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SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

FILED
CIVIL ACTIONS BRANCH
DEC 02 2014
Superior Court of the
District of Columbia
Washington, D.C.

JANE DOE,
c/o SILVERMAN, THOMPSON, SLUTKIN & WHITE,
LLC
201 N. Charles Street, Suite 2600
Baltimore, Maryland 21201

Plaintiff,

v.

THE GEORGETOWN UNIVERSITY,
37th & O Streets, NW
204 Healy Hall
Washington, D.C. 20057

SERVE ON:

Lisa Brown, Registered Agent
37th & O Streets, NW
202 Healy Hall
Washington, D.C. 20057

and

**THE GEORGETOWN SYNAGOGUE --
KESHER ISRAEL CONGREGATION,**
2801 N Street, NW
Washington, D.C. 20007

SERVE ON:

The Georgetown Synagogue – Keshet
Israel Congregation
2801 N Street, NW
Washington, D.C. 20007

and

THE NATIONAL CAPITAL MIKVAH, INC.,
1308 28th Street, NW
Washington, D.C. 20007

SERVE ON:

Sarah Barak, Registered Agent
1559 33rd Street, NW
Washington, D.C. 20007

Defendants.

CIVIL ACTION NO. **14 - 0007644**

Case: 2014 CO 007644 B
0053518409
DR: CABCNF

**CLASS ACTION & INDIVIDUAL COMPLAINT
AND DEMAND FOR JURY TRIAL**

Plaintiff Jane Doe (“Plaintiff” or “Named Plaintiff”),¹ individually and on behalf of the class of similarly situated individuals,² by and through her undersigned attorneys, hereby sues Defendants, The Georgetown University (“Georgetown”), The Georgetown Synagogue – Keshet Israel Congregation (“Keshet Israel”), and The National Capital Mikvah, Inc. (“NCM”) (collectively, the “Defendants”), and states as follows:

I. INTRODUCTION

1. This case arises from an unfathomable breach of trust by a Georgetown professor and religious leader and Defendants’ utter failure to prevent and/or to stop it. Rabbi Bernard “Barry” Freundel, Ph.D. (“Freundel”) lured his students, congregants, and others into the sacred religious cleansing ritual of “mikvah” to sexually exploit the women by capturing their naked images using concealed cameras and recording devices without their knowledge or consent. For years, Defendants turned a blind eye to obvious signs of Freundel’s increasingly bizarre behavior, ignoring the bright red flags that Freundel was acting inappropriately with women subjected to his authority. Defendants were derelict in their duties to their congregants and students, thereby permitting Freundel’s devastating sexual exploitation of Plaintiff and other similarly situated women.

2. Plaintiff is a third-year law student at Georgetown University Law Center (“Georgetown Law”) who is devoted to her Jewish faith and who selected Georgetown Law because of its reputation for excellence and diversity.

¹ Pursuant to the D.C. Superior Court Rules of Civil Procedure, contemporaneous with the filing of this Complaint, Plaintiff has filed a motion to proceed under a pseudonym that sets forth the precise legal and factual basis for Plaintiff’s need to conduct this litigation in this manner.

² Plaintiff asserts class action claims against The Georgetown Synagogue – Keshet Israel Congregation and The National Capital Mikvah, Inc. only. The claims against The Georgetown University are brought solely in Plaintiff’s individual capacity at this stage of the proceedings.

3. Plaintiff was excited to enroll in a “Jewish Law Seminar” course (the “Jewish Studies” class) co-taught by Freundel and Rabbi David Saperstein. Freundel suggested that Plaintiff write the mandatory research paper on the mikvah ritual and, as part of her Georgetown Law Jewish Studies class, Freundel required Plaintiff to participate in the immersion ritual at the mikvah built by Keshet Israel and owned and operated by NCM (the “NCM/Keshet Israel Mikvah”). Freundel also invited Plaintiff to attend services at Keshet Israel on numerous occasions. Freundel further invited Plaintiff to join his family and the Keshet Israel community at various religious dinners at the Keshet Israel Rabbinical Residence where Freundel resided (hereinafter defined), including Friday night Sabbath dinner and Passover Seder. Plaintiff was delighted to be part of a religious community and to be integrating her legal education with her Jewish faith.

4. Plaintiff was devastated when she learned that, under the guise of his positions with Georgetown Law, Keshet Israel, and NCM, Freundel had lured her to the NCM/Keshet Israel Mikvah to sexually exploit her. Freundel’s breach of trust has cut Plaintiff to her core—shattering her trust in religious and educational institutions that have failed to live up to their reputations for excellence.

