

1 **B. ROBERT ALLARD (#175592)**  
2 **LAUREN A. CERRI (#282524)**  
3 **MARK J. BOSKOVICH (#298688)**  
4 **CORSIGLIA MCMAHON & ALLARD LLP**  
5 96 North Third Street, Suite 620  
6 San Jose, California 95112  
7 (408) 289-1417  
8 Fax: (408) 289-8127  
9 [rallard@cmalaw.net](mailto:rallard@cmalaw.net)  
10 [lcerri@cmalaw.net](mailto:lcerri@cmalaw.net)  
11 [mboskovich@cmalaw.net](mailto:mboskovich@cmalaw.net)

12 Attorneys for Plaintiff

13 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

14 ARIANA SMITH,

15 Plaintiff,

16 vs.

17 UNITED STATES SWIMMING, INC., a  
18 corporation; SEAN HUTCHISON, an  
19 individual; AQUATIC MANAGEMENT  
20 GROUP, INC., a Washington corporation;  
21 WESTERN ZONE SWIMMING, KING  
22 AQUATIC CLUB, PACIFIC NORTHWEST  
23 SWIMMING, MARK SCHUBERT, an  
24 individual, and DOES 1 through 100,  
25 inclusive,

26 Defendants.

Case No.

**COMPLAINT FOR DAMAGES**

- 1 (1) **Sexual Abuse of a Minor**
- 2 (2) **Negligence**
- 3 (3) **Intentional Infliction of Emotional Distress**

27 Plaintiff ARIANA SMITH alleges against UNITED STATES SWIMMING, INC., a  
28 corporation; SEAN HUTCHISON, an individual; AQUATIC MANAGEMENT GROUP, INC.,  
a Washington corporation; WESTERN ZONE SWIMMING, KING AQUATIC CLUB,  
PACIFIC NORTHWEST SWIMMING, MARK SCHUBERT, an individual, and DOES 1  
through 100, inclusive, as follows:

**COMMON ALLEGATIONS**

1. California resident ARIANA SMITH, a former world champion swimmer under  
USA SWIMMING, was groomed for sexual abuse by her coach, SEAN HUTCHISON

1 ["HUTCHISON"] from the time she was 13 years old. [DOB June 1, 1989.] HUTCHISON  
2 began sexually molesting plaintiff at the age of 16 years, and thereafter kept her in a dominated  
3 relationship for years after she reached the age of majority. Beginning at the latest in 2005,  
4 when the plaintiff was 15 and 16 years of age, Defendant UNITED STATES SWIMMING,  
5 INC. ["USA SWIMMING"] was well aware that HUTCHISON was involved in an  
6 inappropriate relationship with plaintiff.

7 2. USA SWIMMING officials included then Executive Director Chuck Wielgus  
8 (who was primarily responsible for the sex abuse scandal that rocked USA SWIMMING  
9 beginning in 2009 due to his active attempts to cover up and conceal multiple molestation  
10 complaints against coaches, leading to his International Hall of Fame nomination being  
11 rescinded; see [https://www.usatoday.com/story/sports/olympics/2014/06/02/chuck-wielgus-  
12 usa-swimming-hall-of-fame/9893275/](https://www.usatoday.com/story/sports/olympics/2014/06/02/chuck-wielgus-usa-swimming-hall-of-fame/9893275/)), Vice President and Board member Murray Stevens  
13 (himself the subject of multiple complaints for the sex abuse of minors; see  
14 <http://concussioninc.net/?p=7176>), and Club Development Director Pat Hogan (a former coach  
15 who married one of his swimmers and in early 2018 was forced to resign due to his willingness  
16 to provide a positive employment reference for an admitted pedophile; see  
17 <https://www.nytimes.com/2018/02/24/sports/usa-swimming-resignations.html>).

