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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SPOKANE COUNTY

W.K. and Michael Gray,

Plaintiffs,

vs.

MORNINGSTAR FOUNDATION, INC. d/b/a
MORNINGSTAR BOYS RANCH,

Defendants.

NO. **05204089-5**
COMPLAINT

COME NOW plaintiffs by and through their attorneys, MICHAEL T. PFAU, GORDON THOMAS HONEYWELL MALANCA PETERSON & DAHEIM LLP; and TIMOTHY D. KOSNOFF, LAW OFFICES OF TIMOTHY D. KOSNOFF, PC; and hereby state and allege as follows:

I. INTRODUCTION

1.1 Morningstar Foundation, Inc. owns and operates Morningstar Boys Ranch (hereinafter "Morningstar") a residential boys home for dependent, neglected and pre-delinquent boys. Morningstar Boys Ranch is located in Spokane County, Washington. For

ORIGINAL

1 decades - Morningstar administrators and staff members physically and sexually abused boys
2 entrusted to their care. They also permitted known sexual predators from the community to
3 enter Morningstar and abuse boys and to take them away from the ranch to abuse them.

4 1.2 For decades Administrators and staff at Morningstar maintained an atmosphere
5 of physical and sexual abuse of the boys, whose ages ranged from 9 to 17 years of age - under
6 the guise of corporal punishments. The abuse was random, arbitrary and sadistic. Abuse
7 included beatings about the head and body, striking boys over the head with blunt objects,
8 shoving long-stemmed flowers into boys' rectums and further humiliating them by making
9 them lie naked and prone on the ground while members of the staff photographed the boys.
10 Morningstar was aware of and tolerated the rape and brutalization of plaintiffs by its
11 employees and other boys.

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14 **II. PARTIES AND RELATED PARTIES**

15 2.1 W.K. was born October 27, 1954.

16 2.2 Michael Gray was born September 27, 1967.

17 2.3 At all relevant times, Plaintiffs were boys that resided at Morningstar and were
18 within its exclusive custody, control, supervision and care. Morningstar was at all relevant
19 times functioning *in loco p`arentis* to plaintiffs.

20 2.4 Morningstar Foundation is a Washington corporation that owns and operates
21 Morningstar Boys Ranch.

22 2.5 On information and belief, Morningstar Boys Ranch is an affiliated entity of
23 the Catholic Diocese of Spokane.
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1 2.6 On information and belief Father Joseph Weitensteiner has been the
2 Administrator of Morningstar since approximately 1966. Weitensteiner is an ordained Roman
3 Catholic Priest of the Spokane Catholic Diocese. Weitensteiner was the first counselor at
4 Morningstar and, with the exception of the time he spent in the seminary, has been
5 continuously employed at Morningstar since its establishment.
6

7 2.7 At relevant times, Father Marvin Lavoy was the Administrator of Morningstar.
8 Father Joseph Weitensteiner succeeded Lavoy as Administrator of Morningstar in
9 approximately 1966. Father Marvin Lavoy was an ordained Roman Catholic Priest of the
10 Spokane Diocese. Lavoy is deceased.

11 2.8 At all relevant times, William Condon was a staff member and counselor at
12 Morningstar. Condon is deceased.

13 2.9 At all relevant times, James Clarke was a staff member and counselor at
14 Morningstar.
15

16 2.10 At all relevant times, Dan Kulman was assistant director of Morningstar or
17 otherwise worked in a supervisory capacity.

18 2.11 Father Marv Lavoy, Father Joseph Weitensteiner, William Condon, James
19 Clarke, Don Kulman and other staff members were at all relevant times acting under the
20 authority, supervision and control of Morningstar and were its agents.
21

22 **III. JURISDICTION AND VENUE**

23 3.1 The subject matter hereof and the parties hereto, are subject to the jurisdiction
24 of the above-entitled court and that venue is proper.
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IV. STATEMENT OF FACTS

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2 4.1 Morningstar Boys' Ranch was formed in 1956 by Bernard J. Topel, Catholic
3 Bishop of Eastern Washington as residential home where dependent, neglected, or pre-
4 delinquent boys could receive help in a caring, supportive environment. The first boy arrived
5 at the Flannery House at Morningstar in January 1957. Referrals came from individual
6 families, public and private agencies, physicians and the Department of Children and Family
7 Services.
8

9 4.2 Since opening in 1957 nearly 1300 boys have passed through Morningstar.

