STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
YORK COUNTY	)	SIXTEENTH JUDICIAL CIRCUIT
John Doe # 1, individually, and now over the age of eighteen (18) and James Roe # 1 and Jane Roe # 1, as the parents and natural guardians, individually, and as the parents and natural guardians of John Doe # 1 while he was under the age of eighteen (18),	)	Civil Action No. 2024-CP46-03171
Plaintiffs,	)	**PROPOSED ORDER DENYING DEFENDANTS MORNINGSTAR FELLOWSHIP CHURCH, RICHARD JOYNER, DAVID YARNES, AND DOUGLAS LEE'S MOTION TO DISMISS**
v.	)	
Morningstar Fellowship Church, Richard Joyner, David Yarns, Douglas Lee, Erickson Lee, Chase Portello, and unidentified defendants James Smith 1-10,	)	
Defendants.	)	

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF YORK	)	SIXTEENTH JUDICIAL CIRCUIT
John Doe #2	)	Civil Action No. 2024-CP-46-03504
Plaintiff,	)	
v.	)	
Morningstar Fellowship Church, Richard Joyner, David Yarns, Douglas Lee, Erickson Lee, Chase Portello, and unidentified defendants James Smith 1-10,	)	
Defendants.	)	

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF YORK	)	SIXTEENTH JUDICIAL CIRCUIT
John Doe # 3, individually, and now over the age of eighteen (18) and James Roe # 3 and Jane Roe # 3, as the parents and natural	)	Civil Action No. 2024-CP-46-03533

guardians, individually, and as the parents and natural guardians of John Doe # 3 while he was under the age of eighteen (18),

Plaintiffs,

v.

Morningstar Fellowship Church, Richard Joyner, David Yarns, Douglas Lee, Erickson Lee, Chase Portello, and unidentified defendants James Smith 1-10,

Defendants.

This matter came before the Court on motions to dismiss filed by Defendants Morningstar Fellowship Church, Richard Joyner, David Yarnes, and Douglas Lee in the three above cases. The Court is iterating facts consistent with John Doe #1's Complaint for purposes of the Motion to Dismiss but the findings regarding the case of John Doe #1 are similar to the allegations in the complaints for John Does #2 and #3. Thus, the decision applicable to John Doe #1 is the same for all cases. An oral argument was held on December 16, 2024. After consideration of the parties' oral arguments and written submissions, Defendants' motion is **DENIED as to all three cases**.

COMPLAINT ALLEGATIONS

Plaintiffs' Complaint makes the following allegations which, solely for purposes of this motion, the Court accepts as true. Plaintiffs allege twelve-year-old John Doe # 1 moved with his parents to Fort Mill, SC in July 2018 and began participating in activities associated with Defendant Morningstar Fellowship Church ("Morningstar"). (Compl. ¶ 162). Morningstar (and related entities bearing the "Morningstar" moniker) is a religious organization founded by Defendant Richard Joyner in 1995 which operates a variety of missions and educational programs in addition to more traditional worship activities. (Compl. ¶¶ 34-35). For all times relevant to this

case, Morningstar's operations were controlled by a small group of individuals including Defendants David Yarnes (Vice President of Morningstar Ministries) and Douglas Lee (Compl. ¶¶ 36-37).

John Doe # 1 was intrigued by a newly developed Morningstar group called "Young Special Forces" ("YSF"), a program that adopted military-style iconography and jargon in the name of leadership training for tween and teen boys. (Compl. ¶ 165). Morningstar chose Douglas Lee's son, Defendant Erickson Lee, as YSF's leader. (Compl. ¶ 168). Erickson Lee was portrayed as a U.S. Marine and aspiring law enforcement officer with a passion for training boys to become the next generation of leaders. (Compl. ¶ 169). However, Plaintiffs allege he had no training or experience in leading a program like YSF and no business being alone with young boys. (Compl. ¶ 190).

Similar to organizations like the Boy Scouts of America, YSF's activities included often days-long nature trips where children, away from their parents, were under the supervision of Erickson Lee and his assistant Defendant Chase Portello. (Compl. ¶¶ 39, 166-67). Erickson Lee began showing special interest John Doe # 1 shortly after he joined YSF. It began in 2019 with outings to the movies and playing video games together. (Compl. ¶ 183). During one such outing, Erickson Lee took John Doe # 1 to an apartment at the Lee family home and served John Doe # 1 alcohol and e-cigarettes, both of which were illegal for a thirteen-year-old child. (Compl. ¶¶ 184-86). Similar misconduct continued during YSF trips to a whitewater park in August 2019 and a North Carolina state park in December 2019. (Compl. ¶¶ 179-89). During this later trip, Erickson Lee invited along a friend who supplied alcohol to a number of YSF participants. (Compl. ¶¶ 191-94).

Erickson Lee's misconduct allegedly escalated in September 2020. During a multi-day YSF trip to Camp Lejeune, Lee and the YSF participants lodged in beach cabins near the base. (Compl. ¶¶ 203-06). Erickson Lee chose to share a bed with one of the YSF participants and the two drank heavily and watched pornography. (Compl. ¶¶ 207-08). Lee also showed porn to the larger group. (Compl. ¶ 208). Later at same evening, Lee's bedmate was discovered naked and unconscious in Lee's bed. (Comp. ¶¶ 212-13). Also on this trip, Lee served John Doe # 1 hard liquor and later required the YSF participants disrobe in his presence and shower as a group. (Compl. ¶¶ 214-15).