5. Plaintiff asserts this claim against Georgetown for its obvious lack of due diligence in hiring, training, retaining, and supervising Freundel and/or investigating the NCM/Keshet Israel Mikvah in any manner.

6. Plaintiff also asserts this claim against Georgetown for its liability for the acts of its professor, employee, and/or agent – Freundel.

7. Plaintiff asserts this claim against Keshet Israel and NCM on behalf of the entire class of women who were sexually exploited at the NCM/Keshet Israel Mikvah based on these

Defendants' utter failure to investigate Freundel prior to hiring him and their utter failure to take any meaningful action to prevent the obvious harm Freundel posed to congregants and conversion students.

8. Plaintiff also asserts this claim against Keshet Israel and NCM on behalf of the entire class of women who were sexually exploited at the NCM/Keshet Israel Mikvah through the acts of their employee, agent, and/or servant – Freundel.

II. PARTIES, JURISDICTION, & VENUE

9. Plaintiff Jane Doe is a natural person who resides in the District of Columbia.

10. Defendant Georgetown is a private educational institution organized and existing under the laws of the District of Columbia with its principal place of business at 37th & O Streets, NW, 204 Healy Hall, Washington, D.C. 20057.

11. Defendant Keshet Israel is a private religious institution organized and existing under the laws of the District of Columbia with its principal place of business at 2801 N Street, NW, Washington, D.C. 20007. Keshet Israel raised the money necessary to build the mikvah owned and operated by NCM.

12. Defendant NCM owns and operates the NCM/Keshet Israel Mikvah and is organized and existing under the laws of the District of Columbia with its principal place of business at 1308 28th Street, NW, Washington, D.C. 20007.

13. This Court has subject matter jurisdiction over this action pursuant to D.C. Code Ann. § 11–921(a) because this action is being brought in the District of Columbia.

14. This Court has personal jurisdiction over each of the above-named Defendants pursuant to D.C. Code Ann. § 13–422 because each of the Defendants is organized under the laws of the District of Columbia and is domiciled in the District of Columbia.

15. In addition and in the alternative, this Court has personal jurisdiction over each of the above-named Defendants pursuant to D.C. Code Ann. § 13–423(a)(1) and (3) because each Defendant transacts business in the District of Columbia and caused tortious injury to Plaintiff in the District of Columbia by an act or omission in the District of Columbia.

16. Venue in this Court is proper because each of the above-mentioned Defendants' acts and omissions described in this Complaint occurred within the District of Columbia.

III. FACTS COMMON TO ALL COUNTS

17. At all relevant times, Freundel was an Adjunct Professor at Georgetown, where he taught Georgetown Law school students, including Plaintiff, educational courses including, but not limited to, the Jewish Studies class. Freundel did so at all times as an actual and/or apparent agent, servant, and/or employee of Georgetown.

18. At all relevant times, Freundel also served as the Rabbi at Keshet Israel. Freundel did so as an actual and/or apparent agent, servant, and/or employee of Keshet Israel.

19. At all relevant times, Freundel also served as the supervising Rabbi of the NCM/Keshet Israel Mikvah. Freundel did so at all times as an actual and/or apparent agent, servant, and/or employee of NCM.

A. FREUNDEL CREATES FOR HIMSELF A POWERFUL LEADERSHIP POSITION IN THE WASHINGTON METROPOLITAN JEWISH COMMUNITY

20. Keshet Israel selected Freundel to be its leader in 1987. According to Keshet Israel's website, "with his exceptional intellectual mind, Rabbi Freundel helped Keshet Israel become a beacon of modern orthodoxy and a shul that sees traditional Judaism as essential, while also understanding the value of modern society." Keshet Israel's website also indicates: "During Rabbi Freundel's tenure, Keshet Israel experienced growth in membership and the expansion of

the congregant demographic to include college and graduate students, young professionals, interns”

21. At all relevant times, Freundel resided at 2801 N Street, NW, Washington, D.C. 20007, in a dwelling that was owned, operated and managed by Keshet Israel and that was used by Freundel in connection with his official Keshet Israel functions (the “Rabbinical Residence”).

22. In addition to leading the Keshet Israel congregation, Freundel also maintained a leadership role in the broader Orthodox community.

23. Most notably, Freundel was a leader in the Rabbinical Council of America (“RCA”), a national non-profit organization whose mission is “to advance the cause and voice of the Torah and the rabbinic tradition by promoting the welfare, interests, and professionalism of Orthodox rabbis all around the world.”

24. In particular, Freundel was the architect of the RCA’s Gerus Policies and Standards (“GPS”) system, and served as the long-time chair of that committee within the RCA.

