

STATE OF INDIANA
COUNTY OF ST. JOSEPH

ST. JOSEPH CIRCUIT/SUPERIOR COURT
SS:
CAUSE NO. 71C01-2110-CT-000398

**Jane Doe 1,
Jane Doe 2, and
Jane Doe 3,**

Plaintiffs,

v.

**Diocese of Fort Wayne-
South Bend, Inc.,
Saint Joseph High School,
John Kennedy,
Debra Brown, and
Justin Cochran,**

Defendants.

**Plaintiffs' Complaint for
Damages and Jury Trial
Demand**

Comes now Plaintiffs, Jane Doe 1, Jane Doe 2, and Jane Doe 3 and for their Complaint for Damages against Diocese of Fort Wayne-South Bend, Inc., Saint Joseph High School, John Kennedy, Debra Brown, and Justin Cochran, state as follows:

Introduction

1. Jane Doe 1, Jane Doe 2, and Jane Doe 3 seek redress for harm caused by the failure to report to civil authorities and adequately address allegations of adult sexual misconduct, an inappropriate environment for high school female volleyball players, and grooming, for the negligent hiring, supervision, training, and retention of Justin Cochran, John Kennedy, and Debra Brown, among other employees, being subjected to sexual and inappropriate interactions and correspondence with Cochran, and discrimination, harassment, and bullying resulting from Defendants' intentional,

knowing, deliberately indifferent, reckless, and/or negligent acts and/or omissions. Defendants failed to implement policies, customs, and practices to address discrimination, bullying, harassment, and a sexually charged environment including grooming and failed to stop it from occurring in the face of actual knowledge that it was occurring. Specifically, Defendants created, fostered, or permitted a hostile environment to exist in Plaintiffs' school.

2. Justin Cochran operated an atmosphere as a coach of high school aged minor female volleyball students that allowed him to engage in grooming activities, such as eliciting explicit sexual conversations with team members regarding his and their experiences and the use of sexual jokes, and to decipher which students were receptive to his actions creating special favor with those team members whom were receptive. The other Defendants sat idle, knowing what was occurring, and allowed it to continue ignoring what they claim to stand for.

3. The Diocese of Fort Wayne-South Bend, Inc. and Saint Joseph High School touted "Safe Environment Training," a program that is a requirement in all Dioceses in the United States born of the United States Conference of Catholic Bishops 2002 Dallas Charter on the Protection of Young People, and was instituted specifically in response to the widespread sexual abuse of children within the Catholic clergy.

4. This training was implemented for the training, screening, background checks, and other procedures that are designed to reduce the risk of sexual abuse of children within Catholic Churches and Schools. The training is for preschool through

12th grade and includes information about how they can protect themselves and identify predatory behaviors.

5. The actions undertaken by Defendants in this case harboring a sexually charged atmosphere that assented to and promoted grooming by a volleyball coach of high school aged female students, ignoring direct reports by students to administrators of said sexual atmosphere and other sexual misconduct among other issues related thereto, including the transmission of sexually explicit photographs from an adult volleyball coach to a high school aged female volleyball player, and retaliating against the reporting students flew in the face of the “Safe Environment Training” touted by the Catholic Churches and Schools as being in place to protect students from the exact things reported.

6. The toxic culture pervasive at the school prevented students from coming forward in a confidential and safe manner to make good faith reports of adult sexual misconduct. Throughout the allegations raised in this complaint, the Defendants, and specifically Kennedy as the Principal, took no action to sufficiently investigate and handle the issues, and instead he deferred his obligations to others. The Defendants failed to and negligently supervised.

7. To date, no information has been produced to the parents or students regarding Title IX procedures at St. Joe, even though they had been requested.

Parties

A. Jane Doe 1, Jane Doe 2, and Jane Doe 3

8. Jane Doe 1 was a student at Saint Joseph High School from 2015 through graduation in 2019.

9. Jane Doe 2 was a student at Saint Joseph High School from 2015 through graduation in 2019.

10. Jane Doe 3 was a student at Saint Joseph High School from 2014 through graduation in 2018.

B. Defendants Diocese of Fort Wayne-South Bend, Inc., Saint Joseph High School, John Kennedy, Debra Brown, and Justin Cochran.

11. Diocese of Fort Wayne-South Bend, Inc. (the “Diocese”) is a domestic non-profit corporation with a principal office address of 915 S. Clinton St, Fort Wayne, IN 46802 and a registered agent of Joseph Ryan, 915 S. Clinton St, Fort Wayne, IN 46802.

12. Saint Joseph High School (“Saint Joe”) is a parochial school of the Diocese, owned and operated by the Diocese, located at 453 N. Notre Dame Ave., South Bend, IN 46617.

13. At all relevant times, John Kennedy (“Kennedy”) was the principal of Saint Joe, and resides in South Bend, St. Joseph County, Indiana.¹

14. At all relevant times, Debra Brown (“Brown”) was the athletic director of Saint Joe, and resides in South Bend, St. Joseph County, Indiana.

15. At all relevant times, Justin Cochran (“Cochran”) was a junior varsity coach, varsity assistant coach, and subsequently varsity head coach of the female volleyball team of Saint Joe, and resides in South Bend, St. Joseph County, Indiana.

¹ Susan Richter was the Principal of St. Joe when the explicit SnapChat message was sent to Jane Doe 3.

16. The Diocese and Saint Joe are subject to Title IX, 20 U.S.C. § 1681 *et seq.* as a recipient of federal funding.

Factual Allegations Relevant to All Counts

A. Jane Doe 1 and Jane Doe 2

17. At all times relevant hereto, Jane Doe 1 was a team member of the Saint Joe female junior varsity volleyball team from, and then varsity volleyball team.

18. At all times relevant hereto, Jane Doe 2 was a team member of the Saint Joe female junior varsity volleyball team from, and then varsity volleyball.

19. At all times relevant hereto, Jane Doe 3 was a team member of the Saint Joe female junior varsity volleyball team from, and then varsity volleyball.

20. Prior to the issues set forth in this complaint, Jane Doe 1, Jane Doe 2, and Jane Doe 3 were model students and team members on the female volleyball team.

21. Jane Doe 1 was a three-year varsity team member and was voted a captain of the varsity team by her peers.

22. Jane Doe 2 was a three-year varsity team member, All-NIC first team selection in the 2017-2018 and 2018-2019 season and was voted a captain of the varsity team by her peers.