Then, during an April 2021 YSF trip, Erickson Lee got John Doe # 1 alone, plied him with alcohol, and sexually assaulted him. (Compl. ¶¶ 224-29). From there, Lee's sexual abuse became more frequent, more widespread, and more blatant. Multiple YSF participants were targeted (Compl. ¶ 230), and Lee's abuse of John Doe # 1 worsened. Erickson Lee even sexually assaulted John Doe # 1 on Morningstar's premises during a December 29-30, 2021 event. (Compl. ¶ 231). In September 2022, Erickson Lee took his sexual depravity to his parents' home. Douglas Lee (Erickson's father and a high-ranking Morningstar official) saw Erickson providing John Doe # 1 alcohol but did nothing to stop or even discourage this behavior. (Compl. ¶¶ 232-36). After a night of drinking tacitly approved by his father, Erickson again sexually assaulted John Doe # 1. (Compl. ¶ 237).

Erickson Lee's misconduct allegedly continued unabated by Morningstar until January 2023 when he was asked to resign as YSF leader after sexually explicit messages with another YSF participant came to light. (Compl. ¶¶ 243-46). Even then, Erickson Lee and his assistant Chase Portello continued to harm his victims. They sent the boys threatening notes and text messages in an effort to keep the full scale of their misconduct from being discovered by police.

(Compl. ¶¶ 249-63). In September 2024, Erickson Lee pled guilty to multiple counts of criminal sexual conduct with a minor, first degree assault and battery, and dissemination of obscene material to a minor. He is currently serving a nine-year prison term.

Unfortunately, Erickson Lee's actions were not the first instances of sexual misconduct within Morningstar's ranks. There were at least two previous occasions when women studying in Morningstar's education programs were allegedly sexually assaulted by a Morningstar employee. (Compl. ¶¶ 128-39). The Complaint alleges Morningstar failed to take any meaningful steps to improve training or monitoring for the organization's representatives after these incidents and before the attacks on John Doe # 1.

John Doe # 1 and his parents (Plaintiffs James and Jane Roe # 1) initiated this civil action on August 7, 2024, by filing a Complaint against Morningstar, its leaders (Joyner, Yarnes, Douglas Lee) as well as Erickson Lee and Chase Portello. John Doe # 2 initiated his civil action in September 2024 by filing a Complaint against Morningstar, its leaders (Joyner, Yarnes, Douglas Lee) as well as Erickson Lee and Chase Portello. John Doe # 3 and his parents (Plaintiffs James and Jane Roe # 3) initiated their civil action in September 2024, by filing a Complaint against Morningstar, its leaders (Joyner, Yarnes, Douglas Lee) as well as Erickson Lee and Chase Portello. The Complaints alleges claims for recklessness/gross negligence (John Doe #1 Compl. ¶¶ 269-86), civil conspiracy (John Doe #1 Compl ¶¶ 288-97), intentional/reckless infliction of emotional distress (John Doe #1Compl. ¶¶ 314-22), and to recover John Doe # 1's claim-related medical expenses. (John Doe #1 Compl. ¶¶ 323-28). The Complaint further alleged claims against Erickson Lee for assault and battery. (Compl. ¶¶ 308-12). All Plaintiffs withdrew their Restatement 323 claim and agreed to replead as a negligence claim. John Doe #2 did not file a necessaries claim

and the finding in this order for that claim is only applicable to John Does #1 and #3 and their parents.

The recklessness/gross negligence claim does not challenge any of Morningstar's religious teachings, doctrinal stances, or worship practices. Instead, it alleges Morningstar failed as an institution by deploying one poorly trained individual to be the chaperone of teenage boys during multiple overnight trips despite actual or constructive knowledge of a culture of sexual abuse within the organization. (Compl. ¶¶ 272-74). John Doe # 1 and his parents further allege Morningstar, and its leaders continued to leave Erickson Lee alone with YSF participants even as the size and scope of his sexual misconduct became evident. (Compl. ¶¶ 117-21). Morningstar and its leaders were allegedly negligent in training Erickson Lee for the role of YSF leader, negligent in supervising Lee's interactions with YSF participants, negligent in failing to have proper policies and procedures or enforcing them, and negligent in failing to protect the vulnerable children entrusted by their parents to Morningstar's care. (Compl. ¶¶ 20, 105, 123-47, 285).

Defendants Morningstar, Joyner, Yarnes, and Douglas Lee answered the Complaint on October 24, 2024. In a separate filing that same day, these defendants filed the current motion to dismiss.

LEGAL STANDARD

A defending party may assert in its answer or in a pre-answer motion a defense alleging the complaint against the defending party fails to state facts sufficient to constitute a cause of action. Rule 12(b)(6), SCRCP. When reviewing a 12(b)(6) motion, a court must view a complaint in the light most favorable to the plaintiff and every doubt must be resolved in the plaintiff's favor. Plyler v. Burns, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007). If the "facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case,"

then the court may not grant a 12(b)(6) motion. Sloan Constr. Co. v. Southco Grassing Co., 377 S.C. 108, 113, 659 S.E.2d 158, 161 (2008). A court may not dismiss a complaint merely because the court doubts the plaintiff will prevail. Plyler, 373 S.C. at 645, 647 S.E.2d at 192.

LEGAL REASONING

Defendants moved to dismiss based on five grounds. Defendants contend (1) one or more of Plaintiffs' claims are barred by the "ecclesiastical doctrine"; (2) the civil conspiracy claim fails to allege a distinct conspiratorial act; (3) the cause of action labeled as violation of Restatement (Second) of Torts § 323 is not recognized by South Carolina law; (4) a tort for "reckless infliction of emotional distress" is not recognized by South Carolina law; and (5) Plaintiffs' claim for "necessaries," is not a proper cause of action as this claim seeks damages recoverable in Plaintiffs' other claims. Defendants' motion did not challenge Plaintiffs' negligence cause of action. However, Defendants' supporting memorandum and its arguments during the hearing also asked the Court to dismiss a portion of Plaintiffs' negligence, gross negligence, and recklessness claim.

