

EXHIBIT 3

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9 **IN THE UNITED STATES BANKRUPTCY COURT**
10 **DISTRICT OF ARIZONA**

11 In Re:

12 DAVID CAMPBELL,
13 Defendants.

Case No.: 09-bk-12121-GBN

Case No.: 17-bk-09863-BKM

**DEBTOR'S MOTION TO RE-
OPEN BANKRUPTCIES**

AND

**DEBTOR'S MOTION FOR AN
ORDER TO STAY UNDERLYING
TORT CLAIM**

21 Debtor, David Campbell, requests that the court Re-Open the two bankruptcy
22 cases he filed in 2009 and 2017. Debtor David Campbell requests that the court re-open
23 to preserve and protect the tort claim for child sexual abuse currently pending in Maricopa
24 County Superior Court and to "ensure that all debts and obligations are appropriately
25 addressed." (Exhibit 1: Ltr D. Campbell to U.S. Bankruptcy Court, District of Arizona,
26 01/26/2025).

1 Debtor further requests that the U.S. Bankruptcy Court issue and order staying the
2 underling tort claim until the United States Trustee decides whether to re-open and
3 administer the bankruptcy to then prosecute the underlying tort claim in the name of the
4 real party in interest or abandon the claim given the age of the bankruptcy petitions.

5 Debtor requests that the court defer or waive any fees to re-open the above cases.

6 Today, January 30, 2025, this Court issued a Notice of Filer Errors and or
7 Deficiencies.

8 **David Campbell filed for bankruptcy 16 and 24 years after the statute of**
9 **limitations expired on any possible tort claims for child sexual abuse.**

10 On or about June 2, 2009, Debtor David Campbell filed a Voluntary Petition for
11 Chapter 7 Bankruptcy. *See In Re David Campbell*, 09-bk-12121-GBN.

12 On or about August 23, 2017, Debtor David Campbell filed a second Voluntary
13 Petition for Chapter 7 Bankruptcy. *See In Re David L. Campbell*, 17-bk-09863.

14 **The Underlying Tort Claim:**

15 **Big Brothers Big Sisters failed to protect David Campbell.**

16 David Campbell was born in 1973. David was raised by a single mother. In
17 January 1983, David's mother enrolled him in a mentoring program through Big Brothers
18 Big Sisters of Central Arizona (fka Valley Big Brothers). Big Brother Big Sisters of
19 Central Arizona paired David with a twenty-year old male, Italo Arbulu.

20 On October 21, 1982, Italo Arbulu applied to be a mentor or "Big" in the Big
21 Brothers Big Sisters program. As part of its screening process, Big Brothers Big Sisters
22 of Central Arizona evaluated Arbulu psychologically. On November 1, 1982, Big
23 Brothers Big Sisters of Central Arizona found that Italo Arbulu had severe emotional
24 issues and could not be a Big Brother at this time; writing:

25
26 This young man has some serious problems. He has excessive
27 bodily concerns, he is demanding and complaining. He is
28 confused and often fantasizes. He is over-acting, unrealistic
and may have sever emotional issues. Based on the MMPI he

1 is not able to be a Big Brother at this time and could profit from
2 professional counseling.

3 *Minnesota Multiphasic Personality Inventory, Profile & Case Summary*, Italo Arbulu
4 dated 11/01/1982.

5 Despite its concern that this man was confused and had severe emotional issues,
6 Big Brothers Big Sisters decided to ignore the warning and made Arbulu a Big Brother
7 anyway.

8 On January 28, 1983, Big Brothers Big Sisters matched Arbulu with 9-year-old
9 David Campbell. "Two weeks after they were matched (approx.. Feb 11) [Big Brother
10 Big Sister] discovered that BB Italo Arbulu and LB David Campbell had slept in the same
11 bed together." (Big Brother Big Sisters, *Termination Summary*, 07/08/1983). On
12 February 17, 1982, Big Brothers Big Sister found out for a second time that Arbulu slept
13 in the same bed as David. The case worker for Big Brothers Big Sisters told Arbulu that
14 Big Brother Big Sister policy prohibited Bigs from sleeping in the same bed. Arbulu
15 stated he was not aware of this policy.

16 In May 1983, David's mother was hospitalized. In July 1983, David's mother sent
17 him to a counselor to address behavioral changes. In a case note dated July 8, 1983, the
18 case worker for Big Brothers Big Sisters spoke with David's mother. The case worker
19 wrote, "when they were in swimming pool – BB tried to touch him. She asked where and
20 he said "Down there" pointing to his penis." Big Brothers Big Sisters documented in its
21 file "We have reason to believe BB was sexually inappropriate with LB."

22 On July 19, 1983, Bill Geist, a case worker with Big Brothers Big Sisters met with
23 David and his mother at their home. When Bill Geist asked David if he would
24 recommend Arbulu to be a mentor to another child, David told him "No!" stating
25 "[Arbulu] tried to pull me on top of him when we were in bed together" and "He tried to
26 touch me in the pool."

27 On July 22, 1983, Bill Geist called Phoenix Police to report that Arbulu Italo
28 sexually abused 9-year-old David Campbell. Bill Geist also questioned Arbulu before
calling police. By the time police were involved, Arbulu fled town.

1 On August 30, 1983, Big Brothers Big Sisters concluded that Italo Arbulu sexually
2 abused David Campbell:

3 Upon further investigation it was discovered that BB continued
4 having LB sleep in the same bed with him, had tried to touch
5 LB and had tried to pull LB over on top of BB while they slept.
6 These things came out in conversation with LB and LBM and
7 also with CW Geist (supervisor of this CW) and LB. At this
8 point, the case was turned over to Detective Porter who has
9 since learned from LB that [Arbulu] performed oral sex on
10 him.

11 (Big Brother Big Sister, *Termination Summary*, 08/30/1983).

12 Although charges were never filed in Arizona against Arbulu for the sexual abuse
13 of David Campbell, Arbulu continued to prey on children. In approximately 2004, Italo
14 Arbulu was arrested and charged with child sexual abuse in San Mateo County,
15 California. On or about May 5, 2005, Italo Arbulu was convicted for sexually abusing
16 five boys ages 10 to 14 from approximately 1998 to 2004. Arbulu is serving 180 years
17 prison. The Daily Journal, *Coach found guilty*. May 6, 2005.

18 **In 2019, the Arizona legislature changed the statute of limitations**
19 **for survivors of child sexual abuse.**

20 When David Campbell filed bankruptcy in 2009 and again in 2017, then existing
21 Arizona law required survivors of child sexual abuse like David to file lawsuits within
22 two years of their 18th birthday or age 20. A.R.S. §§12-542, 12-502. Here, under then
23 existing law, David was required to file a tort claim for the sexual abuse he suffered in
24 the Big Brothers Big Sisters program on or before 1993.

25 Until 2019, child sex abuse survivors in Arizona had until age 20 to file civil
26 lawsuits against their abusers and other defendants who were responsible. See A.R.S. §§
27 12-542, 12-502. Before 2019, Arizona ranked as one of the worst jurisdictions nationally
28 for its SOLs for child sex abuse claims. CHILD USA, *2019 Annual Report, Child Sex
Abuse Statutes of Limitations Reform 2002-2019*, (May 5, 2020). To remedy the problem,
the Arizona Legislature passed House Bill 2466, which extended the statute of limitations
from 2 years to 12 years and created a window permitting survivors of child sexual abuse

1 whose claims were barred by ARS § 12-514.

2 The legislative intent behind House Bill 2466 was to ensure that adult survivors
3 of childhood sexual abuse had the time needed to file lawsuits for the sexual abuse they
4 suffered as children. (Exhibit 9: Arizona House of Representative, HB 2466, Summary).
5 When the statute became effective, Governor Doug Ducey stated the new law was to give
6 survivors like Plaintiff, more time:

7 Today I signed HB 2466

8
9 The pain and trauma suffered by victims of child sexual
10 abuse can never be understated. This legislative session, we
11 heard from many of these victims who have turned this pain
12 into a passion – pursuing justice, accountability for their
13 abusers, and to protect innocent children.