23. Jane Doe 3 was a three-year varsity team member and was voted a captain of the varsity team by her peers.

B. Justin Cochran

24. Cochran, currently age thirty-two (32), was promoted from junior varsity head coach and varsity assistant coach of the female volleyball teams to head

varsity coach in approximately mid to late July of 2018 after the resignation of former head varsity coach Mary Kay O'Connell. Once reports of Cochran's inappropriate behavior were made by Jane Doe 1 and Jane Doe 2, Saint Joe administration defended the promotion as an "emergency hire" due to the short notice resignation by O'Connell.

25. The promotion of Cochran occurred without a background check, as the Diocese and Saint Joe elected not to conduct one since he was already employed at the school.

26. There was no posting or search conducted for the varsity head coach position prior to the promotion of Cochran, and news of his promotion immediately set off concerns to some of the team members and their parents. In fact, Kennedy asserted thereafter that he never met Cochran or interviewed him prior to the promotion to determine his fitness to have the primary responsibility of overseeing minor high school aged female students.

27. Concerns of team members included students informing the captains they were worried that they would not make the team because he did not think they were attractive, or they would not get playing time if they were not receptive to his flirtatious behavior and/or engage with the inappropriate actions of Cochran.

28. As a high school volleyball coach, Cochran was spending a significant amount of time with the female high school students, unsupervised, on a weekly basis provided him unfettered access to the students.

29. Cochran's job duties included driving the team on the school's bus in addition to his duties as a varsity volleyball head coach. These bus trips included multiple out of town extended trips to Saturday tournaments and away contests. These included away weekend tournaments with no school administration present permitting Cochran to be alone with the team members without any assistive coaching staff or administrators.

30. These bus trips also included reckless driving with students on board.

31. As a result of the failure to conduct the background check, it was not discovered prior to his promotion and expansion of duties (which included driving the school's bus with the volleyball team) that Cochran was driving on a suspended driver's license, and as such, Cochran was driving the team members on the school's bus without a valid driver's license for the entire 2018-2019 season.

32. Justin Cochran was permitted by the Diocese and Saint Joe to resign his position after the 2018-2019 season, despite reports of sexual misconduct, and knowingly operating the school's bus on a suspended license. He subsequently began coaching at Bremen High School.

33. Brown was the athletic director that oversaw the hiring/promotion of Cochran along with Kennedy, the principal. Brown was also his primary supervisor, responsible for day-to-day oversight, training (inclusive of Diocesan "Safe Environment Training"), and Cochran's interactions with his student-athletes.

C. Transmission of Sexually Explicit Photographs

34. During her time at Saint Joe, Jane Doe 3 interacted with Cochran both in the school setting and out of the school setting.

35. Cochran corresponded with Jane Doe 3 via direct messages on SnapChat, the social media platform where messages disappear after a certain timeframe, while Jane Doe 3 was a junior varsity and varsity player being coached by Cochran, during and outside of school hours.

36. Jane Doe 3 had witnessed Cochran making inappropriate comments regarding and to female players, including those of a sexual nature, including referencing legs and breasts of players in a sexual nature.

37. During her senior year, Cochran transmitted a photograph of his genitalia to Jane Doe 3 via SnapChat.

38. The correspondences between Cochran and Jane Doe 3 also included explicit details of Cochran's sexual escapades with his then girlfriend, and the size of his penis in addition to the nude photograph.

39. Scared and not knowing what to do, Jane Doe 3 blocked Cochran on SnapChat, and the actions of Cochran to Jane Doe 3 had a large impact on Jane Doe 3 emotionally.

40. Cochran's interactions with Jane Doe 3 were those of a grooming nature.

41. Soon after the incident, Jane Doe 3 informed two teammates about what happened with Cochran, including Jane Doe 2.

42. After graduation of Jane Doe 3, the transmission was reported to Defendants by Jane Doe 1 and Jane Doe 2.

D. Initial raising of concerns by parents to Justin Cochran.

43. Prior to becoming the varsity head coach, it was well known that Cochran had previous issues relating to inappropriate behaviors and Safe Environment violations with the female team members of the junior varsity and varsity volleyball teams.

44. On July 29, 2018, parents met with Cochran to discuss the plan for the season. The opportunity was taken to address some of the things that were being said about his inappropriate behavior and boundary issues between him and the teenage girls within the high school volleyball program. This meeting occurred in this manner instead of directly with the administrators addressing Cochran, as Catholic Social Teaching includes the concept of subsidiarity, which means that problems and concerns should always be addressed at the lowest possible level.

45. This was done at the insistence of Brown, who would not even meet with the parents until three (3) weeks had passed.

46. Cochran stated to the parents at that time that “the age of consent in Indiana is 16,” and in response, the parents replied that was not the case when he was in a position of authority, power, and influence over them.

47. The parents stressed that the relationship between Cochran and teenage girls in the volleyball program is teacher-student in nature. Therefore, parents requested he not discuss, glamorize, or encourage drinking, partying, being drunk, and other inappropriate topics of a suggestive nature with the underage

teenage girls that he was coaching. In response, Cochran stated that he likes to treat the teenage girls as his equal to keep things light and fun.

E. Continued Development of inappropriate behavior of Justin Cochran.

48. On August 6, 2018, Cochran was witnessed by the parents of Jane Doe 2 to be consoling another student alone in the school setting, a varsity volleyball player approximately 16 years of age, referring to her as “babe” and rubbing her shoulders and leg.

49. In early August 2018, Jane Doe 1 and a fellow teammate went to the former head varsity volleyball coach, Mary Kay O’Connell, because she was staying involved with the team as a volunteer coach at the beginning of the season and expressed their concerns for Cochran’s inappropriate behavior relating to flirting, lack of boundaries, and the party atmosphere being created by Cochran that was uncomfortable and inappropriate for female high school teenagers with a male coach and concerns of grooming behaviors.

50. Mary Kay O’Connell was thought to be a trusted person, as she had previously addressed Cochran for inappropriate behaviors in past years such as for hanging out socially with teenage female students outside of the school setting, being flirtatious, and playing sexually suggestive music that she referred to as “slap the “B” (bitch)” music in practice among other things.

51. Mary Kay O’Connell had nominated Jane Doe 1 and Jane Doe 2 to represent the team at an Indiana High School Athletic Association (IHSAA)

leadership conference the summer before Cochran's first season. This selection demonstrated their reputation as mature and responsible leaders.