After careful consideration of the parties' submissions and governing law, the Court denies Defendants' motion for the reasons stated below. While the Court makes no findings on the facts of the case, it does conclude Plaintiffs have properly alleged each required element required by South Carolina law for each of the causes of action included in their Complaint.[1]

1. Negligent Hiring, Supervision, or Training

Defendants' argument (which was not included in its motion to dismiss) challenges that portion of Plaintiffs' negligence/recklessness claim alleging Defendants were negligent in hiring,

[1] The parties agreed during oral arguments Restatement (Second) of Torts § 323 is not a cause of action but rather a means for establishing a duty in a negligence claim. Accordingly, Plaintiffs' third cause of action is dismissed. For reasons discussed below, section 323 remains relevant to this case for purposes of Plaintiffs' negligence claim.

training, or supervising Erickson Lee. However, the Court finds South Carolina law does not limit that theory of liability as Defendants contend. Moreover, Plaintiffs have properly alleged Defendants' negligence/recklessness under other liability theories recognized by South Carolina law.

a. The Complaint properly alleges Defendants negligently supervised Erickson Lee.

The Court rejects Defendants' argument that a negligent supervision claim is limited to employer-employee relationships. The negligent supervision tort was first recognized by the South Carolina Supreme Court in Degenhart v. Knights of Columbus, 309 S.C. 114, 116, 420 S.E.2d 495, 496 (1992). Degenhart chose to take the elements of South Carolina's version of the tort directly out of the Restatement. Degenhart, 309 S.C. at 116, 420 S.E.2d at 496 (quoting Restatement (Second) of Torts § 317). Section 317 does not limit the tort to employer-employee relationships. This is clear from Section 317's title ("Duty of Master to Control Conduct of Servant") as well as its text. Section 317's substantive provision states: "A master is under a duty to exercise reasonable care so to control his servant . . ."

The "master" to "servant" relationship is not limited to employer-employee situations. Restatement (Second) of Agency § 225 ("One who volunteers services without an agreement for or expectation of reward may be a servant of the one accepting such services"). Financial remuneration "is not necessary to create the relation of principal and agent, and it is not necessary in the case of master and servant." Id. cmt. a. The key considerations for whether a volunteer is a "servant" are (1) whether the volunteer acts for purely selfish reasons or for the benefit of the

organization for which the services are offered; and (2) whether the organization consents to the services the volunteer provides Id. cmt. b, c.[2]

At this 12(b)(6) stage, the Court finds Plaintiffs' complaint includes sufficient allegations to allege a master-servant relationship between Morningstar and Erickson Lee. Erickson Lee is not alleged to have been a random Morningstar member or non-descript volunteer. He was "leader of a youth program" at Morningstar (Compl. ¶ 38) and son of one of Morningstar's top officials (¶ 39). Erickson Lee identified himself as one of YSF's "head instructors." (Compl. ¶ 180). The Complaint alleges Morningstar and its leaders "have the right or power to direct and control" the behavior of "staff" members like Erickson Lee (Compl. ¶ 45).

For example, the Complaint alleges Doug Lee had this right not just as Morningstar's head of security and Erickson Lee's father but also in his role of "running [] the YSF program" on a day-to-day basis. (Compl. ¶ 126). Doug Lee's oversight role was communicated by Morningstar leaders to parents of prospective YSF participants. (Compl. ¶ 172). Moreover, the Complaint alleges one of Erickson Lee's acts of sexual misconduct occurred in Doug Lee's home after Doug Lee personally witnessed Erickson Lee provide John Doe # 1 alcohol. (Compl. ¶¶ 232-37).

[2] A number of cases recognize an organization's duty to train or supervise can apply to a volunteer working on the organization's behalf. Alaska's Supreme Court has held that a church had a duty to investigate the background of a volunteer chosen to lead a "tiny tots" program in a suit arising from the volunteer's sexual assault of one of the program's young children. Broderick v. King's Way Assembly of God, 808 P.2d 1211, 1221 n. 25 (Alaska 1991). Broderick is fully consistent with the Restatement's recognition that negligent supervision applies to an organization's "servants" and that "servant" is not limited to an organization's employees. Id. ("a volunteer may be subject to the same interview and background checks as any other servant"). Similarly, Kansas's federal district court refused to dismiss a negligent supervision claim against a school district based on a volunteer coach who sexually abused the district's student-athletes. C.T. v. Liberal Sch. Dist., 562 F. Supp.2d 1324, 1343-45 (D. Kan. 2008). C.T. expressly held that an organization's agents and servants can include unpaid volunteers and "the mere fact that [offending coach] was not a formal 'employee' of the school district does not entitle the school district to summary judgment." Id. at 1343.

More broadly, Plaintiffs allege Erickson Lee's improper activities with YSF members were "sponsored and facilitated by Morningstar" (Compl. ¶ 156). This misconduct was allegedly both known and "normalized" by Morningstar leaders (Compl. ¶¶ 159-60). Plaintiffs claim Morningstar leaders were both fully aware and fully supportive of the large role Erickson Lee was taking in the YSF program. They "extoll[ed] Erickson Lee's virtues" to members and advised teen members' parents to trust Erickson Lee as YSF's leader. (Compl. ¶ 170). In sum, the Complaint alleges, Erickson Lee's years-long pattern of sexual misconduct was "allowed" to begin, continue, and remain undetected by Morningstar and its leaders (Compl. ¶ 248). These assertions are sufficient under South Carolina law to allege negligent supervision.

b. The Complaint alleges viable negligence/recklessness claims based on other liability theories.