14 Their stories are heart breaking. Their work – inspiring.

15 This we know: Victims need time. Time to process,
16 understand what has happened and come forward. And they
17 deserve the right to come forward.

18 HB 2466 is an important first step in providing victims of
19 child sexual abuse with the safety, healing and justice they
20 deserve. I'm hopeful it will protect innocent children who
21 may otherwise have suffered at the hands of these predators.

22 Gov. Douglas A. Ducey, *Arizona Governor's Message*, HB 2466 (May 27, 2019). As of
23 the signing of HB 2466, it was public policy in Arizona that "every child victimized by
24 sexual abuse is entitled to safety, healing, justice and restitution." (State of Arizona,
25 Executive Order 2019-05 (May 28, 2019)).

26 House Bill 2466 reflects the Arizona Legislature's understanding that child sexual
27 abuse inflicts a unique trauma on victims; making it difficult for some survivors to discuss
28 or disclose the sexual abuse until years later. Given the unique and long-lasting trauma
caused by child sexual abuse, the Arizona Legislature recognized that survivors of child
sexual abuse need more than two years after their 18th birthday to file civil lawsuits for
the harm they suffered as children.

1 The Arizona Legislature's broad, remedial intent matches the intent of legislatures
2 in other states to ensure broad access to justice for survivors of childhood sexual abuse.

3
4 Although precise statistics cannot be known for certain, studies
5 estimate that between 10% and 27% of children are abused before
6 the age of 18. Of those, approximately 80% of them know the
7 perpetrator. Due to a variety of factors such as the severity of the
8 abuse, gender, and social reaction to disclosure, very few victims
disclose their abuse during childhood. The average age of
disclosure in cases of child sexual abuse is 42.

9 Devin Mashman, *Retroactive Civil Statutes of Limitation and Due Process in the Child*
10 *Sex Abuse Context: The Unique Need to Access Georgia Courts*, 15 Charleston L. Rev.
11 665, 672 (2021).

12 On November 18, 2020, David Campbell filed a personal injury lawsuit under the
13 new law. Among other allegations, Plaintiff alleged Big Brother's Big Sisters was
14 negligent when it decided to make Italo Arbulu a mentor for vulnerable children and
15 when it failed to properly supervise Arbulu even after being made aware of his predatory
16 - "red flag" – behavior. (Exhibit 2: Complaint, *John CD Doe v. Big Brothers Big Sisters*
17 *of America*, Maricopa County Superior Court CV2020-014920).

18 **Big Brothers Big Sisters is attempting to escape responsibility.**

19 After challenging the constitutionality of HB 2466, Big Brothers Big Sisters of
20 Central Arizona is now attempting to dismiss David Campbell's lawsuit on the ground
21 that he lacks standing. (See *Big Brothers Big Sisters of America v. Hon. Randall Warner*,
22 CA-SA-21-0221; Arizona Supreme Court, *Big Brothers Big Sisters of America v. Hon.*
23 *Warner*, Ariz. Supreme Ct. No. CV-22-0002-PR). Defendant Big Brothers Big Sisters
24 of Central Arizona now argues Plaintiff lacks standing because Defendant believes this
25 personal injury claim was property of the bankruptcy estate when David Campbell filed
26 for bankruptcy in 2009 and again in 2017.

27 Under Arizona law, standing simply requires an injury in fact giving the plaintiff
28 a personal stake in the controversy's outcome.

1 A party has standing to sue in Arizona if, under all
2 circumstances, the party possesses an interest in the outcome
3 of the litigation. Standing generally requires an injury in fact,
4 economic or otherwise, caused by the complained-of
conduct, and resulting in distinct and palpable injury giving
the plaintiff a personal stake in the controversy's outcome.

5
6 *Strawberry Water Co. v. Paulsen*, 220 Ariz. 401, 207 P.3d 654 (App. 2008)(citations
7 omitted). There is no dispute, David Campbell has standing.

8 The issue presented is whether the underlying tort claim is being prosecuted in the
9 name of the real party in interest. Rule 17(b)(1), Ariz. R. Civ. P., requires that civil
10 actions "must be prosecuted in the name of the real party in interest." A trustee, such as
11 a bankruptcy trustee, "may sue in their own names without joining the person [] for
12 whose benefit the action is brought." Ariz. R. Civ. P. 17(b)(1)(E)(emphasis added).

13 Debtor / Plaintiff does not know whether his personal injury lawsuit should be part
14 of the bankruptcy estate.

15 Under federal bankruptcy law, a bankruptcy estate's property is comprised of "all
16 legal or equitable interests of the debtor in property as of the commencement of the case."
17 11 U.S.C. 541(a)(1)(emphasis added). The words "as of the commencement of the case"
18 are critical, if not dispositive.

19 The words of 11 U.S.C. § 541(a)(1) are in accord with the 1978 legislative history
20 about the statute's creation. The Senate Report for the Bankruptcy Reform Act of 1978
21 confirms that the proper reference point for 11 U.S.C. § 541(a)(1) is the state of the
22 debtor's rights at the commencement of the bankruptcy case. And so, if a statute of
23 limitations has expired for the debtor, it has expired for the bankruptcy trustee as well:

24 Though [11 U.S.C. § 541] will include causes of action and
25 claims by the debtor against others, it is not intended to expand
26 the debtor's rights against others more than they exist at the
27 commencement of the case. **For example, if the debtor has a
claim that is barred at the time of the commencement of the
case by the statute of limitations, then the trustee would not
28 be able to pursue that claim, because he too would be**

1 **barred.** He could take no greater rights than the debtor himself
2 had.

3 S. Rep. No. 95-989 at 82, 95th Cong., 2nd Sess. (1978), *reprinted in* 1978 U.S. Code
4 Cong. & Admin. News 5787, 5868 (emphasis added). To reinforce the plain importance
5 of these principles, the corresponding House of Representatives Report has identical
6 language. *See* H.R. Rep. No. 95-595 at 367-68, 95th Cong., 2nd Sess. (1977), *reprinted*
7 *in* 1978 U.S. Code Cong. & Admin. News 5963, 6323.

8 The congressional record is relevant and consistent with the established principle
9 that the “nature and extent of a debtor’s interest in property is determined by state law,
10 with the estate having no greater rights in property than those held by the debtor prior to
11 bankruptcy.” *In re Coupon Clearing Service, Inc.*, 113 F.3d 1091, 1099 (9th Cir. 1997).
12 A bankruptcy estate’s ability to realize on a cause of action “is subject to whatever
13 limitations existed on the petition date; the estate obtains no greater rights than those held
14 by the debtor before bankruptcy.” *In re Rens*, 633 B.R. 594, 602 (9th Cir. BAP 2021).

15 “The Bankruptcy Code ‘neither creates nor enhances’ the property interests
16 brought into the bankruptcy estate.” *In re Eternal Hills Memorial Gardens & Funeral*
17 *Home, Inc.*, 631 B.R. 756, 761 (Bankr. D. Ore. 2021). “The estate cannot possess
18 anything more than the debtor itself did outside bankruptcy. . . . ‘A debtor’s property does
19 not shrink by happenstance of bankruptcy, but it does not expand, either.’” *Mission*
20 *Product Holdings, Inc. v. Tempnology, LLC*, 139 S.Ct. 1652, 1663 (2019) (quoting
21 Douglas Baird, *Elements of Bankruptcy* 97 (6th ed. 2014)).

22 It is not for Debtor / Plaintiff to decide whether the underlying tort claim is part of
23 the bankruptcy estates. Debtor / Plaintiff simply wants to hold Defendants accountable
24 for the concentric circles of harm caused by Defendants failure to protect him from a man
25 who had severe emotional issues and who was sleeping in the same bed as a child two
26 weeks after Big Brothers Big Sisters made the pairing.