52. Unfortunately, when approached by Jane Doe 1 and another teammate, teenage girls, regarding concerns of Cochran, Mary Kay O'Connell informed them they were "being dramatic," to "keep your parents out of it," and to "trust their coach [Cochran]."

53. Later in August, after learning of this interaction, Jane Doe 1's parents contacted Mary Kay O'Connell and sent a listing of their daughters concerns to Mary Kay O'Connell in a text message, to which she said she would talk with Cochran and the captains.

54. Instead, Mary Kay O'Connell then told Jane Doe 1 and the other teammate to get their parents under control and that they are being ridiculous, publicly shaming and embarrassing the girls for expressing their concerns of inappropriate behaviors they had been taught to recognize through their Safe Environment training throughout their years in Catholic schools.

55. On August 12, 2018, during an annual volleyball season kick-off party and team bonding night attended by Jane Doe 1 and Jane Doe 2 and various other volleyball team members, several of the girls expressed concerns among the group regarding Cochran's inappropriate behaviors, flirting, and favoritism based upon who was receptive to his inappropriate behaviors and boundary violations.

56. One girl stated that Cochran makes her "feel uncomfortable," that he is inappropriate with her, tries to give her too much attention, makes her feel gross,

that she was creeped out, that Cochran tells her she was attractive, and that he would date her. Additionally, this same 16-year old student informed Jane Doe 2 that after Cochran had directed her to get and open his cell phone to play music from at practice, pornography automatically came on when she opened it. Jane Doe 2 asked if she needed help and if a conversation needed to be had about it, and the girl responded “yes.” Many of the girls on the varsity team and his junior varsity team the year prior had noticed what appeared to be an inappropriate closeness between that same teenage student, and Cochran prior to and after this date. A junior varsity player and her parent witnessed Cochran and this student out alone together for dinner on the same side of a restaurant booth the season prior.

57. Jane Doe 2 had specific information about Cochran’s sexual misconduct with another teammate which had taken place in the 2017-2018 school year that included explicit sexual conversations on Snapchat, him sending the student a nude Snapchat of himself while she was a Senior at Saint Joe, and while Cochran was the varsity assistant coach, and the junior varsity head coach. It was also learned that this exchange between Cochran and the student included explicit details of Cochran’s sexual escapades with his then girlfriend, and the size of his penis in addition to the nude photograph. Jane Doe 1 had specific information that Cochran would sing sexually explicit lyrics towards female team members from the 2017-2018 season, specifically lyrics from “Down in the DM,” by Yo Gotti. Cochran would sing to these teenage girls lyrics to include “Snapchat Me That Pussy.”

58. Jane Doe 1 and Jane Doe 2 were captains in the 2018-2019 season. They were not receptive to Cochran's behaviors, did not accept invites to go places, and were not receptive to personal calls from him on their cellphones. They challenged him to "be the adult" and coach, to have rules, to not flirt, to not play favorites with the girls he was flirting with, and to stop the activities that could be perceived as grooming as it was making them and other girls on the team uncomfortable.

59. Cochran informed other girls on the team about this, portraying Jane Doe 2 as a "buzz kill" to the other girls, and himself as the fun-loving, good-time coach, which created division on the team. A few girls loyal to Cochran began bullying Jane Doe 2 as a result, spreading nasty comments and stories about her all over school and on social media, mocking her leadership attempts and role as a captain. Other students from school (and even other schools) were showing her nasty social media posts. Players loyal to Cochran mocked her, calling her disparaging names, ruining her reputation around school and in the volleyball world, causing her to suffer emotionally, mentally, physically, and socially.

60. Due to the decline in Jane Doe 2's emotional wellbeing (witnessed by other girls on the team) as a result of the hostile environment created by Cochran, the parents of Jane Doe 2 began contacting the athletic director, Debra Brown, for assistance, complaining about Cochran's inappropriate behavior and the toxic team environment which he was creating, and the lack of boundaries. Brown directed Jane Doe 2 and her parents to deal with Cochran directly themselves and "iron out the issues" despite being informed of the inappropriate relationships Cochran had with

some girls on the team and past teams, and instead requested to meet with her as his supervisor informing her that he inappropriately discusses meetings with parents and other coaches and girls on the team that furthers retaliation for the players involved. Brown would only agree to meet with the student, and not the parents. Brown would not agree to meet with the parents for almost a month.

61. Subsequently Jane Doe 2 had a meeting with Brown in which she told Brown about the inappropriate behaviors of Cochran with teenage female team members, including the aforementioned incidents (*i.e.*, Snapchat correspondence), the lack of boundaries, the flirting, the bullying and the harassment she was undergoing. Brown would not allow Jane Doe 2's parents to be present for the meeting.

62. On or about September 6, 2018, Jane Doe 2 met with Cochran with Jane Doe 1 after enlisting Jane Doe 1 to have support at the meeting and not have to be alone with Cochran. Cochran's inappropriate behavior, lack of boundaries, and bullying among other things were discussed at this meeting. A seventeen (17) year old was tasked by the adult athletic director to handle issues of inappropriate behaviors, including sexual and/or grooming behaviors, on her own, directly with the person complained of.

63. On September 6, 2018, Kennedy approached Jane Doe 1's mother in the stands of the Mishawaka High School v. Saint Joe home volleyball game, which was unusual as they were not close or social, and he inquired how things were going. Jane Doe 1's mother explained to Kennedy the issues and concerns regarding Cochran's inappropriate interactions with teenage girls on the team. Jane Doe 1's mother

assumed Kennedy had already been informed of the reports of Cochran's inappropriate behaviors as told to Brown and O'Connell by Jane Doe 1 and Jane Doe 2. This parent reported the sexual nature of the actions of Cochran related to the previously referenced sixteen (16) year old female student, and Jane Doe 1 and Jane Doe 2's concern for that student.

64. On September 7, 2018, Jane Doe 2 met with Brown attempting to further explain and report the concerns regarding the team, Cochran, the bullying and harassment, and the inappropriate nature of the relationship of Cochran with the sixteen (16) year old teammate. Debra prevented Jane Doe 2 from elaborating further on the details, shut down Jane Doe 2, referred to the situation as "girl drama," and told Jane Doe 2 she would start attending practices to monitor the issues and concerns – *that promise was not followed through with*. Brown insisted Jane Doe 2 meet with her and Cochran, the man she was reporting, and the three met before practice on this date. Cochran was infuriated that Jane Doe 2 had gone to Brown with her concerns, and the retaliation against Jane Doe 2 worsened from then on. Jane Doe 2's parents were again not permitted at this meeting.