The parties' arguments during the hearing regarding Plaintiffs' negligence/recklessness claim focused on whether the Complaint has alleged the violation of a legal duty owed by Defendants to Plaintiffs. While the Court finds the Complaint alleges a viable claim for negligent supervision, Plaintiffs' allegations are also sufficient to state the violation of other legal duties recognized by South Carolina law.

i. Respondeat Superior

Plaintiffs' complaint alleges properly alleges a negligence claim against Morningstar based on *respondeat superior*. This doctrine "makes a master liable to a third party for injuries caused by the tort of his servant." S.C. Ins. Co. v. James C. Greene & Co., 290 S.C. 171, 179, 348 S.E.2d 617, 621 (Ct. App. 1986). The Complaint cites this doctrine as a basis for Morningstar's liability. (Compl. ¶ 55). Since a master-servant relationship can arise even absent an employer-employee relationship, *respondeat superior* is an additional basis for seeking liability against Morningstar.

This, too, has been widely recognized in other jurisdictions. An Indiana appellate court has

held that a church may be liable for the negligent driver of one of its volunteers who was driving Christmas cookies to elderly neighbors as part of a church program. Trinity Lutheran Church, Inc. v. Miller, 451 N.E.2d 1099, 1102 (Ind. App. 1983) ("A master may have a gratuitous servant. The duty of an agent acting gratuitously is the same as other agents."). Even without a formal employment relationship, a master-servant relationship can arise if a church has "the right to direct and control the conduct of the" volunteer at the time of the negligent conduct. Id. at 1103. In Trinity Lutheran, the church's right to control was evidenced by the fact that (1) a church member invited the negligent volunteer to drive on the date of incident; (2) church leaders knew the volunteer would be doing the driving; and (3) church members determined the route the volunteer would be driving. Id. at 1002-03. Similarly, in Rozmus v. Wesleyan Church of Hamburg, 161 A.D.3d 1538, 77 N.Y.S.3d 245 (N.Y. App. Div. 4 Dep't 2018), denied summary judgment on a *respondeat superior*-based claim, finding there was a question of fact as to whether the defendant church had the right to control volunteers when they negligently struck a neighbor in the head while painting a house. These cases show the key issue for a church's liability is whether it had the right to control the volunteer's conduct. As detailed above, Plaintiffs' Complaint contains numerous allegations showing Morningstar leaders had the right, ability, and responsibility to control Erickson Lee's conduct as YSF leader.

ii. Special Relationship to Victim

Negligence is a "breach of a duty of care owed to the plaintiff by the defendant." Savannah Bank, N.A. v. Stalliard, 400 S.C. 246, 734 S.E.2d 161 (2012). Duty is defined as "the obligation to conform to a particular standard of conduct toward another." Nelson v. Piggly Wiggly Central, Inc., 390 S.C. 382, 701 S.E.2d 776 (Ct. App. 2010). A duty may arise from a number of different sources including "statute, a contractual relationship, status, property interest, or some other

special circumstance." Madison v. Babcock Ctr., Inc., 371 S.C. 123, 136, 638 S.E.2d 650 (2006). A duty may also arise by reason of the "relationship" between plaintiff and defendant. Hubbard v. Taylor, 339 S.C. 582, 589, 529 S.E.2d 549, 552 (Ct. App. 2000). A negligence claim may be based on "the common law duty to exercise reasonable care." Richland County v. Carolina Chloride, Inc., 382 S.C. 634, 647, 677 S.E.2d 892, 899 (Ct. App. 2008). At its core, a duty arises from "the relationship between the alleged tortfeasor and the injured party." Huggins v. Citibank, N.A., 355 S.C. 329, 585 S.E.2d 275 (2003). When considering whether a duty is created by means of the parties' relationship, the courts examines the relative power and capacities of the parties.

South Carolina law generally states that a defendant has no duty to act to protect the plaintiff from harm caused by another. However, there are five exceptions to that rule: (1) where the defendant has a special relationship to the victim; (2) where the defendant has a special relationship to the injurer; (3) where the defendant voluntarily undertakes a duty; (4) where the defendant negligently or intentionally creates the risk; and (5) where a statute imposes a duty on the defendant. Faile v. South Carolina Dept. of Juvenile Justice, 350 S.C. 315, 334, 566 S.E.2d 536, 546 (2002). A special relationship between the defendant and victim arises under circumstances where the defendant take control over the victim and the victim finds himself in a vulnerable position unable to protect himself for harm. It was on these bases that the South Carolina Court of Appeals found a special relationship between a fraternity and its pledge which imposed a duty on the fraternity to protect the pledge from foreseeable harm. Id. at 334 n. 5, 566 S.E.2d at 546 n. 5 (citing Ballou v. Sigma Nu Gen. Fraternity, 291 S.C. 140, 352 S.E.2d 488 (Ct. App. 1986)). Similarly, the South Carolina Supreme Court has recognized a special relationship between a residential care facility and a developmentally disabled person in the facility's care.

Madison, 371 S.C. at 137, 638 S.E.2d at 657 (finding defendant "voluntarily undertook the duty of supervising and caring for" plaintiff).

If a special relationship (and resulting duty) arises between a social group like a fraternity and a college student pledging that fraternity, then it is reasonable to conclude a similar relationship, and duty applies to a church organization who takes charge of a teenage youth group members for overnight or weekend-long trips. Restatement (Third) of Agency § 7.05 cmt. e (2006) ("In particular, relationships that expose young children to the risk of secular abuse are ones in which a high degree of vulnerability may reasonably require measures of protection . . ."). In fact, a number of courts have expressly so held. In a similar case, the Virginia Supreme Court denied a church's motion to dismiss and found complaint "allegations sufficient to state a claim for negligence based upon a special-relationship duty of the church defendant to protect" minor from sexual abuse by church representative "while [victim] was in [church's] custody." A.H. v. Church of God in Christ, Inc., 831 S.E.2d 460, 473 (Va. 2019).