18 3. USA SWIMMING officials secretly agreed that HUTCHISON should be  
19 specifically protected from the background check process due to fact that pervasive rumors of  
20 his inappropriate sexually motivated behavior towards minors such as the plaintiff would  
21 inevitably surface through contacts with prior employers. HUTCHISON was an excellent  
22 coach who produced Olympic caliber swimmers, these USA SWIMMING officials reasoned as  
23 part of their scheme, and therefore they should all "look the other way" when it came to  
24 HUTCHISON's suspected childhood sexual abuse. Thus, they deliberately manipulated the  
25 background check procedure for HUTCHISON so that a "hit" would not surface. On  
26 information and belief, Murray and Hogan were also made the beneficiaries of this  
27 manipulation such that they themselves would not be the subject of a negative background  
28 check. These officials warned others that if they spoke out against HUTCHISON they could be

1 liable for “slander” and/or labeled an instigator of a “witch hunt.”

2 4. To ensure that this conspiracy adequately insulated successful pedophile coaches  
3 such as HUTCHISON from unwanted scrutiny, it was agreed that it’s lawyers (Holme, Roberts  
4 and Owen, of which now disgraced former United States Olympic Committee CEO Scott  
5 Blackmun was a partner; see <https://www.usatoday.com/story/sports/olympics/2018/02/28/u-s-olympic-committee-ceo-scott-blackmun-resigns/382569002/>) would provide the appropriate  
6 “review” of all screens, all allegedly under the attorney client privilege, so that the “good ones”  
7 would not draw any undue negative public attention.  
8

9 5. By the start of 2006, it was widely known within USA SWIMMING leadership’s  
10 group that HUTCHISON was engaged in a sexual relationship with plaintiff, then 16 years old.  
11 Despite the “open secret” status of the relationship between HUTCHISON and plaintiff as of  
12 the 2006 Pan Pacific Swimming Championships and the 2007 World Championships (where  
13 MARK SCHUBERT was the Head US Swim Coach) no one reported this reasonable suspicion  
14 of child abuse or endangerment to the authorities, no one did anything to protect plaintiff as a  
15 minor from inappropriate grooming and ultimate molestation, and no one did anything to  
16 repudiate HUTCHISON’s conduct to halt and/or arrest the ongoing trauma which continued  
17 well into plaintiff’s adulthood.

18 6. Defendant USA SWIMMING is a corporation doing business throughout the  
19 United States. It is the National Governing Board for the sport of swimming and administers  
20 competitive swimming for the Olympics. In its Supplemental Information for Form 990 to the  
21 Internal Revenue Service, USA SWIMMING boasts a “Safe Sport” program to reduce the risk  
22 of abuse by increasing awareness through, *inter alia*, mandatory athlete protection training,  
23 demonstrating its exerted control over sexual abuse of its minor members as well as control  
24 over its “Team” of National and Olympic coaches. <https://usaswimming.org/docs/default-source/accounting/2016-form-990.pdf?sfvrsn=2>. USA SWIMMING is responsible for  
25 formulating, implementing and/or enforcing appropriate rules, regulations, policies and/or  
26 procedures for Local Swimming Committees [“LSC’s”] throughout the United States, including  
27 California. It maintains a list of permanently banned coaches, many of which were from  
28