65. While this meeting was taking place, Jane Doe 1 and the rest of the team were told at a team practice being led by assistant coach Sue Nowicki that Cochran is going to be late because he "is in trouble" and had to have a meeting with Brown because "parents are being ridiculous and complaining," "parents are being dramatic," "parents are out of control," and other things of that nature. This led to further retaliation, harassment and bullying of Jane Doe 2 afterward. Cochran then

also told certain girls on the team about the meeting with Jane Doe 2 and Brown, portraying himself as a victim in order to incite girls to continue to harass and retaliate against Jane Doe 2.

66. Brown had required Jane Doe 1 and Jane Doe 2 to address issues raised directly with the team. Brown refused to intervene and protect Jane Doe 1 and Jane Doe 2, minor children, and instead, further put them in a position that would harm them further. After practice, Jane Doe 1 and Jane Doe 2 attempted to address the issues with the team in a meeting as instructed by Brown, a meeting which Jane Doe 2 requested Brown to attend. Brown declined to attend this meeting, leaving the teenage captains to address the inappropriate team environment. After the meeting, the toxic environment persisted, became worse, and direct retaliation was received from Cochran.

67. At the LaPorte Invitational Tournament on September 8, 2019, Cochran called Jane Doe 2 names, made cruel and disparaging comments in front of her to the rest of the team sitting on the bench, and in general treated her worse than ever since their meeting with Brown. Cochran also discussed with certain parents that complaints were made about him to school administration, again portraying himself as a victim. As Brown had forced a meeting between Jane Doe 2 and Cochran without her parents present, there was no hope of confidentiality of the complaint.

68. On the evening of September 9, 2018, Kennedy called Jane Doe 1's mother regarding the conversation from September 6, 2018 at the Mishawaka game. It was during this call that parents of Jane Doe 1 expressed their desire to file a

formal complaint regarding the inappropriate behaviors and Safe Environment violations by Cochran. During this call, Jane Doe 1's mother asked for specific instructions on how to file a formal complaint. Kennedy said he was taking down the information during the conversation. At no time did Kennedy provide any additional instructions or information on how to file a complaint regarding violations of the Safe Environment program by an employee. Jane Doe 1's mother expressed to Kennedy that Brown was not adequately involved in supervising and overseeing Cochran and the team environment, given the nature of complaints about his inappropriate behaviors. Jane Doe 1's mother relayed specific concerns about a 16 year-old team member, (the same girl who had previously shared her concerns to Jane Doe 1 and Jane Doe 2 on August 12). In general, Jane Doe 1's mother expressed concerns about the inappropriate grooming behaviors of Cochran toward certain teenage girls on the team. Additionally, she explained the bullying and harassment towards Jane Doe 2 by other teammates that Cochran incited after reporting him. This was a forty-four (44) minute phone call.

69. At a September 11, 2018 game at Riley High School, multiple parents sitting in the stands witnessed a 16-year old player standing inches in front of seated Cochran twerking for him while Cochran looked on smiling and nodding with approval. This "dancing" occurred on the team bench during pregame warm-ups and was described as "typical behavior" by girls on the team when describing the current team atmosphere. Additionally, another 16-year old player was observed by parents to be lounging, leaning, and laying her body against Cochran while seated closely

together on the bench. These actions were reported to Brown and Kennedy evidencing continued inappropriate interactions resulting in an uncomfortable, sexually charged environment. Kennedy agreed the actions were inappropriate.

70. By September 12, 2018, it became clear that Jane Doe 1 and Jane Doe 2's reporting was not confidential. The breach of confidentiality was in direct violation of Diocesan "Safe Environment" policy that specifically stated that participating in a complaint process, making a good faith report of adult misconduct, is to be kept confidential to protect from retaliation. As a result of continuing breaches of confidentiality, Jane Doe 1 and Jane Doe 2 were significantly retaliated against. Rumors were started, negative comments were made, nasty text messages about them were circulated, and they were blamed for being the "team problem" and "ruining the season," all by teammates with whom Cochran was observed to be inappropriate. Jane Doe 1 and Jane Doe 2 were isolated socially while the other players. This spread beyond the team and into the general school population.

71. Coaches Cochran and Sue Nowicki became hypercritical of the team captains, Jane Doe 1 and Jane Doe 2 after their reports of his inappropriate behavior, further adding to the hostile team environment. Cochran refused to coach Jane Doe 1 at practice and during games. Sue Nowicki would make passive-aggressive comments to them. Jane Doe 1 and Jane Doe 2 would be belittled in front of the team. Cochran (and Deb Brown) would regularly characterize the complaints as "girl drama," parents being "nitpicky," and meddling with his coaching to the other team members and their parents.

72. All of the aforementioned retaliation was being reported to Brown, but no meaningful action or intervention was ever taken to deter his conduct, or to mitigate the hostile school environment.

73. On September 18, 2018, the mother of Jane Doe 1 spoke with Brown before a game in person outlining the bullying, retaliation, continuing lack of boundaries, inappropriate comments and behaviors both while coaching and socially outside of school with girls on the team, and lack of discipline taking place by Cochran that was having a significant impact on the well-being of Jane Doe 1 and Jane Doe 2. This included notifying her of allegations that Cochran was having flirtatious behavior with students, and how players had bragged about meeting him out socially outside of volleyball without parent involvement, even late at night or at a Notre Dame football tailgate. She also told Brown that Cochran was having one-on-one social media interactions with certain girls on the team, to include SnapChat, which is a violation of Safe Environment/Diocesan policy. Brown later told girls on the team to remove their social media posts with them and Cochran tailgating together, and to no longer have SnapChat correspondence with Cochran. Cochran had informed her that Brown made him take the action. It was later learned that there was an issue with Cochran SnapChatting with particular teenage girls while the coach of the junior varsity team the year before. Additionally, Brown was informed Cochran was bringing a male friend to “guest coach” the girls without a background check or safe environment training. However, Cochran continued to engage with the female high school students via SnapChat and social media.