25. The GPS’s primary mission is to provide a centralized system of standards Orthodox rabbis must follow for “converts” and/or individuals not recognized by the RCA as “Jewish” who wish to convert to Judaism. Conversion is critical to certain individuals because in the Orthodox community it serves as a prerequisite to a Jewish marriage, can determine whether an individual’s offspring are considered to be “Jewish,” is a prerequisite to Israeli citizenship, and it can affect an individual’s right to purchase real property in Israel.

26. Freundel devised a system of regional “courts” that function under the direction and leadership of local rabbis and that are sanctioned by the RCA’s GPS program, which Freundel headed.

27. Because of his leadership position, Freundel served as the ultimate arbiter for any person seeking to convert to Judaism in the Washington Metropolitan area and, with the full knowledge and support of Keshet Israel, Freundel placed himself in an excellent position to sexually and otherwise exploit converts, over whom he exercised great power and control.

28. Freundel also served as the head of the Rabbinical Council of Greater Washington, the Orthodox body that supervises kosher dietary laws in the greater Washington area.

B. FREUNDEL OPENS A MIKVAH AS A SEXUAL EXPLOITATION DEVICE

29. A “mikvah” is a pool of water in which members of the Jewish faith completely immerse themselves (the immersion is of the entire body including one’s hair) while they are completely naked and stripped of all “barriers,” including jewelry, makeup, and any other beauty products on the hair or skin. The purpose of the immersion ritual is to cleanse the soul and purify the participant. In recent years, survivors of sexual assault have participated in the mikvah ritual to help them heal emotionally and spiritually from the pain associated with sexual assault. The pool of water at the NCM/Keshet Israel Mikvah resembles a large bathtub and is adjacent to a bathroom that participants use to shower and prepare for the immersion ritual (the “Changing Room”).

30. Converts to Judaism are required to immerse in a mikvah as the final step in the conversion process. Although a mikvah is traditionally used only by Jewish persons and those persons about to convert to Judaism, Freundel often urged individuals traditionally not welcome in a mikvah, including non-Jews and unmarried women, to use the NCM/Keshet Israel Mikvah.

31. Despite serious concerns within Keshet Israel and in the greater Jewish Orthodox community concerning Freundel’s behavior toward converts, Keshet Israel permitted Freundel to establish a mikvah that would essentially be controlled by Freundel under the auspices of Keshet

Israel. Upon information and belief, Freundel wanted to set up a mikvah that would be completely under his control, that no other Orthodox rabbi would be permitted to use, and that would be open to conversion students and converts to Judaism.

32. Upon information and belief, Freundel used Keshet Israel's assets to plan and fund the proposed mikvah and, with Keshet Israel's knowledge and consent, he began diverting donations made to Keshet Israel to his effort to found and construct what ultimately became the NCM/Keshet Israel Mikvah.

33. According to public filings with the Department of Consumer and Regulatory Affairs for the District of Columbia ("DCRA"), NCM incorporated in 2000 for the sole purpose of operating the mikvah.

34. DCRA filings indicate that NCM's "business address" is the same as the address used by Keshet Israel: 2801 N. Street, NW, Washington, D.C. 20007.

35. Further, DCRA filings reveal that NCM's Director and Resident Agent is Sarah Barak. Upon information and belief, Sarah Barak is the wife of David Barak, who sat on Keshet Israel's Board of Directors, is a former President of the NCM/Keshet Israel Mikvah, and who has maintained a leadership role in the Keshet Israel congregation.

36. Upon information and belief, Defendants Keshet Israel and NCM opened the NCM/Keshet Israel Mikvah in 2005 in the basement of the building adjacent to Keshet Israel.

37. At all relevant times, Freundel was in charge of performing and overseeing the sacred religious immersion rituals at the NCM/Keshet Israel Mikvah.³

38. Defendants Keshet Israel and NCM operated the NCM/Keshet Israel Mikvah with the assistance of their agent/employee Freundel and Freundel oversaw and performed the

³ Pursuant to the law associated with mikvah, Freundel was not present in the mikvah bathing area during the immersion. Instead, a female attendant was present throughout the ritual and Freundel remained in the building.

immersion rituals on the property of NCM and/or Keshet Israel. Freundel did so as an actual and/or apparent agent, servant, and/or employee of NCM and/or Keshet Israel.

C. FREUNDEL USES HIS POSITION AT GEORGETOWN LAW TO LURE PLAINTIFF TO THE NCM/KESHER ISRAEL MIKVAH

39. In 2014, Plaintiff was enrolled in Freundel's Jewish Studies class at Georgetown Law, which is co-taught by Rabbi David Saperstein, President Obama's recent nominee to serve as Ambassador-at-Large for International Religious Freedom. The Jewish Studies class requires, among other things, that each student write a 25-page research paper on an approved topic that is related to Jewish law.