1 California. It reported more than \$15,000 in expenses for professional fundraising services  
2 conducted in the State of California and claims to provide coaching clinics in California. [*Ibid.*]  
3 It represented in said tax form that it has written policies and procedures governing the activities  
4 of its affiliates to ensure their operations are consistent with the organization’s exempt purposes,  
5 which affiliates include those in California, and California is a state in which it acknowledged  
6 the obligation to file its Form 990. USA SWIMMING has purposefully availed itself of the  
7 benefits of conducting business in California. At all relevant times, Plaintiff was a member of  
8 USA SWIMMING. USA SWIMMING has a long and sordid history of covering up for known  
9 pedophile coaches (see [https://www.ocreger.com/2018/02/16/investigation-usa-swimming-  
10 ignored-sexual-abuse-for-decades/](https://www.ocreger.com/2018/02/16/investigation-usa-swimming-ignored-sexual-abuse-for-decades/)) and for this reason has been the subject of two separate  
11 congressional investigations (see [https://swimswam.com/congressman-george-miller-writes-  
12 letter-fbi-closer-scrutiny-usa-swimming-reports/](https://swimswam.com/congressman-george-miller-writes-letter-fbi-closer-scrutiny-usa-swimming-reports/) , as it relates to the 2014 investigation and  
13 [https://www.ocreger.com/2018/01/26/congress-investigating-usa-swimmings-handling-of-  
14 sex-abuse-cases/](https://www.ocreger.com/2018/01/26/congress-investigating-usa-swimmings-handling-of-sex-abuse-cases/) as it relates to the one commenced in early 2018).

15 7. Defendant AQUATIC MANAGEMENT GROUP, INC. is and/or was a  
16 Washington for-profit corporation governed by defendant SEAN HUTCHISON. Said  
17 defendant managed the Mt. Rainier pool where plaintiff was first subjected to SEAN  
18 HUTCHISON’s grooming tactics, which hosted KING AQUATIC CLUB.

19 8. Defendant WESTERN ZONE SWIMMING is an entity of unknown  
20 organization which is the regional governing body for competitive swimming on behalf of USA  
21 SWIMMING. Said entity is responsible for the Zone Board of Review, charged with review  
22 and adjudication of complaints and protests regarding operation of swimming within the  
23 Western Zone. The Local Swim Committees overseen by WESTERN ZONE SWIMMING  
24 include defendant PACIFIC NORTHWEST SWIMMING, Central California, Pacific  
25 Swimming, Sierra Nevada Swimming, San Diego Imperial, and Southern California. It has thus  
26 subjected itself to the jurisdiction of the California courts.

27 9. Defendant PACIFIC NORTHWEST SWIMMING [“PNS”] is a Local  
28 Swimming Committee member of USA SWIMMING, *i.e.*, it is the local governing body on

1 behalf of USA SWIMMING in the northwest area responsible for administering USA  
2 SWIMMING's activities pursuant to rules, regulations, policies and procedures formulated,  
3 implemented and enforced by USA SWIMMING. PNS sponsors events held in California, and  
4 thereby avails itself of the benefits of California warranting the exercise of jurisdiction over it.  
5 Plaintiff was a member of PNS and was entitled to its protection against sexually abusive  
6 coaches at all relevant times via, inter alia, its enforcement of rules governing coaches' conduct,  
7 which were non-existent at its local affiliate, KING AQUATIC CLUB.

8 10. Defendant KING AQUATIC CLUB is an entity of unknown organization  
9 requiring the payment of dues for membership. Said defendant promotes its swimmers in  
10 regional and national efforts to expand its membership. [https://www.teamunify.com/SubTab  
11 Generic.jsp?team=king&\\_stabilid\\_=83](https://www.teamunify.com/SubTabGeneric.jsp?team=king&_stabilid_=83). Defendant claims to be ranked as the "number one  
12 swimming club in the Pacific Northwest and top ranked in the USA for more than 40 years."  
13 *Ibid.* Plaintiff ARIANA SMITH was, at all relevant times, a member of KING AQUATIC  
14 CLUB. Said defendant purposefully availed itself of the benefits of California by sending its  
15 swimmers to California for competitions, including ARIANA SMITH for the US Nationals held  
16 in Irvine, California in August of 2005 and 2006 [when plaintiff was still a minor.] Plaintiff is  
17 informed and believes, and thereon alleges that KING AQUATIC CLUB, a member club of  
18 USA SWIMMING, is owned by defendant SEAN HUTCHISON, as stated by USA  
19 SWIMMING.