74. Brown was dismissive of the reporting, and informed Jane Doe 1's mother that the captains need to "take care of the issues as captains do," that "the parents need to calm down," and that it was "girl drama."

75. On September 19, 2018, at a team dinner, Cochran commented on the appearance of one of the 16-year old female team members, repeatedly saying she was "really, really beautiful." Previously other girls on the team had stated Cochran had said that this same 16-year-old girl was attractive, and he would date her, a line he had used on several teenage girls. Later in the summer of 2019, before her senior year of high school, this same student had to block Cochran on all social media because she said he was making inappropriate comments to her about pictures of her in a bikini such as "you are tempting me," and "stalking her." This was relayed to other team members on the way to Bremen High School during the 2019 season when they were anticipating seeing Cochran as the new Bremen varsity volleyball coach.

76. On September 22, 2018 during the Crown Point Volleyball Invitational tournament, Cochran frequently yelled at Jane Doe 2 during matches, saying derogatory things about her in a hateful tone so that the rest of the team could hear, belittling her. Jane Doe 2 spent much of the day in tears. On the way home from this tournament, Jane Doe 1 and Jane Doe 2 sat up towards the front of the bus, attempting to address the issues with him. While he was driving a high rate of speed on the Indiana Toll Road (without a driver's license), Cochran frequently took his eyes off the road and his hands off the wheel, to access his cell phone. He swiped through pictures of teenage girls he had in his phone, commenting that Jane Doe 2 "is really

beautiful.” The manner in which he said this made both Jane Doe 1 and Jane Doe 2 uncomfortable.

77. On September 24, 2018, it was again reported to Brown of the concerns and complaints that Jane Doe 1 and Jane Doe 2 witnessed, were informed of, and encountered regarding Cochran. It was also reported the impact it was having emotionally and psychologically on Jane Doe 1 and Jane Doe 2. Brown walked out of the meeting ending it abruptly.

78. On September 25, 2018, a call was had with Brown at her request, during which she was defensive of Cochran and attempted to explain away reported behaviors that indicated boundary issues between him and a 16-year old athlete on the team.

79. Also on September 25, 2018, Cochran degraded Jane Doe 2 yet again during a game in front of the team, informing her she was no longer needed among other things. It was reported to Brown by Jane Doe 2’s parents, and a meeting was again requested by the parents of Jane Doe 2 with Brown outlining the constant retaliation to the reporting of Cochran’s inappropriate behaviors. It was pointed out to Brown that Jane Doe 1 and Jane Doe 2 had never had any issues like they were having with Cochran until they reported his misconduct, inappropriate relationships, and violations of Safe Environment policies.

80. Around this time, it was reported to Jane Doe 1 by another student at Saint Joe (not affiliated with the volleyball team) that Cochran was rumored to be having a sexual relationship with the same team member who reported concerns

about Cochran to Jane Doe 1 and Jane Doe 2 on August 12 at the team bonding. This was reported to Kennedy and Brown.

81. Due to the indifference of Kennedy and Brown, and their ineffectiveness in dealing with Cochran, Jane Doe 1's parents addressed Cochran again on September 27, 2018 regarding his inappropriate behaviors, violations of Safe Environment policies, and how it was negatively affecting the girls on the team. During this meeting, Mary Kay O'Connell and Sue Nowicki were present, and both were defensive of Cochran. O'Connell commented at one point that girls should "take it as a compliment" when Cochran tells them they're attractive. Shortly after this meeting, Cochran immediately repeated this conversation to players and other parents, once again portraying himself as a victim. O'Connell also told Jane Doe 1 shortly after this meeting that she should take Cochran's comments about girls' physical appearance as a compliment, and that he's "just trying to be nice."

82. On September 29, 2018, another meeting was had with Brown, Cochran, and parents of Jane Doe 2 because of continuing issues with retaliation and harassment spelling out concerns and the impact it was having. This was the first time Brown agreed to meet with parents of Jane Doe 2.

83. On October 3, 2018, Cochran was again addressed via a phone call from Jane Doe 1's mother regarding the hostile team environment he had fostered, and the impact it was having on the girls on the team. It was demanded that he take measures to stop inciting the hostile environment.

84. On October 4, 2018, parents for Jane Doe 1 emailed Kennedy to request a meeting, since the issues had not been adequately addressed.

85. On October 9, 2018, another meeting was had with Kennedy and Brown where all the concerns of sexual, inappropriate, and grooming actions were again laid out highlighting Cochran's violation of Safe Environment policies. This meeting included the report of the alleged sexual relationship between Cochran and a student that was reported to Jane Doe 1. Parents cited violations directly from the Saint Joe Student-Parent Handbook and Diocese Safe Environment Policies. Additionally, the retaliation, bullying, and harassment that resulted from these reports and the lack of confidentiality was also reported in detail. During this meeting, Kennedy nor Brown could confirm that Cochran had received the mandatory Safe Environment Training. It was evident that Kennedy and Brown took few notes in this meeting.

86. No meaningful actions were taken as a result of this meeting. Cochran was retained in Jane Doe 1 and Jane Doe 2's daily school environment.

87. On October 9, 2018, a female teammate of Jane Doe 1 and Jane Doe 2 experienced an episode at practice of outward frustration exclaiming that she did not want to flirt or engage in explicit sexual acts. She screamed that she was tired of being mistreated by Cochran, that she did not want to flirt or engage in explicit sexual acts with Cochran. This was reported to Kennedy in an email.

88. In an October 10, 2018 email between Kennedy and the parents of Jane Doe 1, Kennedy requested a meeting with Jane Doe 1. Jane Doe 1 expressed concerns for her safety and wellbeing if she was to meet with Kennedy, stating she could not

handle the additional retaliation that would ensue after a meeting with Kennedy, as had been the case with previous reports to Kennedy and Brown. Kennedy nor Brown had taken any effective actions to mitigate retaliation or harassment that resulted from all previous reports, emails, meetings, and conversations regarding Cochran's inappropriate behaviors. Despite Jane Doe 1's statement, Defendants retained Cochran in his coaching position in her daily school environment, and Kennedy said he would wait to speak to her at the conclusion of the season.

89. Also on October 10, 2018, Jane Doe 1's grandfather emailed Kennedy with concerns regarding Cochran's inappropriate behavior and potential harm to teenage girls.

