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*Attorneys for Defendant Big Brothers Big
Sisters of Central Arizona*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

JOHN CD DOE, a single man,
Plaintiff,

v.

BIG BROTHERS BIG SISTERS OF
AMERICA, a District of Columbia, non-profit
corporation; BIG BROTHERS BIG SISTERS
OF CENTRAL ARIZONA, an Arizona
corporation; JOHN DOE 1-100; JANE DOE 1-
100; and BLACK & WHITE
CORPORATIONS 1-100,

Defendants.

NO. CV2020-014920

**DEFENDANT BIG BROTHERS
BIG SISTERS OF CENTRAL
ARIZONA'S ANSWER**

For its Answer to Plaintiff John CD Doe's First Amended Complaint, dated June 29,
2021 (the "Complaint") Defendant Big Brothers Big Sisters of Central Arizona
("BBBSCA" or "Defendant"), admits, denies, and alleges as follows:

JURISDICTION

1. Defendant lacks sufficient knowledge or information to respond to the
allegations contained in Paragraph 1 of the Complaint and therefore denies the same.

2. Defendant lacks sufficient knowledge or information to respond to the
allegations contained in Paragraph 2 of the Complaint and therefore denies the same.

3. Defendant lacks sufficient knowledge or information to respond to the
allegations contained in Paragraph 3 of the Complaint and therefore denies the same.

1 4. Defendant lacks sufficient knowledge or information to respond to the
2 allegations contained in Paragraph 4 of the Complaint and therefore denies the same.

3 5. Responding to the allegations contained in Paragraph 5 of the Complaint,
4 Defendant admits that it is an Arizona corporation authorized to do business in Maricopa
5 County, Arizona with its principal place of business in Phoenix, Arizona. Defendant further
6 admits that it was formerly known as Valley Big Brothers and Valley Big Brothers Big
7 Sisters. Defendant denies the remaining allegations.

8 6. Defendant denies the allegations contained in Paragraph 6 of the Complaint.

9 7. Defendant denies the allegations contained in Paragraph 7 of the Complaint.

10 8. Defendant lacks sufficient knowledge or information to respond to the
11 allegations contained in Paragraph 8 of the Complaint and therefore denies the same.

12 9. Defendant lacks sufficient knowledge or information to respond to the
13 allegations in Paragraph 9 of the Complaint and therefore denies the same.

14 10. Defendant lacks sufficient knowledge or information to respond to the
15 allegations in the first sentence of Paragraph 10 of the Complaint. Defendant denies the
16 remaining allegations in Paragraph 10 of the Complaint.

17 11. Defendant lacks sufficient knowledge or information to respond to the
18 allegations contained in Paragraph 11 of the Complaint and therefore denies the same.

19 12. Defendant lacks sufficient knowledge or information to respond to the
20 allegations contained in Paragraph 12 of the Complaint and therefore denies the same.

21 13. Defendant denies the allegations contained in Paragraph 13 of the
22 Complaint.

23 14. Defendant denies the allegations contained in Paragraph 14 of the
24 Complaint.

25 15. Defendant lacks sufficient knowledge or information to respond to the
26 allegations contained in Paragraph 15 of the Complaint and therefore denies the same.

27 16. Defendant denies the allegations contained in Paragraph 16 of the
28 Complaint.

1 17. Defendant lacks sufficient knowledge or information to respond to the
2 allegations contained in Paragraph 17 of the Complaint and therefore denies the same.

3 18. Defendant lacks sufficient knowledge or information to respond to the
4 allegations contained in Paragraph 18 of the Complaint and therefore denies the same.

5 **GENERAL ALLEGATIONS**

6 19. Responding to Paragraph 19 of the Complaint, Defendant incorporates by
7 reference its responses to the previous paragraphs as though fully set forth herein.

8 20. Defendant lacks sufficient knowledge or information to respond to the
9 allegations contained in Paragraph 20 of the Complaint and therefore denies the same.

10 21. Defendant lacks sufficient knowledge or information to respond to the
11 allegations in Paragraph 21 of the Complaint and therefore denies the same.