10 4.3 Marvin Lavoy was an ordained Roman Catholic Priest of the Catholic Diocese
11 of Spokane. Morningstar appointed Lavoy to be the first Administrator of Morningstar. Father
12 Joseph Weitensteiner was the first counselor at Morningstar. Weitensteiner replaced Lavoy as
13 Administrator on August 12, 1966. Weitensteiner continues to hold the title of Administrator
14 at Morningstar but was recently put on administrative leave pending investigation of recent
15 multiple complaints of physical and sexual abuse of other boys at Morningstar.
16

Facts regarding abuse of W.K.:

17
18 4.4 W.K.'s parents were deaf mutes that were unable to provide him adequate care
19 and supervision. They sent him to Morningstar Boys Ranch in 1964. He was only nine years
20 old. At that time W.K. was the youngest boy that had ever resided at Morningstar. He
21 remained there until 1968.
22

23 4.5 Morningstar used W.K. a tool for their promotional and fundraising efforts
24 which included a promotional video entitled "Billy of Morningstar" that featured W.K. as a
25 Morningstar "success story" and depicted Morningstar as a caring, nurturing environment for
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1 neglected and dependent boys. As set forth more fully herein, the reality of daily life for boys
2 at Morningstar was very different than what was depicted in the film.

3 4.6 Father Marv Lavoy was the administrator of Morningstar when plaintiff was
4 sent to live there. Upon information and belief, Father Marv Lavoy was a predatory child
5 molester of teenage boys.
6

7 4.7 Upon information and belief, Father Marv Lavoy repeatedly sodomized and
8 molested a young boy at Morningstar in the 1950's. Lavoy knowingly permitted other staff
9 members to sexually prey upon and physically abuse boys at Morningstar including W.K..

10 4.8 When W.K. was approximately twelve years old, he and five or six other boys
11 fell ill with measles. Morningstar counselors confined the boys to their beds in the dorm and
12 instructed them not to get out of bed. After several warnings not to get out of their beds,
13 counselors William Condon and another counselor entered the dorm room with a jar of
14 Vaseline jelly and a handful of long-stemmed flowers believed to be irises. The boys were
15 told to pull their pajama bottoms down, get prone on their beds and "pucker up." The
16 counselors put Vaseline on plaintiff's anus and pushed the flower stem into him. The
17 counselors told them that the first boy that "lets his flower fall - gets hacked."
18

19 4.9 The counselors then photographed the boys as they lie prone on the ground
20 with flowers sticking out of their rectums. For years the photographs were retained by Father
21 Joseph Weitensteiner in the top drawer of his desk. The photographs were circulated among
22 Morningstar administrators and staff for their perverted pleasure and sadistic delight.
23 Retention of the photographs served to stigmatize, control and silence W.K. and other boys
24 regarding the abusive conduct they were made to endure at Morningstar.
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1 4.10 W.K. was repeatedly assaulted by Morningstar staff. At other times, when staff
2 members including Lavoy were in their rooms drinking, W.K. was being assaulted by older
3 boys.

4 4.11 W.K. tried to escape from Morningstar but he was caught and returned to the
5 ranch where Weitensteiner beat him over the head and face. As further punishment for
6 running away, Weitensteiner grabbed W.K. by the hair, dragged him in to the infirmary and
7 shaved the boy's head.
8

9 4.12 On another occasion a staff member struck W.K. on the head with a blunt
10 object and gave him a concussion - all for whispering to another boy during study hall.