20 11. Defendant MARK SCHUBERT ["SCHUBERT"] is a resident of Orange  
21 County, California. He was USA SWIMMING's National Team head coach from June 2006  
22 until November 2010. On behalf of USA SWIMMING, SCHUBERT was present and/or  
23 coached plaintiff in international events during the 2006 Pan Pacific Swimming Championships  
24 in Vancouver, Canada, the 2007 World Championships in Australia and the 2009 World  
25 Championships in Rome, Italy. During these events, HUTCHISON was observed by  
26 SCHUBERT and other USA SWIMMING officials hugging, interacting and inappropriately  
27 touching plaintiff in a way that aroused pervasive comments among them (see  
28 [https://www.mercurynews.com/2018/  
02/16/documents-reveal-warning-signs-of-sean-](https://www.mercurynews.com/2018/02/16/documents-reveal-warning-signs-of-sean-)

1 [hutchisons-misconduct-against-ariana-kukors/](#)) Eventually, their inappropriate sexual  
2 relationship became an “open secret” known to virtually all who were then present. Despite  
3 being plaintiff’s coaches, SCHUBERT and his fellow USA Swimming coaches did not report  
4 suspected child abuse to the legal authorities as required by law.

5 12. Plaintiff is informed and believes, and thereon alleges, on multiple occasions  
6 USA SWIMMING was actually and/or constructively aware of HUTCHISON’s inappropriate  
7 relationship with plaintiff while she was still a minor, but USA SWIMMING did nothing in  
8 response to that report. Its administrators, board members or employees are mandated reporters  
9 under the Child Abuse and Neglect Reporting Act [“the Act”], Penal Code §11165.7(a)(7)  
10 and/or (8).

11 13. In 2010, MARK SCHUBERT, for allegedly the first time, expressly reported to  
12 USA Swimming about the inappropriate relationship between HUTCHISON and plaintiff. Still  
13 USA SWIMMING did not report suspected child abuse to the authorities. Instead, USA  
14 SWIMMING, as part of its longstanding attempts to cover up for and protect him, undertook its  
15 own “investigation” for HUTCHISON’s violation of its Code of Conduct, which was overseen  
16 by its Safe Sport Director. Ms. Woessner had absolutely no specialized training in childhood  
17 sexual abuse and was woefully unqualified to conduct any kind of an investigation into  
18 allegations of suspected molestation. Worse, as part of the incestuous culture that had  
19 permeated USA Swimming, Ms. Woessner not only had a prior intimate sexual relationship  
20 with HUTCHISON but also had such a relationship with at least one other USA SWIMMING  
21 swim coach.

22 14. Ms. Woessner’s prior close physical and sexual relationship with HUTCHISON  
23 rendered her biased and completely unable to conduct any semblance of an objective inquiry  
24 against her ex-lover. (For failing to disclose this obvious conflict of interest, Ms. Woessner was  
25 terminated from USA Swimming in February of 2018; see [https://abcnews.go.com/US/usa-  
26 swimming-directors-susan-woessner-pat-hogan-resign/  
27 story?id=53301342](https://abcnews.go.com/US/usa-swimming-directors-susan-woessner-pat-hogan-resign/story?id=53301342)). The  
28 “investigation” consisted merely of short interviews of the perpetrator and the plaintiff (who  
predictably denied the abuse since she was in the midst of an abusive relationship with