12 22. Defendant lacks sufficient knowledge or information to respond to the
13 allegations in Paragraph 22 of the Complaint and therefore denies the same.

14 23. Defendant lacks sufficient knowledge or information to respond to the
15 allegations in Paragraph 23 of the Complaint and therefore denies the same.

16 24. Defendant lacks sufficient knowledge or information to respond to the
17 allegations in Paragraph 24 of the Complaint and therefore denies the same.

18 25. Defendant lacks sufficient knowledge or information to respond to the
19 allegations contained in Paragraph 25 of the Complaint and therefore denies the same.

20 26. Defendant lacks sufficient knowledge or information to respond to the
21 allegations contained in Paragraph 26 of the Complaint and therefore denies the same.

22 27. Defendant lacks sufficient knowledge or information to respond to the
23 allegations contained in Paragraph 27 of the Complaint and therefore denies the same.

24 28. Defendant lacks sufficient knowledge or information to respond to the
25 allegations contained in Paragraph 28 of the Complaint and therefore denies the same.

26 29. Defendant lacks sufficient knowledge or information to respond to the
27 allegations contained in Paragraph 29 of the Complaint and therefore denies the same.

28 30. Defendant denies the allegations contained in Paragraph 30 of the Complaint

1 made against it. Responding to the remaining allegations, Defendant lacks sufficient
2 knowledge or information to respond to the remaining allegations contained in Paragraph
3 30 and therefore denies the same.

4 31. Defendant lacks sufficient knowledge or information to respond to the
5 allegations contained in Paragraph 31 of the Complaint and therefore denies the same.

6 32. Defendant lacks sufficient knowledge or information to respond to the
7 allegations contained in Paragraph 32 of the Complaint and therefore denies the same.

8 33. Defendant lacks sufficient knowledge or information to respond to the
9 allegations contained in Paragraph 33 of the Complaint and therefore denies the same.

10 34. Defendant lacks sufficient knowledge or information to respond to the
11 allegations contained in Paragraph 34 of the Complaint and therefore denies the same.

12 35. Defendant lacks sufficient knowledge or information to respond to the
13 allegations contained in Paragraph 35 of the Complaint, including its subparts, and therefore
14 denies the same.

15 36. Defendant lacks sufficient knowledge or information to respond to the
16 allegations contained in Paragraph 36 of the Complaint and therefore denies the same.

17 37. Defendant lacks sufficient knowledge or information to respond to the
18 allegations contained in Paragraph 37 of the Complaint and therefore denies the same.

19 38. Defendant lacks sufficient knowledge or information to respond to the
20 allegations contained in Paragraph 38 of the Complaint and therefore denies the same.

21 **COUNT I**
22 **SEXUAL ASSAULT / SEXUAL ABUSE / SEXUAL CONDUCT**
23 **WITH A MINOR**
(A.R.S. § 13-1405 and the common law)

24 39. Responding to Paragraph 39 of the Complaint, Defendant incorporates by
25 reference its responses to the previous paragraphs as if fully set forth herein.

26 40. Defendant lacks sufficient knowledge or information to respond to the
27 allegations contained in Paragraphs 40 and 41 of the Complaint and therefore denies the
28 same.

41. Defendant denies the allegations made against it in Paragraphs 42 through 45 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 42 through 45 of the Complaint and therefore denies the same.

42. Defendant denies the allegations in Paragraph 46 of the Complaint.

COUNT II
NEGLIGENCE AGAINST DEFENDANTS
BIG BROTHERS BIG SISTERS OF AMERICA AND BIG BROTHERS BIG
SISTERS OF CENTRAL ARIZONA

43. Responding to Paragraph 47, Defendant incorporates by reference its responses to the previous Paragraphs as though fully set forth herein.

44. Defendant denies the allegations made against it in Paragraphs 48 through 70 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 48 through 70 of the Complaint and therefore deny the same.

COUNT III
**NEGLIGENCE TRAINING AND SUPERVISION OF EMPLOYEES
AGAINST BIG BROTHERS BIG SISTERS OF AMERICA &
BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA**

45. Responding to Paragraph 71 of the Complaint, Defendant incorporates by reference its answers to the previous paragraphs as though fully set forth herein.

