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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.

Case No.: CV2020-014920

MOTION TO AMEND COMPLAINT IN THE NAME OF THE REAL PARTY IN INTEREST

Pursuant to Rules 15(a)(2) and 17(b)(3), Ariz. R. Civ. P., Plaintiff moves to amend the complaint to name the Maureen Gaughan, bankruptcy trustee for and on behalf of the bankruptcy estates of John CD Doe as Plaintiff / Real Party in Interest. A copy of Plaintiff's proposed Amended Complaint is attached as Exhibit 3.

Plaintiff's Motion is Supported by the following Memorandum of Points and Authorities and the entire record in this matter.

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MEMORANDUM OF POINTS & AUTHORITIES

I. FACTS & PROCEDURURAL HISTORY

Italo Arbulu was a mentor in Defendants' mentoring program. On November 1, 1982, Defendants evaluated Arbulu. That evaluation concluded that Arbulu "is over-acting, unrealistic and may have severe emotional issues. Based on the MMPI he is not able to be a Big Brother at this time and could profit from professional counseling." (MMPI, *Italo Arbulu,* 11/01/1982)(BBBSCA000035-42). Despite concerns regarding Arbulu's "severe emotional issues" Defendants paired Italo Arbulu with Plaintiff John CD Doe in January 1983. "Two weeks after they were matched it was discovered that Big Brother (Italo Arbulu) and Little Brother [David Campbell] had slept in the same bed together." (BBBS Central Arizona, *Termination Summary,* 07/08/1983). On July 8, 1983, BBBS of Central Arizona concluded, "We have reason to believe BB [Italo Arbulu] was sexually inappropriate with LB [David Campbell]." (BBBS Central Arizona, *Termination Summary,* 07/08/1983).

Before 2019, Arizona law required Plaintiff John CD Doe to file negligence claims against Defendants on or before his 20th birthday or July 1993. In 2019, the Arizona legislature changed the statute of limitations for survivors of child sexual abuse. *See* HB 2466. The new law gives survivors more time to file civil claims for the sexual abuse they suffered as children. A.R.S. § 12-514. HB 2466 also created a look-back window giving survivors of abuse whose statute of limitations expired to file civil claims on or before December 30, 2020. *See* HB 2466. Plaintiff filed this civil lawsuit on November 18, 2020. *See Complaint 11/18/2020.*

Plaintiff filed for bankruptcy in 2009 and again in 2017; long after his pre-2019 statute of limitations for child sexual abuse expired.

Defendants challenged the constitutionality of HB 2366 all the way to the Arizona Supreme Court. The challenge was unsuccessful. Four years, eight months and eight days after the complaint was filed Defendant BBBS of Central Arizona moved to dismiss the complaint claiming Plaintiff does not have standing to prosecute this case because

Defendant believes it is property of the bankruptcy estates. *See Deft's Motion for Summary Judgment,* 12/26/2024.

On February 21, 2025, the United States Bankruptcy Court for the District of Arizona re-opened Plaintiff's 2009 and 2017 bankruptcies. (Exhibit 1: *In Re David Campbell,* Orders 02/21/2025, 09-bk-12121; 17-bk-09863). Maureen Gaughan has been appointed trustee for the bankruptcy estates. On March 18, 2025 the United States Bankruptcy Court for the District of Arizona approving employment of undersigned counsel as co-special counsel for trustee Maureen Gaughan. (Exhibit 2: *In Re David Campbell,* Order 03/18/2025, 09-bk-12121; 17-bk-09863).

II. LEGAL ANALYSIS

In its Motion for Summary Judgment Defendant BBBS of Central Arizona incorrectly argues the law of standing. Plaintiff has standing. *See Strawberry Water Co. v. Paulsen*, 220 Ariz. 401, 207 P.3d 654 (App. 2008); *Plntff's Resp. Mtn for Sum. J.* 03/24/2025 at p. 5: 27 – 6: 15. Defendant's complaint is that the civil action is not being prosecuted in the name of the real party in interest. The real party in interest, according to Defendant, is John CD Doe's bankruptcy estate.

Rule 15(a)(2), Ariz. R. Civ. P., a pleading may be amended with leave of court. "Leave to amend must be freely given when justice requires." Ariz. R. Civ. P. 15(a)(2).

Rule 17, Ariz. R. Civ. P., also requires the trial court to grant Plaintiff's Motion to Amend the Complaint to include the name of the real party in interest. Rule 17(b)(3), Ariz. R. Civ. P., prohibits the trial court from dismissing this lawsuit "for failure to prosecute in the name of the real party in interest until, after an objection, a reasonable time has been allowed for the real party in interest to ratify, join or be substituted into the action."

The real party in interest, Maureen Gaughan, as trustee for the bankruptcy estates of John CD Doe (David Campbell), requests leave to amend the complaint to reflect her substitution into the action. Attached as Exhibit 3 is Plaintiff's proposed Second Amended Complaint.

III. CONCLUSION

For the reasons stated above, Plaintiff requests leave to amend the complaint to include the name of the real party in interest, Maureen Gaughan as trustee for the bankruptcy estates of John CD Doe.

DATED this 20th day of March, 2025.

MONTOYA, LUCERO & PASTOR, P.A.

By /s/ Robert E. Pastor
Robert E. Pastor
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ORIGINAL of the foregoing e-filed
With the Maricopa County Clerk of Court.

And a COPY emailed this 20th day of February, 2025 to:

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