The special relationship between religious organization and a child under the organization's control is well recognized by other jurisdictions. See e.g. Doe v. Roman Catholic Archbishop of Los Angeles, 70 Cal. App. 5th 613, 623-24 (2021) (finding special relationship between church and student because church "assumed responsibility for the safety of students in its catechism classes"); Fortin v. Roman Catholic Bishop of Portland, 871 A.2d 1208, 1221-22 (Me. 2005) (citing Restatement (Second) of Torts § 315(b) and finding complaint properly alleged special relationship between religious organization and victim of sexual abuse). As the Supreme Court of Washington explained, the common law recognizes a special relationship between church and child temporarily entrusted to its care:

> The children of a congregation may be delivered into the custody and care of a church and its workers, whether it be on the premises for services and Sunday

> school, or off the premises at church-sponsored activities or youth camps . . . therefore, we find churches (and other religious organizations) subject to the same duties of reasonable care as would be imposed on any person or entity in selecting and supervising their workers, or protecting vulnerable persons within their custody, so as to prevent reasonably foreseeable harm.

N.K. v. Corp. of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints, 307 P.3d 730, 736 (Wash. App. 2013) (quoting C.J.C. v. Corp. of Catholic Bishop of Yakima, 985 P.2d 262, 274 (Wash. 1999). This substantial case law from South Carolina and other jurisdictions is sufficient at this procedural stage to conclude Plaintiffs have sufficiently alleged a legal duty based on the special relationship between Morningstar and its leaders and John Doe # 1 during Morningstar-sponsored trips in which John Doe # 1 was away from his parents and under Erickson Lee's supervision.

iii. Voluntary Undertaking

The Complaint also properly alleges the duty required to support a negligence/recklessness claim was created by Defendants' voluntary undertaking. (Compl. ¶¶ 299-306). A voluntary undertaking is another of the bases recognized in Faile for creating a duty for a defendant to act to protect a vulnerable plaintiff. 350 S.C. at 334 n. 7, 566 S.E.2d at 546 n. 7 (citing Restatement (Second) of Torts §§ 323-24). Decades before Faile, the South Carolina Court of Appeals recognized a legal duty applies to a voluntary undertaking and applied that principle to a non-parent's duty to supervise a child in his/her control. Crowley v. Spivey, 285 S.C. 397, 406, 329 S.E.2d 774, 780 (Ct. App. 1985) (citing Restatement (Second) of Torts § 323)) ("one who assumes to act, even though under no obligation to do so, may become subject to the duty to act with due care"). In Crowley, this duty meant grandparents had a legal duty to reasonably protect and supervise and protect the grandchildren in their custody from the foreseeable danger of the grandchildren's mentally unwell mother. 285 S.C. at 406, 329 S.E.2d at 780.

Morningstar and its leaders allegedly undertook a duty to care for children of its members while those children were participating in YSF-sponsored events. (Compl. ¶¶ 299-301). As part of that undertaking, Morningstar and its leaders allegedly courted the reliance of James Roe # 1, Jane Roe # 1 and similarly situated parents by representing Erickson Lee as an upstanding person and "extolling [his] virtues." (Compl. ¶¶ 169-70). Morningstar leaders allegedly asked parents directly to trust Morningstar with their children. James Roe # 1 and Jane Roe # 1 allegedly chose to enroll John Doe # 1 in YSF and to permit him to attend out-of-town overnight trips with Erickson Lee in reliance on Morningstar's voluntarily undertaken duty to vet YSF leadership and to use Morningstar's leaders to provide oversight for the program's operations. (Compl. ¶¶ 170-73). By alleging Defendants voluntarily undertook YSF operational oversight and alleging their own reliance on that undertaking, Plaintiffs have sufficiently alleged the elements of section 323 and sufficiently stated a negligence/recklessness claim based on the violation of a voluntarily undertaken duty.

iv. Premises Liability

Finally, Plaintiffs' negligence/recklessness claim implicates premises liability principles because the Complaint alleges some portion of Erickson Lee's offending conduct and the Morningstar leaders' oversight errors took place on Morningstar's premises. (Compl. ¶ 231). South Carolina law imposes a duty on property owners for the wellbeing of individuals on their premises. Miller v. City of Camden, 329 S.C. 310, 314, 494 S.E.2d 813, 815 (1997) ("One who controls the use of property has a duty of care not to harm others by its use"). Morningstar's duty to a child like John Doe # 1 is well-established in South Carolina law. See S.C. Dep't of Soc. Servs. v. Forrester, 282 S.C. 512, 320 S.E.2d 39 (Ct. App. 1984). In Forrester, the South Carolina Court of Appeals considered the liability of a defendant uncle accused of sexually assaulting two of his

nieces during visits to his home. Id. at 514-15, 320 S.E.2d at 41. The court held the uncle "had a legal duty to refrain from willfully injuring the children since they were guests in his house." 282 S.C. at 517, 320 S.E.2d at 42. In other words, he was "legally responsible for their welfare to this extent under the law with respect to licensees." Id. (citing Frankel v. Kurtz, 239 F. Supp. 713 (W.D.S.C. 1965)). Accordingly, Plaintiff has properly alleged a premises liability-based claim against Defendants arising from the harm suffered for incidents taking place at Morningstar facilities.