90. On October 11, 2018, Kennedy sent email follow-up to the October 9 meeting outlining their "next steps" in addressing Cochran to the parents of Jane Doe 1. In this email, Kennedy stated Cochran was "up to date on his Safe Environment Training." Kennedy stated that Cochran was "given additional guidance and reminders" regarding Safe Environment policies. Kennedy further stated they would "actively supervise him" through the rest of the season. Kennedy nor Brown had actively supervised him up to this point. The season concluded on October 13, 2018, two days after Kennedy's statement about active supervision.

91. On October 12, 2018, Jane Doe 1's AP calculus teacher at Saint Joe sent an email to Jane Doe 1 and her parents with concerns on her slipping performance in class, as she was a strong student. The teacher had concerns of anxiety and stress that were not previously present. Jane Doe 1's parents reported to the teacher in reply

to the email what had been happening with Cochran, his grooming behaviors, and the unsafe and unhealthy environment that she had been enduring, and that none of the administrators were taking any actions. The teacher reported that he forwarded the email to Kennedy and counselors Dana Strabavy and Hayley Fuller. No subsequent voluntary follow-up with Jane Doe 1 or her parents were taken to ensure Jane Doe 1 was ok.

92. On October 13, 2018, the Superintendent of Diocesan Schools (Marsha Jordan) responded to an email that originated with a query from the parents of Jane Doe 1 to the Safe Environment Office at the Diocese. That office did not reply or respond to the query directly, but rather forwarded the email to Jordan. The basis of the query was to get assistance on dealing with the issues surrounding Cochran, and for policies and procedures related to Safe Environment, specifically when dealing with adult misconduct in Diocesan schools, to include retaliation, harassment, and bullying for reporting Safe Environment violations. Jordan referred parents of Jane Doe 1 back to Kennedy, and the Saint Joe Student-Parent handbook (which parents had already highlighted in the October 9 meeting with Brown and Kennedy). The policies in the handbook as written were not being followed. Additionally, there was no formal procedure outlined for reporting adult misconduct.

93. On October 15, 2018, after the season had concluded, stories circulated about Cochran driving the team recklessly on the school's bus and with a suspended driver's license. Specifically, girls on the team described that on August 23, 2018, Cochran swerved the bus back and forth on a road on the night of an away game at

New Prairie High School, pretending to be drunk in an attempt to be funny. He described how after a night of partying he was cited for an open container of alcohol when pulled over for a traffic violation. He told the girls he lost his license because he didn't show up for court on multiple occasions, and that they should keep it quiet. This story reached the parents of Jane Doe 2 who researched it.

94. On October 15, 2018, Kennedy requested a meeting with Jane Doe 1 and her parents, two days following the conclusion of the season. Jane Doe 1 and her parents emphasized the need for confidentiality if it were to occur, as she had been going through continued harassment and retaliation for previous reporting meetings that had gotten out to the team and school population. Parents refused to have Brown involved in this meeting due to her apparent support of Cochran over the students, and her refusal to hold him accountable for his inappropriate behavior, and her refusal to address the ongoing retaliation and harassment. Kennedy never acknowledged or addressed the harassment of Jane Doe 1 and Jane Doe 2 even though it was directly reported to him.

95. On October 17, 2018, Jane Doe 2's parents confirmed Cochran had a suspended driver's license since May of 2018, something easily confirmed by parents, yet the Defendants took no action previously to confirm whether he had a valid driver's license themselves. They shared it with Kennedy.

96. On October 19, 2018, Jane Doe 1 had a meeting with her mother, Kennedy, and Dana Strabavy. Jane Doe 1 prepared a listing of inappropriate grooming behaviors and overt sexual misconduct involving Cochran and the effect it

had on the team and players. The incident of an individual reporting a sexual relationship between Cochran and a team member was again discussed. Kennedy at that time informed Jane Doe 1 and her mother that grooming is not a crime and is not reportable. Additionally, he insisted that the rumor of a sexual relationship between a coach and student is not reportable, because they did not bring him proof, even though they were bringing him the statement of another student stating that one existed. Kennedy also referenced liability and risk to Cochran's reputation and career, and implied this was possible defamation.

97. On October 20, 2018, Jane Doe 2's parents met with Kennedy and described the sexually charged and inappropriate environment within the volleyball program under Cochran, citing specific examples. Kennedy admitted in this meeting that Cochran's behaviors were inappropriate. They also outlined the harassment and retaliation that Jane Doe 2 had undergone and the impact it had on Jane Doe 2.

98. On October 22, 2018, Jane Doe 1's parents followed up with Kennedy to inquire as to the matters at hand. Retaliation and harassment again increased after this correspondence with rumors spreading about Jane Doe 1. Jane Doe 1's school attendance, grades, and classroom performance declined due to what she had endured. Prior to the reporting, Jane Doe 1 was a scholar, high honor roll student, and national honor society officer, and actively involved in several social and service activities. On this evening, Jane Doe 1's parents received retaliatory emails from other parents after Cochran stated he was in trouble again.

99. Jane Doe 1's parents then inquired with Kennedy as to when the harassment and retaliation of her children would be addressed. Kennedy simply responded that he advises Jane Doe 1 to report incidents of harassment. Jane Doe 1 no longer felt safe to make reports after this, as it just got worse for her each time when they would not do anything meaningful to stop it. Kennedy started using the fact that she did not feel safe reporting additional on-going retaliation from this point on as an excuse for not addressing it.

100. On October 29, 2018, it was announced that Cochran had resigned as the varsity head coach. No reason was given, such as his multiple Safe Environment policy violations, reckless driving, or suspended driver's license. The lack of transparency perpetuated blame and harassment of the Plaintiffs. Some of the worst retaliation came thereafter.

101. After Cochran's resignation, actions took place by team members and administrators such as Brown and Kennedy that isolated and retaliated against Jane Doe 1 and Jane Doe 2. The persistent unmitigated hostile school environment prevented the Plaintiffs from participating in and benefiting from services and activities offered by the school.

102. On November 19, 2018, Jane Doe 1's parents emailed Marsha Jordan, Superintendent of Diocesan Schools requesting a meeting regarding the handling of Safe Environment violations, and the negligent hiring, supervision, and retention of Cochran. She declined a request to meet. Jane Doe 2's parents also emailed Kennedy

regarding continued concerns for their daughter and the continued harassment and bullying Jane Doe 2 was enduring.