11 4.13 W.K. was made to witness boys receive beatings and assaults at Morningstar.
12 On one occasion he watched in horror as Father Weitensteiner attacked a boy so savagely that
13 Weitensteiner and the boy crashed through the door of his office, ripping the door off its
14 hinges before coming to rest in the hallway with Weitensteiner on top of the boy continuing to
15 pummel him. Staff members had to wrestle Weitensteiner off the boy.
16

17 4.14 W.K. was further traumatized by witnessing random, arbitrary violence
18 committed against other boys. One particularly traumatic incident occurred when Father
19 Weitensteiner shattered a heavy, institutional dining plate over the head of a boy that could
20 not eat his vegetables.
21

22 4.15 As a result of the sexual and physical assaults he sustained and witnessed at the
23 hands of administrators and staff at Morningstar, men that were supposed to help him, to care
24 for and nurture him but instead sexually assaulted and brutalized him, W.K.'s life was
25 shattered. As a direct result of the sexual abuse and the brutal and inhumane treatment he
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1 received while in defendant's custody and care W.K. was rendered fully mentally disabled.
2 The Social Security Administration determined in 1995 that W.K. suffers from multiple
3 anxiety and affective disorders directly resulting from the abusive treatment he was subjected
4 to at Morningstar. The Social Security Administration concluded that W.K. is fully,
5 permanently mentally disabled as a result of his mistreatment at Morningstar.
6

7 Facts regarding abuse of Michael Gray:

8 4.16 Michael Gray was a dependent and neglected child who was sent to live at
9 Morningstar in approximately 1981. He was thirteen years old. He remained at Morningstar
10 for one year. During that year, Michael Gray was repeatedly physically and sexually
11 assaulted by Morningstar staff and others.
12

13 4.17 In 1981, Clarke was the "weekend" counselor and had an apartment in Murphy
14 House at Morningstar. Morningstar counselor Jim Clarke repeatedly sodomized Gray and
15 forced him to masturbate him.

16 4.18 For years, Clarke brought numerous boys including Gray into his apartment at
17 Morningstar, showed them pornography and sexually assaulted them. On information and
18 belief, complaints regarding Clarke's misconduct with boys were made directly to Dan
19 Kuhlman. Despite the complaints, Morningstar took no action against Clarke.
20

21 4.19 After enduring a year of mistreatment, Michael Gray escaped and was not
22 returned to Morningstar.

23 4.20 Before entering Morningstar, Michael Gray had not been a disciplinary
24 problem. He had been a good student. Following his year at Morningstar his academic
25 performance and behavior rapidly deteriorated. From that point up to the present, Michael
26

1 has suffered from depression, intense anger, social alienation, lack of trust, alcohol and drug
2 dependency, low self-esteem and a wide-variety of emotional and psychological problems, all
3 stemming from his mistreatment at Morningstar.

4 4.21 Upon information and belief, Morningstar knew or should have known that the
5 above-described administrators and staff members it employed at Morningstar were sexual
6 and/or physical and emotional abusers, that they were psychologically deranged men and/ or
7 that they were otherwise unfit to work with or around children at Morningstar. Defendants
8 failed to warn parents or protect children at Morningstar from the danger they knew or should
9 have known that these administrators and staff members presented to children.

10 4.22 At all relevant times, the administrators and staff members at Morningstar
11 were acting within the course and scope of their employment and agency.

12 V. CAUSES OF ACTION

13 **FIRST CAUSE OF ACTION: Negligence and Breach of Fiduciary Duty** 14 **Against the Morningstar Foundation, Inc. dba Morningstar Boys Ranch**

15 Plaintiffs re-allege the paragraphs set forth above.

16 5.1 At all material times herein, Lavoy, Weitensteiner, Clarke, Kuhlman and the
17 other staff members discussed hereinabove were employed by defendant and were under its
18 direction and control, and were its agents.

19 5.2 MORNINGSTAR negligently supervised its administrators and employees
20 when it knew or should have known of the sexual and physical abuse of boys by
21 administrators, staff and other sexual predators was taking place.

1 5.3 Prior to or during plaintiff's sexual and physical abuse, MORNINGSTAR
2 knew or should have known that its administrators and staff had a propensity to sexually and
3 physically abuse boys and that other abusers were regularly permitted to enter the ranch or
4 remove boys for purposes of molesting them and that unless stopped more boys including
5 W.K. and MICHAEL GRAY would be sexually and physically abused.
6