27 //

28 //

1 For the reasons stated above, Debtor David Campbell requests the following:

- 2 1. An order re-opening the bankruptcies filed in 2009 and 2017
3 respectively;
4 2. An order waiving or deferring fees to re-open;
5 3. An order staying the underling tort claim until such time that the United
6 States Trustee can decide whether to administer and prosecute the claim
7 in the name of the real party in interest and special counsel can be hired.

8 In the event the United State Trustee decides not to administer and prosecute the
9 underlying tort claim, and instead abandon the claims, Debtor / Plaintiff requests an order
10 confirming that all claims and interests in the underlying tort claim revert back to Debtor
11 / Plaintiff.

12
13 **DATED** this 30th day of January, 2025.

14
15 **MONTOYA, LUCERO & PASTOR, P.A.**

16
17 By /s/ Robert E. Pastor

18 Robert E. Pastor
Attorneys for Plaintiff

19 ORIGINAL of the foregoing filed
20 And a COPY emailed this 8th day of September, 2023 to:

21 U.S. Bankruptcy Court, Arizona
22 Clerk of the Bankruptcy Court
23 230 N. 1st Avenue, Suite 101
Phoenix, Arizona 85003

24 Ms. Elizabeth C. Amorosi
25 Assistant United States Trustee
26 United States Department of Justice
27 Office of the United States Trustee
28 230 N. First Avenue, Suite 204
Phoenix, Arizona 85003-1706
Elizabeth.C.Amorosi@usdoj.gov

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By: /s/C. Wilhelm

EXHIBIT 1

David L Campbell
5611 N 19th St.
Phoenix Arizona 85016
602-803-0212
Kjolseth1000@gmail.com

January 26, 2025

United States Bankruptcy Court
District of Arizona
U.S. Bankruptcy Court
230 N 1st Ave, Ste 101
Phoenix, AZ 85003

Re: Request to Reopen Bankruptcy Cases 09-12121 and 17-09863
and Case Reference CV2020-014920 - C.D. Doe vs. BBBS and BBBSAZ

Dear Judge Brenda K. Martin,

I am writing to respectfully request the reopening of my bankruptcy cases, 09-12121 and 17-09863, which were previously filed and closed in your court.

Additionally, I would like to bring to your attention the ongoing Superior Court case CV2020-014920, titled *C.D. Doe vs. BBBS and BBBSAZ*, which dates back to 1983 and a possible Undisclosed claim. The Statute of limitations did not allow me to pursue my claim after 1985. Therefore I had no claim to disclose until the 2020 look-back window that allowed me to pursue a claim.

I understand that reopening bankruptcy cases is a significant request, and I am prepared to comply with any necessary procedures or provide additional documentation as required. My goal is to ensure that all debts and obligations are appropriately addressed.

I am also requesting to waive/ defer any fees to reopen the above cases until litigation is finished.

Thank you for your time and attention to this matter.

Sincerely,

David L Campbell

UNITED STATES BANKRUPTCY COURT
District of Arizona

NOTICE TO FILER OF ERRORS AND/OR DEFICIENCIES IN ELECTRONICALLY FILED DOCUMENTS

CASE NAME: DAVID LEONARD CAMPBELL
CASE NUMBER/ADVERSARY NUMBER: 2:17-bk-09863-BKM
DOCKET NUMBER: 43
DOCUMENT FILING DATE: 1/29/25
DOCUMENT TITLE: Motion to Reopen Case and Motion to Waive Reopen Fee

TO: DAVID LEONARD CAMPBELL

Pursuant to the Local Rules of Bankruptcy Procedure and/or the Federal Rules of Bankruptcy Procedure, one of the following errors/deficiencies has been found with your electronically filed document:

- ☐ Document was filed in the wrong case, the caption and/or case number does not match the caption and/or case number of the case in which the document was filed. The docket entry has been marked ENTERED IN ERROR. You must re-file the correct document in the correct case.
- ☐ Document was filed in correct case, but the document filed was captioned with an incorrect case number or no case number. The document should be re-filed with the correct case number. Further action on the motion may not be taken by the court until the document is re-filed with the correct case number. If re-filing the document will cause you to incur a second filing fee, please contact the Court at 602-682-4000 immediately after the re-filing, before making any payment with your credit card, to have the second fee reversed.
- ☐ Document filed is incomplete. The document is either missing pages, pages are incomplete or all exhibits referred to are not attached. If the document contains incomplete pages or is missing pages, the entire document must be re-filed. Any missing exhibits can be filed separately with a cover pleading, Notice of Filing Omitted Exhibits, and relating it to the original filing.
- ☐ The document was filed using an incorrect entry. The document filed incurred a filing fee and the appropriate entry showing a fee due was not used. An order to pay the filing fee will be entered.
- ☐ When the case was opened, you failed to input the debtor(s) social security number. A Statement of Social Security Number that contains the debtor(s) full SSN must now be filed with the court on paper (DO NOT e-file) or the case may be dismissed.
- ☐ Notice that reopened case may be re-closed. This case was reopened for further proceedings and 90 or more days have passed without the reopening party having filed a document to initiate the further proceedings or the reopening party has filed a pleading or other document but has taken no further action to have the matter determined by the court. The reopened case will be re-closed unless the reopening party files an appropriate document or takes further action within 30 days of the date of this notice.
- ☒ **OTHER:** The court received a document that contains an address that is not consistent with the address of record. If the address is not correct please file a change of address form. The form can be located on our website at www.azb.uscourts.gov.

Date: January 30, 2025

Address of the Bankruptcy Clerk's Office:
U.S. Bankruptcy Court, Arizona
230 North First Avenue, Suite 101
Phoenix, AZ 85003-1727
Telephone number: (602) 682-4000
www.azb.uscourts.gov

Clerk of the Bankruptcy Court:

Khadijia V. White-Thomas

By: , Deputy Clerk
Phone: 602-682-4106

EXHIBIT 2

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Attorneys for Plaintiff

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

JOHN CD DOE, a single man,

Case No.: CV2020-014920

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.

Plaintiff, for his complaint, states and alleges the following:

JURISDICTION

1. Plaintiff, John CD Doe, is a resident of Maricopa County, Arizona. The acts, events, and or omissions occurred in Maricopa County, Arizona. This cause of action arises out of acts, events or omissions that occurred in Maricopa County, Arizona.
2. Defendant Big Brothers Big Sisters of America (BBBS America) is a District of Columbia corporation, authorized and doing business in Maricopa County,

1 Arizona. Defendant Big Brothers Big Sisters of America was incorporated on
2 September 2, 1958. Big Brothers Big Sisters of America's principle place of
3 business is located at 2502 N. Rocky Point Drive, Suite 550 located in Tampa,
4 Florida. Big Brothers Big Sisters of America is or was formerly known as Big
5 Brothers of America. Big Brothers Big Sisters of America is also the successor
6 in interest of Big Brothers of America.

7 3. Defendant Big Brothers Big Sisters of America was incorporated for the
8 purpose of:

- 9 a. providing children facing adversity with strong and
10 enduring professional relationships that change lives for
11 the better, forever;
12 b. Aid in the formation of the new Big Sisters organizations
13 throughout the world;
14 c. Establish guidelines and act as liason for Big Sisters
15 organizations throughout the world;
16 d. Any other non-profit purposes provided in the by-laws.

17 4. Defendant Big Brothers Big Sisters of America, acting through employees,
18 representatives, affiliates, volunteers, members and agents of any kind caused
19 acts, events, or omissions to occur in Maricopa County, Arizona out of which
20 these claims arise.