2. Application of the "Ecclesiastical Doctrine"

Defendants' subject-matter jurisdiction arguments are essentially claims for immunity. Defendants argue that even if they failed to reasonably train Erickson Lee or to monitor his conduct as YSF leader, the U.S. Constitution immunizes them from liability because Morningstar is a religious entity. However, the Court finds South Carolina law does not support that argument. Training an employee to respect boundaries with children in their care, monitoring an adult volunteer's one-on-one interactions with teenagers, and establishing strong rules against illicit activity during events sponsored by the organization are basic components of the professional environment. They do not become shrouded in constitutional immunity simply because the employer is a religious organization. The intricate push and pull of the First Amendment's dual religion clauses requires that, while government may not invade a church's "free exercise" of religion by mandating or punishing doctrinal positions, the law also must not place a church's secular activities beyond legal reach, thereby granting the religious institution a favored position over its similarly situated secular counterpart in violation of the Establishment Clause. Redwing v. Catholic Bishop for Diocese of Memphis, 363 S.W.3d 436, 451 (Tenn. 2012).

South Carolina courts balance these First Amendment principles by holding that, while there are instances where church-related disputes fall outside their jurisdiction, those instances must be limited and the limits aggressively enforced. A leading South Carolina Supreme Court ruling on the issue states plainly that "a tortfeasor is not shielded from liability simply by committing his torts within the walls of a church or under the guise of church governance." Banks v. St. Matthew Baptist Church, 406 S.C. 156, 162, 750 S.E.2d 605, 608 (2013). A church-related claim still lies within the courts' jurisdiction so long as its resolution will not require "extensive inquiry into religious law." McCain v. Brightharp, 399 S.C. 240, 247, 730 S.E.2d 916, 919 (Ct. App. 2012). Courts must assiduously avoid sweeping secular disputes into the legal protection afforded purely ecclesiastical matters. Pearson v. Church of God, 325 S.C. 45, 52, 478 S.E.2d 849, 853 (1996) ("courts cannot avoid adjudicating rights growing out of civil law"). Therefore, it is important for courts to look beyond a religious institution's depiction of the claim against it to determine whether the limited constitutional protection is actually implicated. First Baptized Holiness Church of God of Americas v. Greater Fuller Tabernacle Fire Baptized Holiness Church, 323 S.C. 418, 423-24, 475 S.E.2d 767, 770 (Ct. App. 1996) (citing Turbeville v. Morris, 203 S.C. 287, 26 S.E.2d 821 (1943) ("the court will make sure that the civil right is in fact dependent upon an ecclesiastical matter" before declining jurisdiction).

Defendants argue the claims against them are purely ecclesiastical matters, but the only pleading in the case to date—Plaintiffs' complaint—alleges claims that will require no extensive inquiry into religious law. Erickson Lee's alleged provision of alcohol and e-cigarettes to thirteen-year-old boys (Compl. ¶ 184), sharing of pornography with YSF participants (Compl. ¶¶ 187, 208), and repeated sexual assault of John Doe # 1 (Compl. ¶¶ 229-37) do not involve religious doctrine in any way. Nor do Plaintiffs' claims alleging Morningstar and its leaders failed to act even though

they knew or should have known Erickson Lee was engaged in such behavior in his role as YSF leader. (Compl. ¶¶ 139, 159, 237, 248, 292). The Complaint alleges Morningstar, and its leaders just simply did not adequately train Erickson Lee before placing a large group of teenage boys in his care for days at a time. (Compl. ¶ 285(b)-(c)). Morningstar and its leaders also allegedly failed to assign adequate additional chaperones to the trips Erickson Lee led or take any substantive action to monitor his one-on-one interactions with YSF participants even after reports of Lee's inappropriate conduct arose. (Compl. ¶ 285(d)-(e))

The Court concludes that addressing these allegations will not require any extensive inquiry into what Morningstar believes about religious matters as reasonable training and supervision of employees is a reasonable expectation for *all* employers. (Compl. ¶ 48) (alleging employee training, supervision, and monitoring standards apply equally to churches and "secular organizations"); Degenhart v. Knights of Columbus, 309 S.C. 114, 116, 420 S.E.2d 495, 496 (1992) (recognizing negligent supervision claim regarding actions of insurance agent); Holcombe v. Helena Chem. Co., 238 F. Supp. 3d 767, 773 (D.S.C. 2017) (recognizing training-based negligent supervision claim against chemical company).

Jane Doe's complaint also challenges other routine components of the relationship organizations have with workers. Organizations in every field have a responsibility for (1) instituting policies and procedures to avoid sexual abuse (Compl. ¶ 48); (2) investigating reports that an individual within the organization has committed acts of sexual misconduct (Compl. ¶¶ 92-94); and (3) monitoring the behavior of a suspected abuser to prevent repeated victimization of innocent children (Compl. ¶ 97). Defendants' alleged oversight failures were not the product of some strong doctrinal stance. That is, Defendants do not suggest Morningstar doctrine favors or condones sexual misconduct toward teen boys or that it opposes investigating and overseeing the

activities of individuals who supervise teenagers' overnight camping trips. In fact, at this early procedural stage, the only explanation for Defendants' alleged errors is the Complaint's allegation that Defendants turned a blind eye to sexual misconduct within their ranks because the perpetrator was the son of a high-ranking Morningstar official. (Compl. ¶ 293).

At this procedural stage, the Court need not go any further than these allegations to deny Defendants' motion to dismiss. South Carolina courts do not inherently reject jurisdiction over church-related claims and will not extend First Amendment protection to secular activities that happen to take place under a church's roof. Plaintiffs' Complaint alleges in part basic training and supervision issues that are as wrong for Defendants as they would be for any secular organization (as well as a failure to have proper policies and procedures in place or failing to enforce them). The complaint further alleges Defendants' misconduct was motivated by secular concerns rather than religious doctrine.