7 5.4 MORNINGSTAR knowingly allowed, permitted and encouraged its
8 administrators and staff to abuse boys in one or more of the following ways: (1) tolerating the
9 sexual abuse of children by administrators, staff and others; (2) concealing and covering-up
10 the sexual abuse of children by administrators and staff (3) failing to report known acts of
11 child abuse to law enforcement and governmental child welfare agencies pursuant to law; (4)
12 allowing sexual abusers to have unsupervised contact with young boys (5) failing to warn the
13 public and the boys' parents that boys at Morningstar were being subjected to sexual and
14 physical abuse; (6) representing to the parents and the public that its administrators and staff
15 were honorable, caring men when they knew them to be sexual and physical abusers of
16 children, (7) failing to timely adopt policies and procedures to identify potential and actual
17 sex offenders, prevent their hiring and retention and/or remove them from ranch when their
18 crimes against children became known and (8) failing to properly train other non-abusing
19 staff members to recognize and report known or suspected instances of child abuse.
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22 5.5 As a direct and proximate result thereof, plaintiffs have been physically and
23 psychologically damaged and continue to be damaged psychologically and physically and to
24 experience mental anguish, humiliation and emotional and physical distress, all in an amount
25 to be proved at trial.
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1 **SECOND CAUSE OF ACTION: Negligent Infliction of Emotional Distress**
2 **Against MORNINGSTAR.**

3 Plaintiffs re-allege the paragraphs set forth above.

4 5.6 MORNINGSTAR'S negligent acts and omissions exposed plaintiffs to
5 emotional injuries from sexual and physical abuse and exploitation by its staff members.

6 5.7 As a direct and proximate result thereof, plaintiffs have been physically and
7 psychologically damaged and continue to be damaged physically and psychologically and to
8 experience mental anguish, humiliation and emotional and physical distress, all in an amount
9 to be proved at trial.
10

11 **THIRD CAUSE OF ACTION: Estoppel and Fraudulent Concealment**
12 **Against MORNINGSTAR**

13 Plaintiffs re-allege the paragraphs set forth above.

14 5.8 Defendant engaged and continues to engage in conduct aimed at covering up
15 incidents of the sexual and physical abuse of minors by its administrators and staff and to
16 prevent disclosure, prosecution and civil litigation including, but not limited to: failing to
17 report incidents of abuse to law enforcement or child protection agencies, publicly denying
18 abuse it had substantiated and improperly obstructing lawful efforts to investigate and
19 uncover the truth. Based on these actions, the defendant has engaged in fraudulent
20 concealment and is estopped from asserting defense of limitations.
21

22 **FOURTH CAUSE OF ACTION: Civil Conspiracy**

23 5.9 Defendant, by and through its agents and representatives, along with others,
24 known and unknown, conspired to sexually and physically abuse boys, to cover up incidents
25 of sexual and physical abuse of minors by its administrators, staff and others and to prevent
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1 disclosure, prosecution and civil litigation including, but not limited to: failure to report
2 incidents of abuse to law enforcement or child protection agencies, denial of abuse it had
3 substantiated, aiding criminal child molesters in evading detection, arrest and prosecution,
4 failure to warn, and by failure to seek out and redress the injuries its administrators, staff and
5 other individuals had caused. Based on these actions, the defendants conspired for the
6 unlawful purpose of concealing and suppressing information on the danger and threat that the
7 Morningstar Boys Ranch posed to unsuspecting boys, including the plaintiffs.
8

9 **VI. PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray that the Court enter a judgment against the Defendant,
11 and in Plaintiffs' behalf, for the following:

- 12
- 13 1. For special damages for medical treatment expenses, lost earnings, and lost earnings
14 capacity, and the expenses of medication and other special expenses, both in the past
15 and continuing into the future, in amounts to be determined at the time of trial;
 - 16 2. For all general damages, for physical, mental and emotional injury and disturbance,
17 and other disorders resulting from the acts complained of herein;
 - 18 3. For such attorney's fees, prejudgment interest, costs and exemplary damages allowed
19 by RCW 9.68A.130 and other law; and
 - 20 4. For such other and further relief as this Honorable Court determines just in the
21 premises.
22

23 Dated this 23 day of August, 2005.

1 GORDON, THOMAS, HONEYWELL, MALANCA,
2 PETERSON & DAHEIM LLP

3 By 

4 Michael T. Pfau, WSBA# 24649
5 Attorneys for Plaintiffs

6 LAW OFFICES OF TIMOTHY D. KOSNOFF

7 By _____

8 Timothy D. Kosnoff, WSBA #16586
9 Attorney for Plaintiffs