1 HUTCHISON), and was thereupon closed to protect USA SWIMMING’s interests and/or those  
2 of HUTCHISON at the expense of plaintiff’s health and best interests. To ensure that all  
3 negative attention concerning HUTCHISON and plaintiff came to a swift end, USA  
4 SWIMMING, through Mr. Wielgus, went to the extraordinary length of making several  
5 demonstrably false and misleading claims in a subsequent memo to, *inter alia*, all LSC Chairs  
6 and all member coaches that SCHUBERT “never presented USA Swimming with any  
7 incriminating information regarding Sean Hutchison (lie #1),” that it hired “an independent  
8 investigator (lie #2) to conduct an investigation (lie #3) into the Hutchison case,” that the  
9 alleged investigator concluded that “there was no evidence of an inappropriate relationship  
10 between Coach Hutchison and an adult athlete” [ignoring any aspect while she was a minor],  
11 and stating that it “released the findings because Sean [HUTCHISON] had been vilified in the  
12 press and we felt the right thing to do was to make our findings public” (see  
13 [https://www.swimmingworldmagazine.com/news/usa-swimming-investigation-of-coach-sean-  
14 hutchison-finds-no-inappropriate-relationship/](https://www.swimmingworldmagazine.com/news/usa-swimming-investigation-of-coach-sean-hutchison-finds-no-inappropriate-relationship/)).

15 15. After that “investigation,” and despite at least one other complaint by another  
16 Olympic swimmer that he, along with another Olympic coach, engaged in sexually  
17 inappropriate behavior with her and her brother, HUTCHISON was allowed to remain in good  
18 standing with a completely clean records a member of USA Swimming as owner of the member  
19 club KING AQUATIC, per USA SWIMMING’s publication. No report was made to the police.  
20 In the words of none other than SCHUBERT, USA SWIMMING “failed miserably” in its so-  
21 called “investigation” concerning known childhood sexual abuse committed by HUTCHISON  
22 against plaintiff (see [https://www.swimmingworldmagazine.com/news/former-usa-coach-mark-  
23 schubert-says-hutchison-kukors-rumors-were-reported/](https://www.swimmingworldmagazine.com/news/former-usa-coach-mark-schubert-says-hutchison-kukors-rumors-were-reported/)).

24 16. The true names and/or capacities, whether individual, corporate, associate, or  
25 otherwise, of defendants named herein as DOES 1 through 100, inclusive are unknown to  
26 plaintiff at this time, and plaintiff therefore sues said defendants by such fictitious names.  
27 Plaintiff will seek leave to amend this Complaint to allege their true names and capacities when  
28 the same have been ascertained. Plaintiff is informed and believes and thereon alleges that each

1 of the defendants designated herein as a DOE is responsible in some manner or is otherwise  
2 legally liable to plaintiff for the injuries complained of herein.

3 17. At all times herein mentioned, some or all of the defendants was an agent,  
4 servant, employee, partner, alter ego, joint venture, franchisee, aider and abettor, and/or co-  
5 conspirator, and engaged in a common or common enterprises with each of the remaining  
6 defendants herein, and was at all relevant times acting within the course and scope of said  
7 agency, service, employment, partnership, joint venture, franchise, unlawful enterprise,  
8 conspiracy and/or other lawful or unlawful conduct as herein alleged.

9 **FIRST CAUSE OF ACTION**

10 **Sexual Abuse of a Minor**

11 As and for a First Cause of Action, Plaintiff alleges against defendants USA  
12 SWIMMING, SEAN HUTCHISON, AQUATIC MANAGEMENT GROUP, INC., KING  
13 AQUATIC CLUB and DOES 1 through 5 as follows:

14 18. Plaintiff hereby incorporates all paragraphs of the Common Allegations, as  
15 though set forth in full herein.

16 19. Prior to 2009 [when he moved to California], defendant HUTCHISON was a  
17 USA SWIMMING approved, certified and/or registered swim coach for its LSC, KING  
18 AQUATIC CLUB, entrusted with the care of plaintiff for swimming events. HUTCHISON  
19 owed plaintiff a duty to conduct himself appropriately so as not to inflict harm upon her. At all  
20 relevant times, said defendant was employed, retained, and/or acting as the agent for USA  
21 SWIMMING, AQUATIC MANAGEMENT GROUP, INC., KING AQUATIC CLUB and/or  
22 DOES 1 through 5.