Even if the Court were to look past the complaint allegations, South Carolina's "neutral principles of law" approach to church-related disputes supports this court's jurisdiction over Plaintiffs' claims. Banks emphasized the Supreme Court's rejection of Defendants' overly broad view of First Amendment protection for religious institutions facing civil litigation. The Free Exercise Clause is not to be read to immunize religious actors or leave the victims of their torts helpless. 406 S.C. at 163, 750 S.E.2d at 608 (rejecting church's argument that would "grant tort law immunity to religious practitioners"). When an otherwise secular tort takes place in a religious setting, courts can and must exercise jurisdiction to resolve it. Id. Banks used the "neutral principles of law" analysis to determine whether resolving a legal claim would interfere with church doctrine. Id. at 160-62, 750 S.E.2d at 607-08. That analysis consisted of (1) listing the

elements of the alleged tort; (2) asking whether liability for the alleged tort would "require delving into religious issues." Id.

Here, Plaintiffs' negligence-based claims allege Morningstar, and its leaders failed to train Erickson Lee to be YSF leader, a role that would inevitably place him in contact with teen boys without parent supervision. Morningstar and its leaders also failed to supervise Erickson Lee's conduct while he worked as YSF leader, even after they knew or should have known he was supplying YSF participants with illegal substances and pornography. Negligent supervision and training claims focus largely on two elements—the defendant's actual or constructive knowledge of the perpetrator's propensity toward abusive behavior and the defendant's failure to exercise control over the perpetrator's activities. Doe v. Bishop of Charleston, 407 S.C. 128, 139, 754 S.E.2d 494, 500 (2014); Doe v. ATC, Inc., 367 S.C. 199, 624 S.E.2d 447 (Ct. App. 2005) (quoting Restatement (Second) of Torts § 317 cmt. c). Applying those elements to these facts will not require "delving into religious issues." Plaintiffs specifically allege Morningstar, and its leaders knew of past sexual abuse incidents by Morningstar employees and knew Erickson Lee was engaging in inappropriate behavior with YSF participants (Compl. ¶ 139, 159, 273, 275, 281), and Defendants' denial of that allegation presents a purely factual dispute with no doctrinal overtones. The same is true for whether Morningstar and its leaders failed to supervise Erickson Lee's interactions with YSF participants. At no point will a factfinder be asked to rule on the propriety of a Morningstar religious tenet.

As such, Banks warns that declining jurisdiction would be untenable because it would effectively create a legal wrong without a remedy simply because John Doe # 1 suffered that wrong in a "religious setting." 406 S.C. at 162, 750 S.E.2d at 608. While Banks specifically addressed a defamation claim, it used a very apt analogy to show the error in Defendants' position. No court,

Banks reasoned, would hold that a battery claim was beyond a court's jurisdiction simply because it took place in a church meeting. Id. Likewise, Erickson Lee's sexual assault of John Doe # 1 and the torts related to it are not beyond this court's jurisdiction simply because they occurred in a church youth group.[3]

Mississippi's Supreme Court reached the same conclusion in Roman Catholic Diocese of Jackson v. Morrison, 905 So.2d 1213 (Miss. 2005). A Catholic church could not claim First Amendment immunity for alleged failures in overseeing a priest who molested three children. Morrison rejected the church's argument that claims by the children's parents presented purely ecclesiastical questions for the court to resolve. Id. at 1226 (finding "[t]here is nothing remotely religious or ecclesiastical about" the reprehensible act of sexual molestation of a child). Nothing about what the priest alleged did was grounded in Catholic doctrine or religious practice. Id. Morrison was also concerned about the larger implications of the church's immunity claim. Id. at 1237 ("the cloak of religion . . . surely cannot serve to shield" churches "from civil responsibility

[3] Courts from other jurisdictions have also rejected Defendants' jurisdictional argument. The Tennessee Supreme Court's ruling in Redwing applied the "neutral principles of law" approach to find courts should exercise jurisdiction over some negligent supervision and training claims arising from child sexual abuse in a church setting. 363 S.W.3d at 450-52. Drawing on a host of precedent, Redwing recognized that First Amendment protection from civil litigation applies only where the alleged improper conduct is "rooted in religious belief." Id. at 450 (citing Bryce v. Episcopal Church in the Diocese of Colo., 289 F.3d 648, 657 (10th Cir. 2002) and McKelvey v. Pierce, 800 A.2d 840, 851 (N.J. 2002)). Claims arising from a priest's alleged sexual assault of a teenage boy were not protected by the First Amendment because no religious belief was cited to justify this misconduct. The same principle applied to claims against religious entities responsible for overseeing the offending priest. 363 S.W.3d at 452 ("Claims against a religious institution asserting the negligent hiring of a member of the clergy do not inevitably enmesh the courts in religious doctrine or dogma"). Tennessee joined Ohio's Supreme Court and other states in recognizing "even the most liberal construction of the First Amendment will not protect a religious organization's decision to hire someone who it knows is likely to commit criminal or tortious acts." Id. (quoting Byrd v. Faber, 565 N.E.2d 584, 590 (Ohio 1991)).

for . . . abhorrent conduct such as sexual molestation of a child. Nor should it shield those who fail in their duty to protect children from it").

In sum, the Court finds the ecclesiastical doctrine does not bar claims alleging Defendants facilitated and overlooked sexual assaults of a teenage boy. Erickson Lee's misconduct and the remaining Defendants' oversight errors are not grounded in religious doctrine and resolving Plaintiffs' claims will not entangle the Court in resolving religious disputes. Under the "neutral principles of law" approach applied by Banks and of other states, this court has subject-matter jurisdiction, and Defendants' motions is denied.