46. Defendant denies the allegations made against it in Paragraphs 72 through 78 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 72 through 78 of the Complaint and therefore denies the same.

COUNT IV
NEGLIGENCE RETENTION OF EMPLOYEES / AGENTS
AGAINST BIG BROTHERS BIG SISTERS OF AMERICA &
BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA

47. Responding to Paragraph 79 of the Complaint, Defendant incorporates by reference its responses to the previous paragraphs as if fully set forth herein.

48. Defendant denies the allegations made against it in Paragraphs 80 through 84 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 80 through 84 of the Complaint and therefore denies the same.

COUNT V
BREACH OF FIDUCIARY DUTY
(All Defendants)

49. Responding to Paragraph 85 of the Complaint, Defendant incorporates by reference its responses to the previous paragraphs as if fully set forth herein.

50. Defendant denies the allegations made against it in Paragraphs 86 through 88 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 86 through 88 of the Complaint and therefore denies the same.

COUNT VI
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(All Defendants)

51. Responding to Paragraph 89 of the Complaint, Defendant incorporates by reference its responses to the previous paragraphs as if fully set forth herein.

52. Defendant denies the allegations made against it in Paragraphs 90 and 91 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 90 and 91 of the Complaint and therefore denies the same.

COUNT VII
ENDANGERMENT
(All Defendants)

53. Responding to Paragraph 92 of the Complaint, Defendant incorporates by reference its responses to the previous paragraphs as if fully set forth herein.

54. Defendant denies the allegations made against it in Paragraph 93 through 98 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 93 through 98 of the Complaint and therefore denies the same.

COUNT VIII
CHILD ABUSE
(A.R.S. § 13-3623 and the common law)
(All Defendants)

55. Responding to Paragraph 99 of the Complaint, Defendant incorporates by reference its responses to the previous paragraphs as if fully set forth herein.

56. Defendant denies the allegations made against it in Paragraphs 100 through 105 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 100 through 105 of the Complaint and therefore denies the same.

COUNT IX
ASSAULT
(A.R.S. §§ 13-1204, 13-1203 and the common law)
(All Defendants)

57. Responding to Paragraph 106 of the Complaint, Defendant incorporates by reference its responses to the previous paragraphs as if fully set forth herein.

58. Defendant lacks sufficient knowledge or information to respond to the allegations contained in Paragraph 107 of the Complaint and therefore denies the same.

59. Defendant denies the allegations made against it in Paragraphs 108 through 112 of the Complaint. Defendant lacks sufficient knowledge or information to respond to the remaining allegations in Paragraphs 108 through 112 of the Complaint and therefore denies the same.

60. Defendant denies that Plaintiff is entitled to any of the relief sought in its Prayer for Relief.

61. Defendant denies each and every allegation of the Complaint that is not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. The Complaint and each claim for relief alleged therein fails to state a claim for which relief can be granted.

2. Plaintiff's alleged injuries and damages, if any, were directly and proximately

1 caused or contributed to by the negligence of third parties who were responsible for
2 Plaintiff's care and supervision, including but not limited to his mother, or others who had
3 a legal duty or responsibility for the care and/or custody of Plaintiff.

4 3. Plaintiff's alleged injuries and damages, if any, were directly and
5 proximately caused in whole or in part by third parties over whom Defendant had no control
6 and to whom Defendant may apportion fault at the time of trial, including but not limited to
7 Plaintiff's alleged perpetrator, Italo Arbulu, who was not an agent of and was not acting
8 within the scope of any employment with or actual or apparent authority on behalf of
9 Defendant. Defendant reserves the right to argue that Plaintiff or other third parties may
10 have caused or contributed to his alleged injuries and damages and may be comparatively,
11 if not wholly, at fault.

12 4. Plaintiff and/or other third parties caused and/or contributed to each of
13 Plaintiff's alleged injuries, damages, losses and costs, thereby requiring the principles of
14 comparative fault.

15 5. The doctrine of *respondeat superior* does not apply to Italo Arbulu because
16 Defendant cannot be held vicariously liable for sexual abuse, sexual conduct or other torts
17 as alleged in the Complaint. To the extent any such alleged conduct occurred, it was the act
18 of an individual acting solely for personal motives unrelated to the furtherance of any
19 business of Defendant.