40. On or about January 22, 2014, and prior to the start of that evening's class, Plaintiff approached Freundel seeking assistance in selecting a topic for her research paper. While acting in his capacity as a Georgetown Adjunct Professor, Freundel immediately, and without hesitation, urged the Plaintiff to write her research paper about the mikvah ritual. Freundel advised Plaintiff that one of his former Georgetown Law students previously wrote a research paper about mikvah, that the paper was "very successful," and that the former student "got an A." Freundel insisted that Plaintiff write about mikvah, going so far as to, on the spot, provide Plaintiff with an outline of the various issues to be addressed in her research paper. After that evening's class, Freundel approached Plaintiff and invited her to immerse at the NCM/Keshet Israel Mikvah. Freundel urged Plaintiff, as research for her paper, to call him to set up a time to attend the NCM/Keshet Israel Mikvah.

41. By virtue of Plaintiff seeking Rabbi Freundel's assistance in selecting a topic for her research paper, Plaintiff became one of a handful of students assigned to be mentored by Freundel in the Jewish Studies class.

42. Plaintiff visited the NCM/Kesher Israel Mikvah and immersed two separate times as part of the research for her Georgetown Law-required research paper.

43. In February 2014, Freundel and Plaintiff communicated via e-mail regarding scheduling Plaintiff's first visit to the NCM/Kesher Israel Mikvah.

44. On or about March 2, 2014, Plaintiff went to the NCM/Kesher Israel Mikvah. Before the immersion rituals began, Freundel entered the Changing Room to prepare it for the participants in the mikvah ritual. Thereafter, Freundel accompanied Plaintiff into the Changing Room and specifically directed Plaintiff as to where she should place her clothing when she undressed, where and how to shower, and what shower products to use. Once Freundel had exited the Changing Room area, Plaintiff disrobed, showered, entered the mikvah's ritual bath area, and immersed herself while fully nude in the NCM/Kesher Israel Mikvah in accordance with Freundel's instructions. Following her immersion, Freundel invited Plaintiff to Passover services at Kesher Israel and to a Passover Seder being held at the Kesher Israel Rabbinical Residence.

45. In or around March 2014, Freundel approached Plaintiff and inquired about her experience immersing in the NCM/Kesher Israel Mikvah. After discussing Plaintiff's first mikvah experience, Freundel urged that Plaintiff participate in a second immersion at the NCM/Kesher Israel Mikvah where just Plaintiff and Freundel would be present. Plaintiff did not follow up on Freundel's invitation.

46. On or about March 31, 2014, and without request or prior inquiry from Plaintiff, Freundel e-mailed Plaintiff and asked her to return to the NCM/Kesher Israel Mikvah on the following Thursday to participate in a second immersion.

47. On or about April 2, 2014, Freundel called Plaintiff to confirm she would attend the NCM/Kesher Israel Mikvah on April 3, 2014 because Freundel wanted to make sure he was present during Plaintiff's second visit.

48. On or about April 3, 2014, Plaintiff returned to the NCM/Kesher Israel Mikvah. As he had before, Freundel entered the Changing Room to organize it for Plaintiff's pre-immersion preparations. Freundel once again accompanied Plaintiff into the Changing Room and, again, specifically directed her where she should place her clothing when she undressed, where and how to shower, and what shower products to use. As before, once Freundel had exited the Changing Room, Plaintiff disrobed, showered, went into the mikvah's ritual bath area, and immersed herself while fully nude in the NCM/Kesher Israel Mikvah in accordance with Freundel's instructions.

49. Following her second immersion in the NCM/Kesher Israel Mikvah, Freundel reiterated his prior invitation of Plaintiff to attend Passover services at Kesher Israel and, after the services, to attend a Passover Seder with his family and others at the Kesher Israel Rabbinical Residence. On several occasions, Freundel had also invited Plaintiff to attend Shabbat services at Kesher Israel and, following those services, to attend Shabbat dinners with his family and others at the Kesher Israel Rabbinical Residence.

50. Upon information and belief, on each of Plaintiff's visits to the NCM/Kesher Israel Mikvah, Freundel intentionally placed in the Changing Room a clock-radio containing an electronic recording device capable of capturing video, audio, and/or still images. Freundel did so for the purpose of surreptitiously observing, electronically recording, and intentionally capturing video, audio, and still images of Plaintiff's private areas while Plaintiff was using the Changing Room, was disrobing and showering, and was totally or partially undressed in both the

Changing Room and the ritual bath area of the mikvah. Freundel further willfully and intentionally intercepted, or in the alternative, willfully endeavored to intercept, through the means of an electronic recording device, Plaintiff's oral communications while Plaintiff was using the Changing Room and the mikvah. Freundel committed all of these acts without notice to Plaintiff and without Plaintiff's knowledge or consent.