3. Civil Conspiracy

A civil conspiracy claim is sufficiently pled when the complaint alleges (1) the combination or agreement of two or more persons; (2) to commit an unlawful act or a lawful act by unlawful means; (3) together with the commission of an overt act in furtherance of the agreement; and (4) damages proximately resulting to the plaintiff. Paradis v. Charleston Cnty. Sch. Dist., 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021). Defendants argue Plaintiffs' conspiracy allegations are insufficient because they seek liability based on the same misconduct alleged in Plaintiffs' other claims. (Defs.' Mot. at 2) (citing Kuznik v. Bees Ferry Assocs., 342 S.C. 579, 611, 538 S.E.2d 15, 31 (Ct. App. 2000)).

However, Defendants' acts in furtherance of the conspiracy are substantively different from the training and supervision errors underlying Plaintiffs' negligence-based claims. Plaintiffs allege Morningstar, its leaders, and others acted in tandem to prevent Erickson Lee's sexual misconduct from being discovered by law enforcement and by others within its organization. (Compl. ¶ 296). Specifically, Plaintiffs alleged Erickson Lee worked with his YSF assistant Chase Portello in an attempt to intimidate John Doe # 1 and other victims as they prepared to report the

assaults they had suffered to Morningstar leaders. (Compl. ¶¶ 253, 259-63). This type of pressure campaign allegedly was not unusual at Morningstar as its leaders—including Joyner, Yarnes, and Douglas Lee—are alleged to have a history of intervening to prevent sex abuse victims from reporting crimes to law enforcement. (Compl. ¶¶ 137-39). These allegations state a clear distinction between the culpable conduct for the negligence-based and conspiracy claims. While the former focuses on training, supervision and lack of appropriate policy and procedure errors contributing to sexual assault incidents, the latter also addresses actions post-incident actions by Morningstar and its leaders to conceal the assaults and protect the perpetrator.[4]

4. Intentional/Reckless Infliction of Emotional Distress

The Court also rejects Defendants' arguments to dismiss Plaintiffs' intentional infliction of emotional distress ("IIED") claim. This tort applies where (1) the defendant intentionally or recklessly inflicted emotional distressed or acted knowing such distress was substantially certain to occur; (2) the defendant's conduct was sufficiently extreme to exceed all possible bounds of decency; (3) this conduct caused the plaintiff's emotional distress; and (4) that distress was so severe that no reasonable person could be expected to endure it. Williams v. Palmetto Health Alliance, 358 S.C. 388, 401, 596 S.E.2d 42, 48 (2004). Defendants argue Plaintiffs may not pursue "reckless infliction of emotional distress" ("RIED") as that claim is not recognized by South Carolina law. (Defs.' Mot. at 2). As the South Carolina Supreme Court recently recognized, many

[4] Defendants also misapply Kuznik, which holds only that a plaintiff may not pursue a civil conspiracy claim if he/she "has obtained relief through other avenues." 342 S.C. at 610, 538 S.E.2d at 31. While it may be true that Plaintiffs could not recover on both her negligence-based and conspiracy claims for the same conduct, that does not prevent her from pleading both claims. Rule 8(a), SCRCP ("Relief in the alternative or of several different types may be demanded"); Harper v. Ethridge, 290 S.C. 112, 118, 348 S.E.2d 374, 377 (Ct. App. 1986) ("a plaintiff may join as alternate claims as many claims, legal or equitable, as he has against the opposing party, even if the claims are inconsistent").

jurisdictions acknowledge intentional and reckless infliction of emotional distress as the same cause of action. Gore v. Dorchester Cnty. Sheriff's Office, 442 S.C. 438, 440, 900 S.E.2d 423, 424 (2024) (collecting cases). Gore held that, for purposes of South Carolina law, RIED is a "subset" of IIED. 442 S.C. at 440, 900 S.E.2d at 424.

That does not, however, mean IIED requires proof that the defendants' distress-causing conduct was intentional. The IIED tort remains viable for instances of "recklessly inflicted severe emotional distress." Gore, 442 S.C. at 440, 900 S.E.2d at 424 (citing Ford v. Hutson, 276 S.C. 157, 162, 276 S.E.2d 776, 778 (1981)). Plaintiffs meet this requirement by alleging Defendants "recklessly or intentionally" caused Plaintiffs severe emotional distress by hiding Erickson Lee's misconduct after promising to protect their son and in the post-incident intimidation campaign designed to prevent Lee's misconduct from coming to light. (Compl. ¶¶ 315-16).

5. "Necessaries" Claim

Finally, the court rejects Defendants' contention that Plaintiffs' sixth cause of action, identified as a "Necessaries Claim," is unrecognized by South Carolina law. (Defs.' Mot. at 2). Plaintiffs James and Jane Roe assert this claim to recover past and future expenses related to the physical, emotional, and psychological damages John Doe # 1 has suffered. (Compl. ¶¶ 323-28). Those losses include expenses for medical services and other care their son has required and will require during his minority. (Compl. ¶ 324(a), (e)). South Carolina law recognizes a cause of action owned by a minor's parents to collect for these losses. Hughey v. Ausborn, 249 S.C. 470, 475, 154 S.E.2d 839, 841 (1967) ("When a minor receives personal injuries proximately caused by the actionable negligence, recklessness, and willfulness of another . . . the parent has a cause of action for the recovery of the medical expenses which [the parent] has incurred for the care and treatment of such minor").

CONCLUSION

For the reasons stated above, Defendants' motion to dismiss is **DENIED as to all three cases**.

IT IS SO ORDERED.

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Hon. Martha M. Rivers
Circuit Court Judge

January __, 2025

York Common Pleas

Case Caption: John Doe 1 , plaintiff, et al VS Morningstar Fellowship Church , defendant, et al

Case Number: 2024CP4603171

Type: Order/Other

IT IS SO ORDERED.

/s/ Hon. Martha M. Rivers (2788)