21 5. Defendant Big Brothers Big Sisters of Central Arizona is an Arizona
22 corporation and has its principle place of business in Phoenix, Maricopa
23 County, Arizona. Defendant Big Brothers Big Sisters of Central Arizona is
24 also known as, formerly known as and or doing business as Valley Big
25 Brothers and or Valley Big Brothers Big Sisters. Defendant Big Brothers Big
26 Sisters of Central Arizona is also the successor in interest of Valley Big
27 Brothers and or Valley Big Brothers Big Sisters. Defendant Big Brothers Big
28 Sisters of Central Arizona is authorized and doing business in Maricopa

1 County, Arizona.

2 6. Defendant Big Brothers Big Sisters of Central Arizona was incorporated for
3 the following purpose:

- 4 a. To provide open and effective channels of
5 communication among the Member Agencies of the
6 association;
7 b. Building awareness about and advocating for issues
8 effecting youth;
9 c. Develop and implement statewide marketing efforts to
10 promote the mentoring programs of Member Agencies;
11 d. Pursue Statewide funding efforts to assure the financial
12 sustainability of all Member Agencies;
13 e. Create and support one-to-one mentoring relationships
14 that ignite the power and promise of youth.

15 7. Defendant Big Brothers Big Sisters of Central Arizona, acting through
16 employees, representatives, affiliates, volunteers, members and agents of any
17 kind caused acts, events, or omissions to occur in Maricopa County, Arizona
18 out of which these claims arise.

19 8. Defendants Big Brothers Big Sisters of America and or Big Brothers Big
20 Sisters of Central Arizona had a special relationship with the youth who joined
21 Defendants' programs, including Plaintiff.

22 9. Defendant Big Brother Big Sisters of America and or Big Brothers Big Sisters
23 of Central Arizona work involves one-on-one mentoring programs in which
24 BBBSA / BBBS AZ match "Bigs" in a one-on-one relationship with "littles."

25 10. Italo Arbulu is a resident of Monterey County, California. At all times alleged,
26 Italo Arbulu was an agent, volunteer, representative, mentor, and or "Big",
27 acting within the course and scope of his employment, agency, actual or
28 apparent authority with Defendants Big Brothers Big Sisters of America and or

1 Big Brothers Big Sisters of Central Arizona. Arbulu used his position of trust
2 and authority, given to him by and through his agency relationship with
3 Defendants to sexually abuse Plaintiff.

4 11. Italo Arbulu is a convicted sex offender having been convicted of sexually
5 abusing five boys under the age of 14. Italo Arbulu is serving 180 years in
6 prison.

7 12. Defendants Big Brothers Big Sisters of America and or Big Brothers Big Sisters
8 of Central Arizona working individually and in concert, assigned, placed,
9 paired, partnered, introduced, and or matched Italo Arbulu with Plaintiff John
10 CD Doe.

11 13. At all times relevant to this Complaint, Italo Arbulu acting within the course
12 and scope of his employment, agency, actual or apparent authority with
13 Defendants Big Brothers Big Sisters of America and or Big Brothers Big Sisters
14 of Central Arizona caused acts, events, and or omissions to occur in Maricopa
15 County, Arizona out of which these claims arise.

16 14. Defendants Big Brothers Big Sisters of America and or Big Brothers Big Sisters
17 of Central Arizona authorized, approved, granted, and or authorized Italo
18 Arbulu to serve in a position of trust and authority where Arbulu was granted
19 access to Plaintiff and permitted to work with children like Plaintiff as an
20 integral part of Defendants Big Brothers Big Sisters of America and or Big
21 Brothers Big Sisters of Central Arizona work, purpose and or mission.

22 15. Plaintiff relied on Defendants Big Brothers Big Sisters of America and or Big
23 Brothers Big Sisters of Central Arizona to provide education, training,
24 supervision, and that degree of care and skill required to ensure that the
25 volunteers, members, staff, Bigs, employees and agents of any kind were fit to
26 work with vulnerable youth like Plaintiff to help Defendants achieve their
27 work, purpose and or missions.

28 16. Plaintiff is informed and believes, and on that basis alleges, that at all times

1 mentioned herein, there existed a unity of interest and ownership among
2 Defendants and each of them, such that any individuality and separateness
3 between Defendants, and each of them, ceased to exist. Defendants, and each
4 of them, were the successors-in-interest and or alter egos of the other
5 Defendants, and each of them, in that they purchased, controlled, dominated
6 and operated each other without any separate identity, observation of
7 formalities, or other manner of division. At all times alleged, Defendants acted
8 in concert with their co-defendants and others to commit the wrongful acts. To
9 continue maintaining the façade of a separate and individual existence between
10 and among Defendants, and each of them, would serve to perpetuate a fraud
11 and an injustice.

12 17. Defendants JOHN DOE 1-100, JANE DOE 1-100, and BLACK AND WHITE
13 CORPORATIONS 1-100, are fictitious names designating an individual or
14 individuals or legal entities not yet identified who have acted in concert with
15 the named Defendants either as principals, agents, co-participants, or co-
16 conspirators whose true names Plaintiff may insert when identified.

17 18. Plaintiff is informed and believes, and on that basis alleges, that at all times
18 alleged herein, Defendants and each of them and JOHN DOES 1-100, JANE
19 DOES 1-100, and BLACK and WHITE CORPORATIONS 1-100, inclusive,
20 were the agents, representatives and or employees of each and every other
21 Defendant. In doing the things hereinafter alleged, Defendants, and each of
22 them, JOHN DOES 1-100, JANE DOES 1-100, and BLACK and WHITE
23 CORPORATIONS 1-100, inclusive, were acting within the course and scope
24 of said alternative personality, capacity, indemnity, agency, representation and
25 or employment and were within their actual or apparent authority.

26 **GENERAL ALLEGATIONS**

27 19. Plaintiff incorporates all other paragraphs as if fully set forth herein.

28 20. On or before 1977, Defendant Big Brothers Big Sisters of America fka Big

1 Brothers of America created a National Clearing House for Information on
2 Sexual Child Abuse. Defendant Big Brothers Big Sisters of America's national
3 clearing house required each agency and or affiliated organization to send a
4 written report to Defendant Big Brothers Big Sisters of America's national
5 headquarters to:

- 6 a. Determine the incident level;
- 7 b. Analyze the patterns of pedophilic behaviors;
- 8 c. develop National Policy; and
- 9 d. provide guidance on volunteer selection and
10 predictability.

11 21. In approximately 1981, Defendant Big Brothers Big Sisters of America
12 solicited, developed, and or approved an insurance program designed
13 specifically for affiliated agencies and or organizations, including Defendant
14 Big Brother Big Sisters of Central Arizona, to cover child sexual abuse in
15 Defendants' programs.

16 22. In approximately 1982, Defendant Big Brothers Big Sisters of America
17 published a report entitled "Child Sexual Abuse." Defendants relied on experts
18 in the fields of mental health, psychology, medicine, and social work among
19 others to assist Big Brothers Big Sisters of America and or Big Brothers Big
20 Sisters of Central Arizona, executive directors, staff, parents, board members,
21 volunteers and the community, in the detection, selection, supervision and
22 investigation procedures of alleged abusers. The report recognized that Big
23 Brothers Big Sisters of America and or Big Brothers Big Sisters of Central
24 Arizona knew that the Big Brothers Big Sisters programs attracts child sexual
25 abusers. Defendants acknowledged the Big Brother Big Sister programs
26 attracts sexual predators:

27
28 Generally, it is agreed that child molestation type offenses
do not involve physical force for the commission of the

1 offense. In fact the reverse is more often true. The offender
2 usually entices through indoctrination the child into the
3 sexual behavior through either persuasion or entrapment in
4 which the child is caused to feel indebted or obligated. Since
5 we deal with boys and girls who may have no adequate role
6 model or parent figure in their lives, it is very characteristic
7 to shower the child with new found approval, affection and
8 attention with the new relationship. Money, gifts and new,
9 exciting adventures for the child with this new friend all
10 could be ways to pressure the child into approval for
11 otherwise reluctant behavior. Clearly our clients are a 'high
12 risk' for the potential abuser. The pedophilic applicant will
13 generally try to encourage overnight visits, weekend stays at
14 his home, or trips which involve travel very early in the
15 relationship. The case worker should be attuned to this type
16 of behavior and I generally recommend that staff approval
17 be obtained before home visits and travel with the volunteer
18 are approved.