51. Upon information and belief, on each of Plaintiff's visits to the NCM/Kesher Israel Mikvah, Freundel had installed cameras and/or other electronic surveillance and recording devices in the ritual bath area of the NCM/Kesher Israel Mikvah and, without Plaintiff's knowledge or consent, Freundel captured images and/or recorded video and audio of Plaintiff while she was completely naked for the express purpose of sexually exploiting her.

52. Upon information and belief, Freundel willfully and intentionally captured, possessed, and/or distributed images, audio-recordings, and/or video depicting Plaintiff while in a state of undress, without her knowledge or consent.

53. Upon information and belief, Freundel used equipment owned by Kesher Israel to capture Plaintiff's images, oral communications, and/or video and, upon information and belief, Freundel stored the video, audio-recordings, and/or photographs depicting Plaintiff in or on devices and/or equipment owned by Kesher Israel in his Kesher Israel office and/or at the Rabbinical Residence.

54. In or around May 2014, Plaintiff submitted her research paper to Georgetown Law as her official final examination in the Jewish Studies class. Plaintiff's research paper was entitled: "The *Mikveh*: Expanding the Ritual for Jewish Women" (the "Paper").

55. In her Paper, Plaintiff explicitly states she immersed in the NCM/Kesher Israel Mikvah "as a research tool for this paper."

56. Indeed, the Paper details how Plaintiff twice immersed herself in the NCM/Kesher Israel Mikvah at the request of her Georgetown Law professor. Plaintiff notes that her second immersion was to “continue my research for this paper” and “to connect to Judaism on a deeper level.” Plaintiff notes, with the facilitation of her trusted Georgetown Law professor, “I transformed the meanings of those waters and made it my own. I reinterpreted the ritual to purify my soul.”

57. Freundel and Saperstein gave Plaintiff’s Paper an “A” and conferred on Plaintiff an award for achieving the highest grade of all final research papers submitted in the Jewish Studies class. Georgetown Law also posted Plaintiff’s Paper to an electronic database permitting other students to view the Paper as a “model examination.”

D. FREUNDEL’S CRIMINAL WRONGDOING COMES TO LIGHT

58. On or about September 28, 2014, a woman in charge of maintaining the NCM/Kesher Israel Mikvah’s Changing Room who, upon information and belief, is or was an employee of Kesher Israel and/or NCM, noticed Freundel place a “Dream Machine” clock-radio in the Changing Room adjacent to the shower. The woman advised Freundel that there was already a clock on the wall of the Changing Room, to which Freundel responded “this clock will help with the ventilation in the shower.”

59. On or about October 12, 2014, the same Kesher Israel/NCM employee removed the “Dream Machine” clock-radio she had seen Freundel place in the Changing Room, examined it, and discovered that it contained hidden electronic recording devices including, but not limited to, a hidden camera and memory card.

60. On or about October 14, 2014, officers of the District of Columbia Metropolitan Police Department (“MPD”) arrested Freundel and criminally charged him with, among other charges, voyeurism. MPD’s investigation is ongoing.

61. Also on or about October 14, 2014, MPD officers executed search warrants on both Keshet Israel and the Rabbinical Residence.

62. To date, police searches of the Rabbinical Residence, Keshet Israel, and other offices maintained by Freundel have revealed, among other things, the following: several laptop computers, desktop computers, external computer hard drives, digital cameras, memory cards, flash drives, electronically deleted files labeled with women's names, a second clock with a hidden camera and memory card, a tissue box containing a hidden camera, a computer charger containing a hidden camera, and nude photographs of women.

63. MPD and several other area law enforcement agencies are conducting investigations into Freundel's criminal sexual exploitation.

E. RED FLAGS IGNORED BY KESHER ISRAEL AND NCM

64. Based upon Freundel's planning and urging, Defendants Keshet Israel and NCM opened the NCM/Keshet Israel Mikvah in 2005 under the name "National Capital Mikvah."

65. The manner in which the NCM/Keshet Israel Mikvah was operated and Freundel's use and management of it raised serious concern both within Keshet Israel and NCM and in the community at large.

