relationship, Defendant HRCA was in the best position to discover the sexual misconduct perpetrated by Defendant Fearing against Plaintiff. It is believed that Muller and, therefore, HRCA deliberately disregarded and covered up the report from another coach, which had they investigated, would have revealed the misconduct and protected the minor Plaintiff from a pattern of sexual misconduct. Other actions of Fearing were open and notoriously conducted on the HRCA campus with full knowledge and consent of Muller and HRCA (such as using HRCA meeting rooms as a place to get Fearing alone with the minor Plaintiff so she could be abused).
36. The conduct of the Defendants, Fearing (actor) and Muller (aider and abetter), was in violation of the provisions of the criminal laws of the State of Colorado, to wit, first degree misdemeanor or felony offenses under Article 3 of Title 18, C.R.S.

37. As a direct result of the actions of the Defendants, jointly and severally, the Plaintiff was subjected to sexual misconduct and suffered the injuries and damages alleged herein.

WHEREFORE, the Plaintiff prays for an award of general and consequential damages against the Defendants, including past and future economic and noneconomic losses, prejudgment interest, and litigation costs.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully Submitted,
DENVER INJURY LAW, LLC

By: s/James W. Avery
James W. Avery

ATTORNEY FOR PLAINTIFF

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