19 *Child Sexual Abuse*, Big Brothers Big Sisters of America (1982).

20 23. An evaluation and report by the American Bar Association on child sexual
21 abuse allegations within Defendants' programs revealed:

- 22 a. Between 1982 and 1991 there were 304 reports of child sexual
23 abuse in Defendants' programs;
- 24 b. Big brothers are more likely to sexually abuse children;
- 25 c. Little brothers were more likely to be sexually abused by their
26 Big Brothers;
- 27 d. Child sexual abuse was more likely to occur in the big brother's
28 home or residence.

29 24. Defendant Big Brothers Big Sisters of America manages, trains, supervises,
30 and or controls Defendant Big Brothers Big Sisters of Central Arizona through
31 an affiliate agreement. Under the agreements, Defendant Big Brothers Big
32 Sisters of Central Arizona must comply with the standards set by Defendant
33 Big Brothers Big Sisters of America.

34 25. Defendant Big Brothers Big Sisters of America performs reviews and

1 evaluations of local affiliated agencies including Big Brothers Big Sisters of
2 Central Arizona.

3 26. Defendant Big Brothers Big Sisters of America has the power, authority, and
4 discretion to terminate an affiliate agency or organization, including Defendant
5 Big Brothers Big Sisters of Central Arizona, that does not comply with
6 BBBSA standards, policies, procedures, rules, regulations and or directives.

7 27. Defendant Big Brothers Big Sisters of America developed and implemented
8 standards, policies, procedures, rules, regulations, and or directives that
9 affiliated agencies or organizations were required to follow, that were designed
10 to prevent child sexual abuse with Defendants' mentoring programs.

11 28. Defendant Big Brothers Big Sisters of America developed and implemented
12 training program(s) for local agencies or organizations, including Defendant
13 Big Brothers Big Sisters of Central Arizona.

14 29. Defendant Big Brothers Big Sisters of America together with affiliated
15 agencies and or organizations, established standards for screening volunteers.

16 30. Neither Defendant Big Brothers Big Sisters of America nor Defendant Big
17 Brothers Big Sisters of Central Arizona disclosed and or warned participants
18 and their families that pedophiles would seek out Defendants' volunteer
19 programs. Defendants did not disclose and or warn participants and their
20 families of the known incidents of child sexual abuse and known patterns of
21 grooming and child sexual abuse even though Defendants' identified and
22 acknowledge the risk of child sexual abuse by volunteers in Defendants
23 internal documents and records.

24 31. Plaintiff was raised by a single mother. Plaintiff's mother enrolled Plaintiff in
25 Defendants' one-on-one mentoring program.

26 32. Italo Arbulu applied to Defendants mentoring program to be a "Big."
27 Defendants approved Italo Arbulu's application allowing him to have a one-
28 on-one relationship with participants in Defendants' program, including

1 Plaintiff.

2 33. In June or July 1983, Defendants Big Brothers Big Sisters of America and or
3 Big Brothers Big Sisters of Central Arizona matched Italo Arbulu with
4 Plaintiff John CD Doe. Italo Arbulu used his position of trust and authority,
5 given to him by Defendants, to develop a one-on-one relationship with Plaintiff
6 that he used to groom and sexually abuse Plaintiff.

7 34. Italo Arbulu had over-night visits with Plaintiff in violation of Defendants'
8 standards, policies, procedures, directives and a reasonable standard of care.

9 35. Plaintiff told an agent, employee, representative of Big Brothers Big Sisters of
10 America and or Big Brothers Big Sisters of Central Arizona that

- 11 • Plaintiff did not want to be matched with Arbulu;
- 12 • Plaintiff and Arbulu had different interests;
- 13 • Plaintiff did not recommend Defendants match Arbulu with another
14 child because Arbulu touched Plaintiff's penis.

15 36. In July 1983, when Plaintiff was nine years old, he reported to Phoenix Police
16 that after Defendants Big Brothers Big Sisters of America and or Big Brothers
17 Big Sisters of Central Arizona assigned Italo Arbulu to be his 'Big Brother'
18 Arbulu began touching his penis. Arbulu showered Plaintiff with gifts,
19 attention and his time. While Plaintiff's mother was in the hospital, and on
20 other occasions, Arbulu was allowed to spend the night with Plaintiff. Arbulu
21 used his position of trust and authority, given to him by Defendants Big
22 Brothers Big Sisters of America and or Big Brothers Big Sisters of Central
23 Arizona to sexually abuse Plaintiff. The acts of sexual abuse included, but are
24 not limited to, fondling, masturbation and or oral sexual contact with Plaintiff's
25 penis.

26 37. When Plaintiff was under the age of fifteen years old, Italo Arbulu, engaged in
27 unpermitted sexual contact with Plaintiff, including, but not limited to sexual
28 contact and or oral sexual contact as defined by Arizona Revised Statutes § 13-

1 1401 and or § 13-1405.

- 2 38. Plaintiff's relationship to Defendants, as a vulnerable child and participant in
3 Defendants' activities and or programs, was one in which Plaintiff was subject
4 to the ongoing influence of Defendants.

5
6 **COUNT I**
7 **SEXUAL ASSAULT / SEXUAL ABUSE / SEXUAL CONDUCT**
8 **WITH A MINOR**
9 **(A.R.S. § 13-1405 and the common law)**

- 10 39. Plaintiff incorporates all other paragraphs as if fully set forth herein.
- 11 40. Italo Arbulu intentionally, knowingly, recklessly, or negligently engaged in
12 sexual contact, oral sexual contact, and or sexual intercourse with Plaintiff.
- 13 41. Italo Arbulu intentionally, knowingly, recklessly, or negligently engaged in
14 sexual contact, oral sexual contact, and sexual intercourse without his consent
15 and when he was a minor incapable of consenting to such sexual contact.
- 16 42. Italo Arbulu was an agent, volunteer, representative, mentor, and or "Big",
17 acting within the course and scope of his employment, agency, actual or
18 apparent authority with Defendants Big Brothers Big Sisters of America and
19 or Big Brothers Big Sisters of Central Arizona. Arbulu used his position of
20 trust and authority, given to him by and through his agency relationship with
21 Defendants to sexually abuse Plaintiff.
- 22 43. As a direct and proximate cause of the wrongful acts Plaintiff suffered and will
23 continue to suffer in the future physical and emotional injury including, but not
24 limited to great pain of mind and body, shock, emotional distress,
25 embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage,
26 frustration, loss of enjoyment of life, loss of consortium, loss of love and
27 affection, sexual dysfunction, past and future medical expenses for
28 psychological treatment, therapy, and counseling.
44. The allegations set forth in this Count constitute traditional negligence and

1 negligence per se for violation of A.R.S. § 13-3623 and other relevant statutes
2 and laws, including the common law, enacted for the protection of a specific
3 class of persons of which Plaintiff is a member.
4

5 **COUNT II**
6 **NEGLIGENCE AGAINST DEFENDANTS**
7 **BIG BROTHERS BIG SISTERS OF AMERICA & BIG BROTHERS BIG**
8 **SISTERS OF CENTRAL ARIZONA**

- 9 45. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set
10 forth under this count.
11 46. Each Defendant owed Plaintiff a duty of reasonable care to protect Plaintiff
12 from unreasonable risk of harm.
13 47. Each Defendant owed Plaintiff a duty of care because each Defendant had a
14 special relationship with Plaintiff.
15 48. Defendants also had a duty arising from the special relationship that existed
16 with Plaintiff, Plaintiff's parent, and other parents of young, innocent,
17 vulnerable children to properly train and supervise its volunteers,
18 representatives, Bigs, mentors, employees and agents of any kind. This special
19 relationship arose because of the high risk of vulnerability of the children
20 entrusted to their care. As a result of this high risk of vulnerability and risk of
21 sexual abuse in such a special relationship, Defendants had a duty to establish
22 measures of protection not necessary for persons who are older and better able
23 to safeguard themselves.
24 49. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm and or an
25 unreasonable risk of harm because each Defendant also had a special
26 relationship with Italo Arbulu.
27 50. Defendants owed Plaintiff a duty of reasonable care because they solicited
28 youth and parents for participation in their youth programs; encouraged youth

1 and parents to have the youth participate in their programs; undertook custody
2 of minor children, including Plaintiff; promoted their facilities and programs
3 as being safe for children; held their agents, including Italo Arbulu, out as safe
4 to work with children; encouraged parents and children to spend time with their
5 agents; and/or encouraged their agents, including Italo Arbulu, to spend time
6 with, interact with, and recruit children, including Plaintiff.