66. Fundamentally, although Freundel purported to be an Orthodox rabbi, he used the NCM/Keshet Israel Mikvah in ways that were directly at odds with Keshet Israel's Orthodox Jewish foundations, including (without limitation):

- a. Freundel opened the NCM/Keshet Israel Mikvah to non-Jews and unmarried women, who ordinarily are not welcomed at an Orthodox mikvah.
- b. The unmarried women and conversion candidates Freundel encouraged to attend the NCM/Keshet Israel Mikvah were predominately young attractive women and

it was common knowledge and openly remarked upon at Keshet Israel and NCM that Freundel's "converts" were predominately attractive young women.

- c. Freundel developed an entirely new exercise, which he called "practice dunks," to encourage conversion candidates to come to the NCM/Keshet Israel Mikvah more than once – a practice completely at odds with Orthodox Judaism and the conversion process – as emergence from the mikvah completes an individual's conversion from non-Jew to Jew.
- d. Since Freundel's arrest, the RCA has publicly rebuked the concept of "practice dunking," confirming the practice has no basis in Judaism.
- e. Freundel brought so many young attractive young women through the NCM/Keshet Israel Mikvah, a member of Keshet Israel's own staff stated that Freundel "treated that mikvah like a car wash. Every Sunday, six students at a time."

67. Keshet Israel congregants had also launched numerous complaints regarding Freundel's "constant" comments praising female congregant's appearance, remarking on their dating life, and discouraging them from dressing "so modestly."

68. Freundel generally behaved in an inappropriate manner with young female converts and congregants and he was commonly described by female members of the Keshet Israel and NCM communities as "creepy."

69. Defendants were, or should have been, aware of public accusations of impropriety by Freundel.

70. Upon information and belief, Keshet Israel received numerous complaints that Freundel was using the NCM/Keshet Israel Mikvah in an inappropriate manner and was otherwise acting not in accordance with Orthodox Jewish tenets, including (without limitation):

- a. As early as 2006, Keshet Israel congregants, other rabbis, and Orthodox religious leaders were made aware of accusations that Freundel was intimidating, extorting, and otherwise mistreating his conversion students, who were mostly attractive young women.
- b. Reports were made that Freundel had brought his young female conversion students to his home, where they were alone with him, and forced them to perform various clerical and other duties at the Keshet Israel Rabbinical Residence.
- c. Freundel's exercise of "practice dunks" was also brought to the attention of Keshet Israel, other rabbis, and other Orthodox religious leaders.
- d. Media reports indicate that, as early as 2009, the former Vice President of Keshet Israel's Board of Directors was aware of inappropriate conduct by Freundel against his conversion students.
- e. Keshet Israel congregants complained that Freundel routinely made inappropriate comments to young women, treated attractive young women preferentially, and "manipulated and controlled" conversion students in his care.

71. According to media reports, approximately ten (10) years ago around the same time Freundel was leading the charge to construct the NCM/Keshet Israel Mikvah, Keshet Israel responded to persistent complaints, concerns, and criticism of Freundel from members of its congregation by issuing a statement to the congregation, essentially a religious "gag" order,

ordering congregants “to cease to participate in any Lashon Hara,⁴ to stop listening to insinuations and attacks, to disassociate ourselves from them, and finally to respond forcefully in opposition to Lashon Hara” against Freundel. From that point on, Keshet Israel congregants were forbidden from complaining about or criticizing Freundel and were further *required* to affirmatively support Freundel if they overheard any such complaints.

72. In addition, Keshet Israel was made aware of two formal complaints launched against Freundel with the RCA. Although the full details of the complaints are not known, it is clear that Freundel was accused of abusing converts and of potential sexual impropriety with at least one convert. The RCA’s investigations into the complaints involving one of its own leaders were handled by two prominent attorneys who now head major Jewish organizations: Allen Fagin of the Orthodox Union and Eric Goldstein of UJA-Federation of New York. The RCA’s investigation and the subsequent slap on the wrist it administered to Freundel were described by one critic as “totally incompetent.”

73. Keshet Israel was specifically aware of the complaints to the RCA and it was further advised of the RCA’s failure to take any meaningful action.

74. MPD’s investigation has revealed that the “Dream Machine” clock-radio that ultimately led to Freundel’s downfall was observed in the NCM/Keshet Israel Mikvah Changing Room at least two years before any action was taken to investigate the out-of-place item.

75. Keshet Israel and/or NCM negligently and/or recklessly permitted Freundel to place the “Dream Machine” clock-radio and/or other electronic recording devices in the Changing Room and the ritual bath area of the NCM/Keshet Israel Mikvah. Keshet Israel and/or NCM, with negligent and/or reckless disregard for the safety, privacy, and well-being of the

⁴ “Lashon Hara” means slanderous, negative talk, which is considered sinful in Judaism.