20 6. Plaintiff's claims are barred, in whole or in part, by waiver, laches, failure to
21 prosecute, and/or estoppel. Plaintiff unreasonably delayed in providing notice and in
22 commencing and prosecuting this action which caused unfair prejudice to Defendant.

23 7. Plaintiff's claims are barred, in whole or in part, by the statute of limitations.

24 8. Plaintiff's claims are barred in whole or in part to the extent that Plaintiff or
25 any parent, guardian, or other authorized agent on his behalf waived or released liability.

26 9. Plaintiff's damages, if any, are barred to the extent that Plaintiff failed to
27 mitigate his damages. Alternatively, to the extent Plaintiff has mitigated his damages, any
28 recovery is barred in whole or in part by such mitigation of damages.

1 10. Defendant alleges that it complied with all legal and industry standards
2 applicable at the time of the events alleged in the Complaint.

3 11. Defendant contends that the sole and/or proximate cause of Plaintiff's
4 alleged damages was due to the willful and intentional acts of persons or entities other than
5 Defendant.

6 12. Plaintiff's claims are barred, in whole or in part, by A.R.S. § 12-514 or its
7 applicability and definition provisions.

8 13. Plaintiff bears the burden of proving each and every element of his claims
9 by clear and convincing evidence pursuant to A.R.S. § 12-514 and its applicability and
10 definition provisions contained in H.B. 2466 (May 27, 2019).

11 14. Plaintiff's claims for punitive damages are barred in their entirety by A.R.S.
12 § 12-514 and its applicability and definitions provisions contained in H.B. 2466 (May 27,
13 2019).

14 15. Plaintiff's claims are barred, in whole or in part, by A.R.S. § 12-505 and
15 violate the Due Process and Equal Protection clauses of the Arizona and Federal
16 Constitutions.

17 16. Defendant did not authorize, consent to, ratify, direct or participate in any of
18 the allegedly wrongful or negligent conduct that forms the basis of Plaintiff's Complaint.

19 17. Defendant did not know or otherwise have actual notice of any misconduct
20 that created an unreasonable risk of sexual conduct or sexual contact with a minor by any
21 employee, volunteer, representative or agent.

22 18. Plaintiff has failed to state a claim for which relief can be granted based on
23 any purported special relationship or violation of public policy, and to the extent Plaintiff
24 seeks to impose vicarious liability for heinous and personal acts which are utterly contrary
25 to public policy, such conduct should be punishable upon only the perpetrator.

26 19. To the extent evidence reveals that Plaintiff or his parents or guardians
27 withheld information from Defendant that could have afforded better protection for not only
28 Plaintiff, but others generally, they may be designated as parties or non-parties at fault.

20. Plaintiff bears the burden of proving each and every element of each of his claims with clear and convincing evidence.

21. Plaintiff's claims are or may be barred or reduced by any other matter constituting an avoidance or affirmative defense as set forth in Rules 8 and 12 of the Arizona Rules of Civil Procedure and as may be determined to exist through discovery.

22. Defendant specifically reserves the right to amend and supplement these affirmative defenses as discovery proceeds.

PRAYER FOR RELIEF

WHEREFORE, having fully responded to Plaintiff's Complaint, Defendant prays for the following relief:

A. That Plaintiff's Complaint be dismissed with prejudice, and that Plaintiff take nothing thereby;

B. That judgment be entered in favor of Defendant;

C. For an award of Defendant's taxable costs any other remedies afforded under Arizona law and

D. For all other and further relief available under law and equity.

RESPECTFULLY SUBMITTED 29th day of November, 2022.

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Two North Central Avenue
Phoenix, AZ 85004-2391

By: /s/ John M. O'Neal
John M. O'Neal
Cale S. Johnson

Attorneys for Defendant Big Brothers Big Sisters of Central Arizona

FILED with the Clerk of the Court this 29th day of November, 2022.

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1 **COPY** of the foregoing mailed/emailed this 29th day of November, 2022, to:

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28 /s/ Debra L. Hitchens