23 20. As a minor and member entrusted to the care of USA SWIMMING and KING  
24 AQUATIC CLUB (managed by AQUATIC MANAGEMENT GROUP, INC.) and DOES 1  
25 through 5, a special relationship existed between said defendants and plaintiff by which plaintiff  
26 was entitled to their protection and/or a reasonably safe environment in which to train and/or  
27 swim, free from inappropriate sexual displays, grooming behaviors, inappropriate touching, and  
28 lewd behaviors from coaches placed in a position of trust and authority over her.



1           21.     Commencing in or around 2002, HUTCHISON used his position of trust and  
2 authority as plaintiff's coach to groom plaintiff for his sexual advances and/or committed lewd  
3 and lascivious acts upon plaintiff and/or sexually abused, molested, and impermissibly touched  
4 plaintiff. For example, during the Olympic trials of 2004 held in Long Beach in California,  
5 HUTCHISON publically displayed hugging on the pool deck and had plaintiff in his room  
6 engaging in in-depth conversations. That conduct was repeated in 2005 during a travel meet  
7 [without her parents], where the hug involved his hands all over her back and long  
8 conversations in his room. In the August 2005 Nationals event held in Irvine, California [when  
9 plaintiff was only 16], HUTCHISON was massaging her back and shoulders while going over  
10 technique, placed his hands on her leg, had her sitting on his lap, and ensconced her in his hotel  
11 room alone with the door closed. In the fall of 2005, HUTCHISON put plaintiff's hand on his  
12 pants to feel his erect penis, and touched her buttocks many times in a sexual manner on the  
13 pool deck, observable by other coaches and/or swimmers. At the August 2006 U.S. Nationals  
14 held in Irvine, California, HUTCHISON put his hand inside plaintiff's pants and sexually  
15 molested her. This was repeated during the 2006 training in Newport Beach, California, and  
16 again during the 2006 Pan Pacific Swimming Championships in Victoria, British Columbia. By  
17 that point, HUTCHISON's relationship with plaintiff was an open secret, as they would go on  
18 long walks together with much kissing and molestation of this minor. HUTCHISON escalated  
19 his molestation to oral sex not long after plaintiff's 17<sup>th</sup> birthday. He took many pictures of her  
20 showering naked, and was obsessed with molesting her outdoors.

21           22.     Said conduct was undertaken while HUTCHISON was an agent or employee of  
22 said entity defendants and while in the course and scope of his agency or employment with said  
23 defendants, and/or said acts and omissions were ratified by said defendants. USA SWIMMING  
24 exercised control over its coaches and their relationship with swimmers. It knew, had reason to  
25 know, or was otherwise on notice of unlawful sexualized conduct by this coach, given his  
26 public displays and the rumors of a romantic relationship between coach and minor, as well as  
27 from the known circumstance by which such child abuse is enabled: travel away from parents.  
28 Plaintiff is informed and believes, and thereon alleges, that a report was submitted to USA

1 SWIMMING in ~2005 about HUTCHISON and plaintiff. By that point in time, USA  
2 SWIMMING had a plethora of complaints about its coaches sexually abusing minor swimmers.  
3 For example, in 1996, a San Jose police sergeant notified USA SWIMMING that its coach,  
4 Norm Havercroft, had sexually molested an underage female swimmer he was coaching at the  
5 West Valley Swim Club between 1994 and 1996. This notification came a year before his next  
6 victim was molested, yet USA SWIMMING did nothing. In October of 2002, USA  
7 SWIMMING's self-created insurer, USSIC, advised USA SWIMMING to create a task force  
8 addressing sexual misconduct because "USA Swimming has seen an increase in this area." In  
9 2003, then-Director of USA SWIMMING, Chuck Wielgus, was advised that Coach Andy King  
10 was forcing underage swimmers to perform sex acts on the pool deck in front of other  
11 teammates while coaching in the 1990s. In a January 27, 2003 email, Wielgus told the official  
12 to do nothing, stating "this matter should be kept confidential by both you and us." Plaintiff is  
13 informed and believes, and thereon alleges, that since 1997, at least 252 swim coaches and  
14 officials have been arrested, charged, or disciplined by USA SWIMMING for sexual abuse or  
15 misconduct committed against minors, with at least 590 victims among them. Even after  
16 Olympic Coach MARK SCHUBERT's 2010 notification to USA SWIMMING about the  
17 inappropriate relationship between HUTCHISON and plaintiff, USA SWIMMING failed to  
18 repudiate HUTCHISON's conduct. To the contrary, it engaged in the sham investigation  
19 designed to protect itself and/or HUTCHISON, disseminated false information surrounding that  
20 "investigation," and never reported this "reasonable suspicion" of child abuse to the authorities  
21 for a proper investigation by those experienced in collecting evidence. It also never terminated  
22 HUTCHISON's membership, and subsequently gave his Club [KING AQUATIC] thousands of  
23 dollars in grant money in 2013, 2014 and 2015 [per Form 990 tax filings.]