Keshet Israel congregants, female conversion candidates, and other women using the NCM/Keshet Israel Mikvah, including, but not limited to, Plaintiff and other students, failed to inquire, inspect, or investigate why Freundel was placing electronic devices in the Changing Room and the ritual bath area of the mikvah.

F. GEORGETOWN'S WILLFUL BLINDNESS TOWARD THE PLAIN WARNING SIGNS

76. Georgetown has a long association with Freundel, who has taught classes and has been involved in Jewish life in various capacities at both Georgetown's main campus and at Georgetown Law.

77. Keshet Israel is located in the same community as Georgetown's main campus, where members of Washington's elite reside and socialize.

78. Upon information and belief, members of the Georgetown faculty were congregants at Keshet Israel and were active in the congregation throughout Freundel's tenure as Keshet Israel's Rabbi.

79. Freundel generally behaved in an inappropriate manner with young female students and congregants and, like the female members of the Keshet Israel and NCM communities, the female members of the Georgetown community commonly described Freundel as "creepy."

80. Upon information and belief, Freundel had lured other Georgetown Law students before Plaintiff to the NCM/Keshet Israel Mikvah using his position at Georgetown Law to sexually exploit these young women.

81. Upon information and belief, despite Freundel's widespread reputation for abusing his young female students and conversion candidates and for engaging in other inappropriate behaviors, Georgetown undertook no investigation into Freundel's background prior to hiring him as an adjunct professor at Georgetown Law.

82. Furthermore, upon information and belief, Georgetown undertook no investigation prior to allowing Freundel to invite Georgetown Law students to participate in the immersion ritual at the NCM/Kesher Israel Mikvah, despite widespread public controversy concerning the NCM/Kesher Israel Mikvah and Freundel's practices and policies with regard to the same.

83. Upon information and belief, Georgetown undertook no efforts to warn its students and/or members of its community about widespread public concerns surrounding Freundel and/or the NCM/Kesher Israel Mikvah.

IV. CLASS ALLEGATIONS AGAINST KESHER ISRAEL AND NCM

A. MAINTAINABILITY OF CLASS ACTION

84. Plaintiff adopts by reference all allegations contained in the paragraphs above as if fully set forth herein.

85. The "Class" consists of all women who participated in an immersion ritual at the NCM/Kesher Israel Mikvah (the "immersion"): (i) while Freundel was an actual and/or apparent agent, servant, and/or employee of Kesher Israel and/or NCM, (ii) where Freundel initiated, arranged, participated in or was otherwise involved in the immersion, and (iii) who were involuntarily and secretly photographed by any means or otherwise subjected to invasions of their privacy in connection with the immersion. The Class is maintainable under D.C. Super. Ct. Civ. P. Rule 23(a) for the reasons that follow.

86. The identity of the members of the Class will be readily ascertainable through the records of Defendants NCM and/or Kesher Israel in conjunction with records and documents obtained by the MPD and other law enforcement organizations.

87. The members of the Class are likely to exceed 100 or more individuals and, therefore, are so numerous that joinder of all members is impracticable.

88. The questions of law and fact in this action are common to the Class and predominate over any question affecting only individual Class members. These common questions include (without limitation):

- a. Whether Freundel was an actual and/or apparent agent, servant, and/or employee of Keshet Israel and/or NCM at any or all relevant times;
- b. Whether Freundel obtained consent to take videos and/or photographs of the Class members;
- c. Whether Freundel acted within the scope of his employment and/or agency when he captured videos and/or photographs of the Class members while the Class members were participating in the immersion ritual and the “practice dunks” that Freundel supervised and oversaw at the NCM/Keshet Israel Mikvah;
- d. Whether Keshet Israel and/or NCM’s actions and/or failures to act, including (without limitation) their failure to properly investigate, qualify, select, monitor, and/or supervise Freundel, resulted in foreseeable injuries or damages to the Class members;
- e. Whether Defendants had actual knowledge of or were on notice of Freundel’s illicit behavior;
- f. Whether sufficient indicia of Freundel’s wrongdoing existed to put the Defendant’s on notice of Freundel’s wrongdoing;
- g. Whether Defendants are directly liable to Plaintiff and the Class members for failing to prevent Freundel’s wrongdoing that harmed Plaintiff and the members of the Class;

- h. Whether Defendants are vicariously liable for failing to prevent the wrongdoing of their agent, employee, and servant; and
- i. Whether Freundel's wrongdoing took place within the scope and performance of his duties as an employee, agent and servant of the Defendants.

89. The claims of the Named Plaintiff, who is representative of the other members of the Class, is typical of the claims of the Class members and the defenses applicable to Plaintiff's claims are typical of the defenses likely to be asserted as to the claims asserted by members of the Class.