7 51. By accepting custody of the minor Plaintiff, Defendants established an *in loco*
8 *parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to
9 protect Plaintiff from injury. Further, Defendants entered into a fiduciary
10 relationship with Plaintiff by undertaking the custody, supervision of, and/or
11 care of the minor Plaintiff. As a result of Plaintiff being a minor, and by
12 Defendants undertaking the care and guidance of the Plaintiff, Defendants also
13 held a position of empowerment over Plaintiff. Further, Defendants, by
14 holding themselves out as being able to provide a safe environment for
15 children, solicited and/or accepted this position of empowerment. Defendants,
16 through its employees, exploited this power over Plaintiff and, thereby, put the
17 minor Plaintiff at risk for sexual abuse.

18 52. By establishing and/or operating Big Brothers Big Sisters of America and or
19 Big Brothers Big Sisters of Central Arizona and accepting the minor Plaintiff
20 as a participant in their programs, holding their facilities and programs out to
21 be a safe environment for Plaintiff, accepting custody of the minor Plaintiff *in*
22 *loco parentis*, and by establishing a fiduciary relationship with Plaintiff,
23 Defendants entered into an express and/or implied duty to properly supervise
24 Plaintiff and provide a reasonably safe environment for children, who
25 participated in their programs. Defendants owed Plaintiff a duty to properly
26 supervise Plaintiff to prevent harm from foreseeable dangers. Defendants had
27 the duty to exercise the same degree of care over minors under their control as
28 a reasonably prudent person would have exercised under similar

1 circumstances.

2 53. By establishing and operating Big Brothers Big Sisters of America and or Big
3 Brothers Big Sisters of Central Arizona which offered educational programs
4 and or mentorship programs to children and by accepting the enrollment and
5 participation of the minor Plaintiff as a participant in those programs,
6 Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent
7 harm from generally foreseeable dangers.

8 54. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because
9 Defendants invited Plaintiff onto their property and Arbulu posed a dangerous
10 condition on Defendants' property.

11 55. Each Defendant breached its duties to Plaintiff. Defendants failed to use
12 ordinary care in determining whether their facilities were safe and/or
13 determining whether they had sufficient information to represent their facilities
14 as safe. Defendants' breach of their duties include, but are not limited to:
15 failure to protect Plaintiff from a known danger, failure to have sufficient
16 policies and procedures in place to prevent child sex abuse, failure to properly
17 implement policies and procedures to prevent child sex abuse, failure to take
18 reasonable measures to ensure that policies and procedures to prevent child sex
19 abuse were working, failure to adequately inform families and children of the
20 risks of child sex abuse, failure to investigate risks of child molestation, failure
21 to properly train the employees at institutions and programs within
22 Defendants' geographical confines, failure to train the minors within
23 Defendants' geographical confines about the dangers of sexual abuse by
24 clergy, failure to have any outside agency test their safety procedures, failure
25 to protect the children in their programs from child sex abuse, failure to adhere
26 to the applicable standard of care for child safety, failure to investigate the
27 amount and type of information necessary to represent the institutions,
28 programs, leaders and people as safe, failure to train their employees properly

1 to identify signs of child molestation by fellow employees, failure by relying
2 upon mental health professionals, and/or failure by relying on people who
3 claimed that they could treat child molesters.

4 56. Defendants also breached their duty to Plaintiff by failing to warn Plaintiff and
5 Plaintiff's family of the risk that Arbulu posed and the risks of child sexual
6 abuse in Defendants' organizations. They also failed to warn them about any
7 of the knowledge that Defendants had about child sexual abuse in youth-
8 serving organizations, including Defendants.

9 57. Defendants breached their duties to Plaintiff by failing to use reasonable care.
10 Defendants' failures include, but are not limited to, failing to properly
11 supervise Italo Arbulu failing to properly supervise Plaintiff, and failing to
12 protect Plaintiff from a known danger.

13 58. Defendants additionally violated a legal duty by failing to report and or warn
14 known and/or suspected abuse of children by Italo Arbulu and/or its other
15 agents to the police, other law enforcement, participants and their parents.

16 59. Defendants knew that individuals seeking sexual contact with children would
17 seek out Defendants' programs as a means to gain access to children to further
18 their deviant sexual desires toward children.

19 60. Defendants knew or should have known that Italo Arbulu was a danger to
20 children before Italo Arbulu sexually abused Plaintiff.

21 61. Prior to the sexual abuse of Plaintiff, Defendants learned or should have
22 learned that Arbulu was not fit to work with children. Defendants, by and
23 through their agents, servants and/or employees, became aware, or should have
24 become aware of Arbulu's propensity to commit sexual abuse and of the risk
25 to Plaintiff's safety. At the very least, Defendants knew or should have known
26 that they did not have sufficient information about whether or not their leaders
27 and people working at Big Brothers Big Sisters of America and or Big Brothers
28 Big Sisters of Central Arizona were safe.

- 1 62. Defendants knew or should have known that there was a risk of child sex abuse
2 for children participating in Defendants' programs and activities. At the very
3 least, Defendants knew or should have known that they did not have sufficient
4 information about whether or not there was a risk of child sex abuse for
5 children participating in Defendants programs and activities.
- 6 63. Defendants knew or should have known that Defendants had numerous agents,
7 volunteers, members, Bigs, mentor, employees and or agents of any kind who
8 had sexually molested children. Defendants knew or should have known that
9 child molesters have a high rate of recidivism. They knew or should have
10 known that there was a specific danger of child sex abuse for children
11 participating in their youth programs.
- 12 64. However, despite this knowledge, Defendants negligently deemed that Italo
13 Arbulu was fit to work with children; and/or that any previous suitability
14 problems Italo Arbulu had were fixed and cured; and/or that Italo Arbulu
15 would not sexually molest children; and/or that Italo Arbulu would not injure
16 children.
- 17 65. Defendants' actions created a foreseeable risk of harm to Plaintiff. As a
18 vulnerable child participating in the programs and activities Defendants
19 offered to minors, Plaintiff was a foreseeable victim. Additionally, as a
20 vulnerable child who Arbulu had access to through Defendants' authorization,
21 facilities and or programs, Plaintiff was a foreseeable victim.
- 22 66. As a direct and proximate cause of Defendants' wrongful acts Plaintiff suffered
23 and will continue to suffer in the future physical and emotional injury
24 including, but not limited to great pain of mind and body, shock, emotional
25 distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage,
26 frustration, loss of enjoyment of life, loss of consortium, loss of love and
27 affection, sexual dysfunction, past and future medical expenses for
28 psychological treatment, therapy, and counseling.