24 23. Due to HUTCHISON's position of power and control over plaintiff, and the  
25 psychological effects imposed upon her by childhood sexual abuse, plaintiff did not first  
26 discover that her psychological injury or illness occurring after the age of majority was caused  
27 by the sexual abuse until at least July of 2015. This complaint is filed within three years of that  
28 date, pursuant to Code of Civil Procedure §340.1.

1           ///

2           24.     As a legal result of the foregoing, plaintiff was injured in health, strength and  
3 activity, sustaining bodily injuries and shock and injury to her nervous system and person, all of  
4 which caused and continue to cause plaintiff great mental, physical and nervous pain and  
5 suffering; plaintiff has thereby sustained damages in an amount in excess of the minimum  
6 jurisdictional limits of this court.

7           25.     As a further legal result of the conduct of the defendants, and each of them,  
8 plaintiff was required to and did employ health care providers for examination, counseling,  
9 treatment and care, and incurred, and will continue in the future to incur, medical and incidental  
10 expenses, including counseling costs, the exact amount of which is unknown to plaintiff at this  
11 time.

12           26.     As a further legal result of the conduct of the defendants, and each of them,  
13 plaintiff was prevented from working and/or suffered a loss of earning capacity. Plaintiff is  
14 informed and believes and thereon alleges that her inability to work and/or reduction in his  
15 earning capacity will continue in the future, thereby causing a further loss of earnings and/or  
16 earning capacity, the exact amount of which is unknown to plaintiff at this time.

17           27.     Plaintiff herein anticipates serving upon defendants an offer to compromise  
18 pursuant to California Code of Civil Procedure §998 and California Civil Code §3291, and upon  
19 such service of said offer, is entitled to interest on the amount of any judgment obtained in favor  
20 of plaintiff, provided said judgment exceeds the amount stated in said offer, said interest to be  
21 computed from the date of service of said offer to compromise.

22           28.     The acts of defendant HUTCHISON perpetrated upon plaintiff were intentional,  
23 malicious, and/or oppressive, entitling plaintiff to punitive damages against said defendant  
24 pursuant to Civil Code §3294. In addition, the acts of USA SWIMMING were fraudulent,  
25 intentional, malicious and/or oppressive within the meaning of Civil Code §3294 in, *inter alia*,  
26 disregarding complaints about HUTCHISON's misconduct at a time which may have spared  
27 plaintiff significant harm, refusing to notify legal authorities of a reasonable suspicion of child  
28 abuse in violation of statute, and/or engaging in acts designed to conceal the true facts [sham

1 investigation by an insider, rather than its publicized “private independent investigator,” who  
2 had no experience with childhood sexual abuse, and lying about the SCHUBERT notification.]  
3 Said conduct served to perpetuate the harm upon plaintiff and were despicable and vile acts, not  
4 tolerated in civilized society as reflected in, *inter alia*, the Child Abuse and Neglect Reporting  
5 Act.