103. Neither Jane Doe 1 or Jane Doe 2 were able to attend their senior post-season banquet due to the unmitigated hostile environment. In a follow up phone conversation on November 20, the mother of Jane Doe 2 asked Kennedy what plans or strategies would be in place to prevent retaliation and hostility at the banquet so Jane Doe 2 could safely attend. Kennedy told her, “there’s really nothing we can do, and the season is over, just move on.”

104. The parents of Jane Doe 2 inquired to Kennedy if a Saint Joe administrator would be in attendance so their daughter could attend safely. He replied that no administrator would be present.

105. On November 21, 2018, Jane Doe 1’s parents met with Carl Loesch, Secretary of Education for the Diocese, and detailed all of the issues relating to Cochran and the inappropriate and sexual behaviors. In this meeting, Loesch voluntarily used the term “grooming” to characterize what parents had just described to him. Parents asked for an immediate investigation into the negligent hiring, supervision, and retention of Cochran, despite multiple reports of Safe Environment violations. Parents provided Loesch with specific names of past student-athletes who could corroborate Cochran’s sexual misconduct. Those families were never contacted by Loesch, as part of his investigation. The names included Jane Doe 2 and Jane Doe 3, yet no one from the Diocese voluntarily reached out as part of their “investigation.” The parents of Jane Doe 2 had to contact him and request a meeting.

106. The retaliation against Jane Doe 1, Jane Doe 2, and their families continued at school, at Church, and in the public generally. The families had to attend Mass at different various locations. A threat was made against the home of Jane Doe 1 by a volleyball team member. This was reported to Carl Loesch. Additionally, this threat was reported to Dana Strabavy, the school counselor, as well as the continuing harassment of Jane Doe 1. The only response Ms. Strabavy had was to provide Jane Doe 1 with a “crying pass” that would allow her to leave class any time she needed.

107. On November 30, 2018, Jane Doe 1 bravely gave her account to Carl Loesch. .

108. Jane Doe 2’s parents emailed Carl Loesch regarding the harassment and retaliation their daughter had gone through, as they were not hearing from him as part of the alleged investigation.

109. Jane Doe 2’s parents met with Carl Loesch on December 7, 2018 and described Cochran’s inappropriate behavior in detail and the failure to protect their child, along with the failure to properly report complaints of sexual misconduct involving an employee.

110. Thereafter the Defendants took little to no sufficient action to address the clear issues presented to them.

111. In January of 2019, Jane Doe 2 submitted a writing assignment for her English class that outlined her encounters and issues with Cochran, stating in her assignment “I think the coach here was a pedophile. No one at St. Joe did anything about it, which left her and her teammates in some uncomfortable situations and

positions. She is still getting over that traumatic experience. This paper was graded, with teacher feedback given, yet no one mentioned, addressed, or took action regarding the statements within the paper referencing her coach being a predator.

112. Even after all that had transpired, and the concerns raised, and after he was permitted to resign, the Diocese still allowed Cochran to use a Diocesan school gym (Marian High School) on at least one occasion to coach fifteen (15) and sixteen (16) year old girls for his “private” volleyball team, further demonstrating a negligent indifference and a lack of oversight.

113. On February 1, 2019, parents alerted Carl Loesch to a social media post by Cochran highlighting Brown’s support of him over the protection of teenage athletes in his care.

114. A meeting with Superintendent Marsha Jordan, the Title IX contact for the Diocese, was never provided.

115. On February 23, 2019, Jane Doe 1’s parents held a meeting with Kennedy, Carl Loesch, and Fr. Terry Coonan (Saint Joe Chaplain). Kennedy read an apology from a computer screen, and “assurances” were provided regarding vague “policy changes.” During this meeting, they showed the school reps pictures of their daughter’s very thin body, who had lost a significant amount of weight due to the stress and emotional toll she had undergone.

116. After the meeting Fr. Terry Coonan emailed Jane Doe 1’s parents offering prayers to Jane Doe 1 stating Jane Doe 1 “needs to know she did nothing

wrong, that she is a good person, and that she is an adult among teenagers.” He also referenced that he “wished he could go back and stop all this from happening.”

117. On April 8, 2019, Jane Doe 1’s parents again requested how to submit a Title IX complaint and to obtain the Title IX process. This request was made to Carl Loesch when Marsha Jordan would not respond. No information was provided. They were trying to get information on the Title IX process since they were not hearing back on any investigation or actions. The process was not evidence nor explained anywhere and no one would answer any questions regarding it. They were told the superintendent was the Title IX contact yet she would never meet with them.

118. On February 27, 2019, Jane Doe 1’s parents contacted Bishop Rhoades’ office to request a meeting. The parents of Jane Doe 1 and Jane Doe 2 compiled a significant collection of correspondence and evidence regarding these matters and provided them to Bishop Rhoades by delivering to his executive assistant, Matt Wood. The correspondence included a letter from Jane Doe 1 to Bishop Rhoades describing how she reported unhealthy and unsafe relationships between Cochran and young female teammates. She also described the retaliation she received for these reports, causing her to feel unsafe at school and at home. Her letter described an environment in which girls felt “put up by the athletic director, Deb Brown, for his consumption,” and for feeling just as victimized by Kennedy and Brown due to their lack of protection. Bishop Rhoades never acknowledged or responded to Jane Doe 1’s letter.

119. On May 6, 2019, after many weeks of delay tactics, a meeting was finally had with Bishop Kevin Rhoades that included Carl Loesch and Johnathon Harber

(Director of Human Resources). Bishop Rhoades held a short meeting and was mostly silent, except to characterize Cochran as an “immature person” and that some “unchristian” behavior had taken place, and that the parents should be content that Cochran is no longer working for the Diocese. They would not provide any information as to their six plus month long investigation they were allegedly conducting internally. During this meeting, no one would acknowledge adult sexual misconduct allegations, but instead used euphemisms to downplay what had occurred such as “immature.” No results of the investigation were provided during this meeting.

120. On June 6, 2019, after the Defendants had completely failed to report to the Indiana Department of Child Services any of the complaints raised to them over many months, Plaintiffs reported to the Indiana Department of Child Services after their daughters had graduated and was safe to report the disturbing information related to Cochran.