1
2 **COUNT III**
3 **NEGLIGENT TRAINING AND SUPERVISION OF EMPLOYEES**
4 **AGAINST DEFENDANTS BIG BROTHERS BIG SISTERS OF AMERICA &**
5 **BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA**

- 6 67. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set
7 forth under this count.
- 8 68. At all times material, Italo Arbulu was employed, authorized, commissioned,
9 permitted, and or approved by Defendants and was under each Defendants'
10 direct supervision, employ, and or control when he committed the wrongful
11 acts alleged herein. Italo Arbulu engaged in the wrongful conduct while acting
12 in the course and scope of his employment and or agency with Defendants
13 and/or accomplished the sexual abuse by virtue of the authority and or position
14 granted to him by Defendants.
- 15 69. Defendants had a duty, arising from their employment and or agency
16 relationship with Italo Arbulu, to ensure that he did not sexually molest
17 children.
- 18 70. Further, Defendants owed a duty to train and educate employees, agents,
19 volunteers, mentors, members, Bigs and administrators and establish adequate
20 and effective policies and procedures calculated to detect, prevent, and address
21 inappropriate behavior and conduct between Defendants agents and children.
- 22 71. The abuse complained of herein occurred on Defendants' property and/or with
23 the use of their chattels, and or agents / volunteers.
- 24 72. Defendants breached their duties to Plaintiff by actively maintaining,
25 authorizing, permitting and or employing Italo Arbulu in a position of power
26 and authority through which Italo Arbulu had access to children, including
27 Plaintiff, and power and control over children, including Plaintiff.
- 28 73. Defendants were negligent in the training, supervision, and instruction of their

1 employees. Defendants failed to timely and properly educate, train, supervise,
2 and/or monitor their agents or employees with regard to policies and
3 procedures that should be followed when sexual abuse of a child is suspected
4 or observed. Defendants were additionally negligent in failing to supervise,
5 monitor, chaperone, and/or investigate Italo Arbulu and/or in failing to create,
6 institute, and/or enforce rules, policies, procedures, and/or regulations to
7 prevent Italo Arbulu's sexual abuse of Plaintiff. In failing to properly supervise
8 Italo Arbulu, and in failing to establish such training procedures for employees,
9 volunteers, agents, Bigs, Littles and or administrators, Defendants failed to
10 exercise the degree of care that a reasonably prudent person would have
11 exercised under similar circumstances.

- 12 74. As a direct and proximate cause of Defendants' wrongful acts Plaintiff suffered
13 and will continue to suffer in the future physical and emotional injury
14 including, but not limited to great pain of mind and body, shock, emotional
15 distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage,
16 frustration, loss of enjoyment of life, loss of consortium, loss of love and
17 affection, sexual dysfunction, past and future medical expenses for
18 psychological treatment, therapy, and counseling.

19
20 **COUNT IV**
21 **NEGLIGENT RETENTION OF EMPLOYEES / AGENTS**
22 **AGAINST DEFENDANTS BIG BROTHERS BIG SISTERS OF AMERICA &**
23 **BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA**

- 24 75. Plaintiff incorporates all consistent paragraphs of this Complaint as if fully set
25 forth under this count.
26 76. At all times material, Italo Arbulu was employed and or authorized by
27 Defendants and was under each Defendant's direct supervision, employ, and
28 control when he committed the wrongful acts alleged herein.
77. Defendants negligently retained Italo Arbulu with knowledge of Italo Arbulu's

1 propensity for the type of behavior which resulted in Plaintiff's injuries in this
2 action. Defendants failed to investigate Italo Arbulu's past and/or current
3 history of sexual abuse and, through the exercise of reasonable diligence,
4 should have known of Italo Arbulu's propensity for child sexual abuse.
5 Defendants should have made an appropriate investigation of Italo Arbulu and
6 failed to do so. An appropriate investigation would have revealed the
7 unsuitability of Italo Arbulu for continued employment and it was
8 unreasonable for Defendants to retain Italo Arbulu in light of the information
9 they knew or should have known.

10 78. Defendants negligently retained Italo Arbulu in a position where he had access
11 to children and could foreseeably cause harm which Plaintiff would not have
12 been subjected to had Defendants taken reasonable care.

13 79. In failing to timely remove Italo Arbulu from working with children or
14 terminate the employment and or agency relationship with Italo Arbulu,
15 Defendants failed to exercise the degree of care that a reasonably prudent
16 person would have exercised under similar circumstances.

17 80. As a direct and proximate cause of Defendants' wrongful acts Plaintiff suffered
18 and will continue to suffer in the future physical and emotional injury
19 including, but not limited to great pain of mind and body, shock, emotional
20 distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage,
21 frustration, loss of enjoyment of life, loss of consortium, loss of love and
22 affection, sexual dysfunction, past and future medical expenses for
23 psychological treatment, therapy, and counseling.

24 **COUNT V**
25 **BREACH OF FIDUCIARY DUTY**
26 **(All Defendants)**

27 81. Plaintiff incorporates all other paragraphs as if fully set forth herein.

28 82. Defendants' relationship with Plaintiff was a special relationship; one of

1 friend, mentor, guide, protector and or fiduciary. As a fiduciary to Plaintiff,
2 Defendants owed a duty to investigate, obtain, warn and disclose sexual
3 misconduct, sexual assault, sexual abuse, molestation, sexual propensities, and
4 other inappropriate acts of its agents, employees and or volunteers, including
5 Italo Arbulu. As fiduciary, Defendants owed Plaintiff a duty to work solely
6 for his benefit.

7 83. Defendants breached their fiduciary duties owed to Plaintiff.

8 84. As a direct and proximate cause of Defendants breach Plaintiff suffered and
9 will continue to suffer in the future physical and emotional injury, including
10 but not limited to, great pain of mind and body, shock, emotional distress,
11 embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage,
12 frustration, loss of enjoyment of life, loss of consortium, loss of love and
13 affection, sexual dysfunction, past and future medical expenses for
14 psychological treatment, therapy, and counseling.

15
16 **COUNT VI**
17 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
18 **(All Defendants)**

19 85. Plaintiff incorporates all other paragraphs as if fully set forth herein.

20 86. Defendants' wrongful conduct, including sexual abuse, conspiracy to conceal
21 sexual abuse, failure to report Italo Arbulu's sexual abuse of children,
22 acquiescence, affirmance, and ratification of Italo Arbulu's sexual abuse
23 exceeded the bounds of decency and were extreme and outrageous causing
24 Plaintiff to suffer severe emotional and psychological distress.

25 87. As a direct and proximate cause of Defendants' wrongful conduct Plaintiff
26 suffered and will continue to suffer in the future physical and emotional injury,
27 including but not limited to great pain of mind and body, shock, emotional
28 distress, embarrassment, loss of self-esteem, disgrace, humiliation, anger, rage,
frustration, loss of enjoyment of life, loss of consortium, loss of love and

1 affection, sexual dysfunction, past and future medical expenses for
2 psychological treatment, therapy, and counseling.

3
4 **COUNT VII**
5 **ENDANGERMENT**
6 **(All Defendants)**

7 88. Plaintiff incorporates all other paragraphs as if fully set forth herein.

8 89. Defendants have a duty to protect children from foreseeable and unjustifiable
9 risks of harm.

10 90. In approximately or before 1983, Defendants knew or should have known that
11 the children in Defendants' programs were high risk for sexual abuse.
12 Defendants also knew or should have known that applicants with a propensity,
13 history and desire to sexually abuse children are attracted to Defendants'
14 programs and opportunities because Defendants' programs offer sexual
15 predators access to children and positions of trust and authority.

16 91. Defendants knew, should have known and or were deliberately ignorant that
17 Italo Arbulu posed a significant risk of injury to children, including Plaintiff.

18 92. Defendants knew, should have known and or were deliberately ignorant that
19 Italo Arbulu posed a substantial risk of significant physical and psychological
20 injury and or harm to children, including Plaintiff.

21 93. Defendants, individually and in concert with the each other, negligently,
22 recklessly, or intentionally endangered the health and well-being of children,
23 including Plaintiff by exposing them to child sexual abusers like Italo Arbulu
24 who was a substantial risk of significant physical and mental injury to young
25 children including Plaintiff.