6 29. Plaintiff claims attorney’s fees against all defendants for enforcing an important  
7 right affecting public interest pursuant to Code of Civil Procedure §1021.5, to wit: protection of  
8 children entrusted to the care of organizations from sexual predatory conduct by their  
9 employees/agents and from child abuse via, *inter alia*, institution and implementation of means  
10 and methods to detect and deter pedophile behavior, enforcement of laws governing minors’  
11 welfare and safety, and institution of proper procedures and policies surrounding the mandatory  
12 duty to report a reasonable suspicion of child molestation or endangerment under The Act.

### 13 **SECOND CAUSE OF ACTION**

#### 14 **Negligence**

15 As and for a Second Cause of Action, plaintiff alleges against defendants UNITED  
16 STATES SWIMMING, INC., a corporation; SEAN HUTCHISON, an individual; AQUATIC  
17 MANAGEMENT GROUP, INC., a Washington corporation; WESTERN ZONE SWIMMING,  
18 KING AQUATIC CLUB, PACIFIC NORTHWEST SWIMMING, MARK SCHUBERT, an  
19 individual, and DOES 1 through 90, inclusive, as follows:

20 30. Plaintiff incorporates all preceding paragraphs as though fully recited herein.

21 31. Said defendants, and each of them, owed plaintiff a duty to, *inter alia*, protect her  
22 from sexual assault by her coach, employ or retain suitable coaches entrusted to the care of this  
23 minor, institute and enforce appropriate policies, procedures, rules, regulations, and  
24 requirements necessary to prevent inappropriate sexual conduct by coaches, to report to the  
25 legal authorities any reasonable suspicion of child abuse, and/or to otherwise conduct  
26 themselves with due care so as to avoid injuring plaintiff.

27 32. Said defendants, and each of them, breached said duties by, *inter alia*, failing to  
28 report inappropriate behaviors to the authorities for proper investigation, failing to intervene on

1 plaintiff's behalf, and/or failing to implement and/or enforce proper policies and procedures for  
2 the protection of minor swimmers.

3 33. As a legal result of defendants' acts and/or omissions, plaintiff sustained injuries  
4 and damages as hereinbefore alleged.

5 **THIRD CAUSE OF ACTION**

6 **Intentional Infliction of Emotional Distress**

7 As and for a Third Cause of Action, plaintiff alleges against defendants SEAN  
8 HUTCHISON, an individual; AQUATIC MANAGEMENT GROUP, INC., KING AQUATIC  
9 CLUB, and DOES 91 through 100, inclusive, as follows:

10 34. Plaintiff incorporates all preceding paragraphs as though fully recited herein.

11 35. The conduct of said defendants as herein alleged was outrageous and was so  
12 extreme as to exceed all bounds of decency usually tolerated in a civilized community. The Act  
13 demonstrates the bounds of decency with respect to safety of children entrusted to defendants'  
14 care: *prevent* child abuse. In, *inter alia*, failing to report reasonably suspected incidents of  
15 child abuse, said defendants acted with reckless disregard of the probability that plaintiff would  
16 suffer emotional distress.

17 36. In performing such lewd and lascivious acts upon plaintiff, HUTCHISON acted  
18 with reckless disregard of the probability that plaintiff would suffer emotional distress.

19 37. As a legal result of the aforementioned acts, plaintiff suffered severe emotional  
20 distress, such as fright, horror, anxiety, humiliation and mental anguish, causing her injury to  
21 her mind, spirit and body, all to her general and special damages well in excess of the  
22 jurisdictional minimum of this Court.

23 38. Said defendants have acted despicably and with willful and conscious disregard  
24 of the rights of others, and/or have subjected plaintiff to cruel and unjust hardship in conscious  
25 disregard of her rights and safety. Said defendants are charged with malice and/or oppression,  
26 entitling plaintiff to punitive damages for the sake of example and by way of punishing said  
27 defendants, as hereinbefore alleged.

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