121. Defendants failed to properly train, supervise, and negligently hired Cochran.

122. Defendants failed to properly report and investigate complaints.

123. Plaintiffs suffered severe emotional distress.

124. The actions to not report the complaints to authorities and/or investigate the Complaints were intentional, made with malicious intent, and negligent.

125. The Diocese and Saint Joe are responsible and vicariously liable for the actions of its employees Kennedy, Brown, and Cochran among others.

126. The Diocese and Saint Joe were negligent in the hiring and retaining of said employees.

127. The Diocese and Saint Joe were negligent in the training of employees regarding the handling of complaints as those that were made in this this case.

128. The Defendants failed to report in violation of Indiana Code § 31-33-5-4. Defendants failed to adequately investigate and/or investigate the reports at all.

129. Each and every, all and singular, of the foregoing acts and omissions, on the part of the Defendants, jointly and severally, taken separately and/or collectively, constitute a direct and proximate cause of the injuries and damages of Plaintiffs, as set forth herein.

130. As a result of the Defendants' statutory violations, and negligent acts and/or omissions, Plaintiffs have suffered severe and permanent injuries and impairment, including, but not limited to, medical and mental health treatment expenses, severe physical, emotional, and psychological pain and suffering, and will continue to suffer such damages in the future.

131. The Defendants are responsible for and as such ratified the acts, omissions and customs of all administrators, personnel, staff, contractors, and agents, in regard to services provided to and on behalf of Plaintiffs, pursuant to the theory of *Respondeat Superior*.

Count I
(Negligence – All Plaintiffs)

132. Plaintiffs incorporate by reference all prior allegations in this Complaint as fully as if set forth herein.

133. Defendants owed Plaintiffs a duty.

134. Defendants breached their duties.

135. As a direct and proximate result, Plaintiffs were harmed and suffered damages.

Wherefore Plaintiffs pray the Court to enter judgment in their favor on Count I, award Plaintiffs all damages to which they are entitled, and grant all further just and appropriate relief in the premises.

Count II
**(Negligent and/or Intentional
Infliction of Emotional Distress – *All Plaintiffs*)**

136. Plaintiffs incorporate by reference all prior allegations in this Complaint as fully as if set forth herein.

137. As described in herein, Plaintiffs have endured extreme emotional pain and suffering due to the direct actions and impacts of the Defendants, and Plaintiffs will continue to suffer such damages in the future, as a direct and proximate result of the Defendants' carelessness and negligence.

138. The Defendants performed the acts detailed above with the intent of inflicting severe emotional distress or with knowledge of the high probability that the conduct would cause such distress.

139. The Defendants knew or should have known that their actions would cause Plaintiffs severe emotional distress.

140. As a direct and proximate result of this conduct, Plaintiffs did in fact suffer severe emotional distress, including mental anguish and physical pain.

141. The Defendants have negligently and/or intentionally inflicted unreasonable anguish and emotional distress upon Plaintiffs.

Wherefore Plaintiffs pray the Court to enter judgment in their favor on Count II, award Plaintiffs all damages to which they are entitled, and grant all further just and appropriate relief in the premises.

Count III
(Defamation - *Jane Doe 1 and Jane Doe 2*)

142. Plaintiffs incorporate by reference all prior allegations in this Complaint as fully as if set forth herein.

143. Defendants made false statements to third parties about Jane Doe 1 and Jane Doe 2 regarding their complaints and reports regarding Cochran that were supposed to be confidential.

144. The communications were about Plaintiffs.

145. The communications were of a kind that tends to lower a person's reputation in the community or to discourage others from dealing or associating with the person.

146. The communications had a direct impact on the Plaintiffs Jane Doe 1 and Jane Doe 2.

147. The communications were spoken, published, and were read, received, and/or heard by someone other than Plaintiffs.

148. Defendants knew the communications to be false or believing it to be true failed to use reasonable care to determine its truth.

149. As a result of the communications, Plaintiffs are entitled to presumed damages.

150. As a result of the communications, Plaintiffs have suffered personal humiliation, mental anguish and suffering, and financial harm.

Wherefore Plaintiffs Jane Doe 1 and Jane Doe 2 pray the Court to enter judgment in their favor on Count III, award Plaintiffs all damages to which they are entitled, and grant all further just and appropriate relief in the premises.

Count IV
(Title IX – All Plaintiffs)

151. Plaintiffs incorporate by reference all prior allegations in this Complaint as fully as if set forth herein.

152. This claim is brought pursuant to Title IX, 20 U.S.C. § 1681, *et seq.* (“Title IX”).

153. Defendants had knowledge that at Saint Joe, Plaintiffs were subjected to an inappropriate and sexual environment, interactions of a sexual nature, grooming, harassment, and bullying among other things that were so severe, pervasive, and objectively offensive that it denied them equal access to the Defendants educational program and volleyball program.

154. Reports were made to Defendants regarding what Plaintiffs were subjected to.

155. Defendants failed to employ a Title IX coordinator.

156. Defendants failed to promptly contact Plaintiffs to discuss the matters and offer supportive measures.

157. Defendants failed to explain supportive measures were available to Plaintiffs or to consider their wishes regarding the offered supportive measures.

158. Defendants failed to explain to Plaintiffs the process for filing a formal complaint.

159. What Plaintiffs endured was a direct result of the actions of Defendants and caused them to be deprived of access to educational opportunities and benefits provided by the school.

160. Defendants' actions and inactions violate Title IX.

Wherefore Plaintiffs pray the Court to enter judgment in their favor on Count IV, award Plaintiffs all damages to which they are entitled, and grant all further just and appropriate relief in the premises.

Count V
(Negligence *Per Se* – All Plaintiffs)

161. Plaintiffs incorporate by reference all prior allegations in this Complaint as fully as if set forth herein.

162. Defendants owed Plaintiffs a duty.

163. Defendants breached their duties.

164. The Defendants failed to report in violation of Indiana Code § 31-33-5-4 among other things.

165. As a direct and proximate result, Plaintiffs were harmed and suffered damages.

166. Defendants' actions constitute negligence *per se*.

Wherefore Plaintiffs pray the Court to enter judgment in their favor on Count V, award Plaintiffs all damages to which they are entitled, and grant all further just and appropriate relief in the premises.

Respectfully Submitted,

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Jury Demand

Pursuant to Rule 38 of the Indiana Rules of Trial Procedure, Plaintiff, by counsel, respectfully demands a trial by jury on all accounts deemed so triable.

Respectfully submitted,

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