26 94. As a direct and proximate cause of Defendants' negligent, reckless, and or
27 intentional endangerment, Plaintiff suffered and will continue to suffer in the
28 future great pain of mind and body, shock, emotional distress, embarrassment,
loss of self-esteem, disgrace, humiliation, anger, rage, frustration, loss of

1 enjoyment of life, loss of consortium, loss of love and affection, sexual
2 dysfunction, past and future medical expenses for psychological treatment,
3 therapy, and counseling.

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

- 8 95. Plaintiff incorporates all other paragraphs as if fully set forth herein.
- 9 96. Italo Arbulu had the care and custody of Plaintiff both because he was a
10 parishioner and student under the control and authority of Italo Arbulu, given
11 to him by Defendants.
- 12 97. Defendants had the care and custody of Plaintiff both because they Assigned,
13 matched, authorized, approved and/or permitted Italo Arbulu to serve as their
14 agent, representative, volunteer, mentor and or Big and because of their pattern,
15 practice, custom, and tradition of training, educating and or mentoring children
16 through Defendants' programs. Defendants had the care and custody of
17 Plaintiff through traditional agency law.
- 18 98. Italo Arbulu was an agent, volunteer, representative, mentor, and or "Big",
19 acting within the course and scope of his employment, agency, actual or
20 apparent authority with Defendants Big Brothers Big Sisters of America and
21 or Big Brothers Big Sisters of Central Arizona. Arbulu used his position of
22 trust and authority, given to him by and through his agency relationship with
23 Defendants to sexually abuse Plaintiff.
- 24 99. Under circumstances likely to produce serious and significant physical and
25 psychological injury and while Plaintiff was under the care and custody of all
26 Defendants, Defendants and each of them negligently, recklessly, and or
27 intentionally caused, permitted, allowed, and/or established patterns, practices,
28 policies, procedures, customs, and traditions that placed Plaintiff in a situation
in which sexual abuse was likely to occur, thereby placing Plaintiff's person,

1 physical health, and mental/emotional health in danger; to wit, Defendants
2 knew child sexual abusers would seek out their programs to gain access to
3 children.

4 100. Defendants, and each of them, intentionally, recklessly and or negligently
5 endangered and abused Plaintiff.

6 101. As a direct and proximate cause of Defendants' sexual abuse of Plaintiff,
7 Plaintiff suffered and will continue to suffer in the future great pain of mind
8 and body, shock, emotional distress, embarrassment, loss of self-esteem,
9 disgrace, humiliation, anger, rage, frustration, loss of enjoyment of life, loss of
10 consortium, loss of love and affection, sexual dysfunction, past and future
11 medical expenses for psychological treatment, therapy, and counseling.

12
13 **COUNT IX**
14 **ASSAULT**

15 **(A.R.S. §§ 13-1204, 13-1203, and the common law)**

16 **(All Defendants)**

17 102. Plaintiff incorporates all other paragraphs as if fully set forth herein.

18 103. At all times relevant to this complaint, Italo Arbulu was over the age of 18 and
19 Plaintiff was under the age of 15.

20 104. Italo Arbulu, as an agent, representative, mentor, Big and or employee of
21 Defendants acting within the course and scope of his actual or apparent
22 authority, intentionally, knowingly and or recklessly caused serious physical
23 and mental/emotional injury to Plaintiff.

24 105. Italo Arbulu, as an agent, representative, mentor, Big and or employee of
25 Defendants acting within the course and scope of his actual or apparent
26 authority intentionally, knowingly, recklessly and or negligently placed
27 Plaintiff in reasonable apprehension of imminent physical injury.

28 106. Italo Arbulu, as an agent, representative, mentor, Big or employee of
Defendants acting within the course and scope of his actual or apparent

1 authority intentionally, knowingly, recklessly and/or negligently touched
2 Plaintiff with the intent to injure, insult or provoke.

3 107. The allegations set forth in this Count constitute negligence and negligence per
4 se for violation of A.R.S. §§ 13-1204, 13-1203 and other relevant statutes and
5 laws, including the common law, enacted for the protection of a specific class
6 of persons of which Plaintiff is a member.

7 108. As a direct and proximate cause of Defendants' abuse of Plaintiff, Plaintiff
8 suffered and will continue to suffer in the future great pain of mind and body,
9 shock, emotional distress, embarrassment, loss of self-esteem, disgrace,
10 humiliation, anger, rage, frustration, loss of enjoyment of life, loss of
11 consortium, loss of love and affection, sexual dysfunction, past and future
12 medical expenses for psychological treatment, therapy, and counseling.

13 **PRAYER FOR RELIEF**

14 1. Plaintiff requests judgment in favor of Plaintiff and against Defendants as
15 follows to:

- 16 a. For Plaintiff's general and special damages in an amount to be
17 proven at trial by jury;
- 18 b. For Plaintiff's incurred costs together with interest at the highest
19 lawful rate on the total amount of all sums awarded from the date of
20 judgment until paid;
- 21 c. For the fair and reasonable monetary value of Plaintiff's past,
22 present, and future pain and suffering in an amount to be proven at
23 trial by jury;
- 24 d. For the medical expenses incurred up to the date of trial and any
25 additional expenses necessary for future medical care and treatment;
- 26 e. For punitive damages or exemplary damages to be set by a jury in
27 an amount sufficient to punish Defendants for their outrageous
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conduct and to make an example out of them so that others do not
engage in similar conduct in the future;

f. For such other and further relief as this Court may deem just and
proper.

DATED this 18th day of November, 2020.

MONTOYA, LUCERO & PASTOR, P.A.

By /s/ Robert E. Pastor
Robert E. Pastor
Attorneys for Plaintiff

EXHIBIT 3

Robert E. Pastor
Attorney at Law

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January 28, 2025

Mr. Anthony H. Mason
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Ms. Maureen Gaughan
PO Box 6729
Chandler, Arizona 85246

maureen@mgaghan.com

Re: *John CD Doe v. Big Brothers Big Sisters of America et al*
CV2020-014920
In Re David Campbell
09-bk-12121-GBN & 17-bk-09683-BKM
SENT VIA EMAIL ONLY

Dear Mr. Mason & Ms. Gaughan:

Michael Daoudi and I represent David Campbell in a personal injury tort claim. In approximately 1982-1983, David was sexually abused by Italo Arbulu while participating in the Big Brothers Big Sisters mentoring program. Italo Arbulu is now in prison for child sexual abuse. David has been identified in the underlying tort claim as John CD Doe. Attached is a copy of the Complaint.

In 2009 and in 2017, David Campbell filed a voluntary petition for bankruptcy protection. Attached are the 2 petitions. I understand each of you were the trustee in the respective bankruptcies.

Yesterday, David mailed the attached letter to the United States Bankruptcy Court requesting that his bankruptcies be reopened.

Recently, in the underlying tort claim, the Defense filed a dispositive motion claiming that David does not have standing to pursue the claim because the claim belongs to and or should be prosecuted by the bankruptcy estate. Although we disagree with the argument, David wants to make sure he follows proper bankruptcy law and procedure. He has therefore decided to reopen the bankruptcies so that all debts and obligations are appropriately addressed.

I understand that under bankruptcy procedure one of you may likely be reappointed as trustee in the event the bankruptcy court re-opens the bankruptcies.

MONTTOYA, LUCERO & PASTOR, PA

A. Mason & M. Gaughan
Re: In re David Campbell
January 28, 2025

I am writing to ask for your assistance in expediting the re-opening of the bankruptcy and the hiring of special tort counsel. As David's lawyers in the personal injury matter, we are prepared to substitute in the trustee as the real party in interest. Please be aware, however, that Defendant's dispositive motion is in the briefing process and we would ask that you expedited the bankruptcy steps that need to be taken so that we can advise the Maricopa County Superior Court that the bankruptcy court and its trustee are working diligently to take the necessary steps so that the underlying tort claim is prosecuted by the real party in interest.

I welcome the opportunity to speak with either of you to find out what we can do to help expedited this important issue and ensure that the rights of the bankruptcy estate are properly asserted and protected. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "R. E. Pastor", with a stylized flourish at the end.

Robert E. Pastor