90. Because the Named Plaintiff shares legal interests identical to those of the Class members, the Named Plaintiff will fairly and adequately protect the interests of the Class.

B. DESIRABILITY OF CLASS ACTION

91. This action should proceed as a class action as to Kesher Israel and NCM under D.C. Super. R. Civ. P. 23(b)(1) because separate actions by individual members of the Class would create a risk of adjudications with respect to individual Class members that, as a practical matter, would be dispositive of the interests of other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

92. Alternatively, this action should proceed as a class action as to Kesher Israel and NCM under D.C. Super. R. Civ. P. 23(b)(1) because questions of law or fact common to the Class predominate over any questions affecting individual plaintiffs and class action treatment is superior to other available methods for the fair and efficient adjudication of this controversy between the Class and Defendants Kesher Israel and NCM.

93. No member of the Class has a substantial interest in individually controlling the prosecution of a separate action but if she does, she may exclude herself from the Class upon the receipt of notice under D.C. Super. R. Civ. P. 23(c).

94. This class action can be managed without undue difficulty because the Class representatives will vigorously pursue the interests of the Class by virtue of, and as evidenced by, their actions in initiating this proceeding.

95. Furthermore, Plaintiff's counsel is experienced in class actions and in complex civil litigation, recently having been counsel in a similar class action and currently litigating two national class actions against the National Hockey League and the National Football League. Plaintiff's counsel will adequately represent the interests of the Class.

V. CAUSES OF ACTION

COUNT I

NEGLIGENT HIRING, TRAINING, RETENTION AND SUPERVISION

96. Plaintiff adopts by reference all allegations contained in the paragraphs above as if fully set forth herein.

97. Plaintiff asserts this claim against Defendants Kesher Israel and NCM individually and on behalf of the Class.

98. Plaintiff asserts this claim against Defendant Georgetown in her individual capacity.

99. At all relevant times, Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted him to remain as such for all relevant periods.

100. At all relevant times, Defendants granted privileges to Freundel to practice as a rabbi and/or professor and, thereby, to render spiritual and educational services to their students and/or congregants, including Plaintiff.

101. At all relevant times, Defendants acted by and through Freundel – their agent, servant, and/or employee – acting within the scope and course of his agency and/or employment.

102. At all relevant times, Defendants owed a continuing duty to: reasonably, carefully, and conscientiously secure the services of qualified and well-trained agents, servants, and/or employees; to properly investigate, credential, qualify, select, monitor, and supervise their agents, servants, and/or employees; to promulgate and enforce proper and effective standards, procedures, protocols, systems, and rules to ensure quality care, safety, and privacy of Plaintiff and members of the Class; and to otherwise assure and maintain the safety and privacy of Plaintiff and members of the Class.

103. Defendants negligently breached the above-mentioned duties by hiring, retaining, failing to properly train, and failing to properly supervise Freundel, despite his reputation for improper, unlawful, inappropriate, lewd, and unprofessional conduct.

104. Defendants knew or should have known that Freundel engaged in improper, unlawful, inappropriate, lewd, and unprofessional conduct, including, but not limited to, photographing and/or videotaping Plaintiff and other Class Members while naked and without consent or authorization, and distributing and/or publishing those images and/or videos without consent or authorization.

105. As a direct and proximate result of Defendants' negligent hiring, training, retention, and supervision of Freundel, Plaintiff and the Class have suffered, and will continue to suffer, permanent economic and non-economic damages including (without limitation): great indignity, humiliation, shame, embarrassment, mortification, and other injuries to their physical, mental, emotional, and nervous systems; severe emotional anguish, mental anguish, and psychological distress; the past, present and future cost of medical care including (without limitation) therapy and psychological counseling; lost earnings and diminished capacity; and other pecuniary losses to be established at trial.

COUNT II

NEGLIGENT ENTRUSTMENT

106. Plaintiff adopts by reference all allegations contained in the paragraphs above as if fully set forth herein.

107. Plaintiff asserts this claim against Defendants Keshet Israel and NCM individually and on behalf of the Class.

108. Plaintiff asserts this claim against Defendant Georgetown in her individual capacity.

109. At all relevant times, Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted him to remain as such for all relevant periods.

110. At all relevant times, Defendants granted privileges to Freundel to practice as a rabbi and/or professor and, thereby, to render spiritual and educational services to their students and/or congregants, including Plaintiff.

111. At all relevant times, Defendant Georgetown owed a continuing duty to Plaintiff to use reasonable care to ensure Freundel was trustworthy, competent, and fit to safely and appropriately utilize the facilities, devices, equipment, machines, and/or supplies entrusted to him for spiritual and/or educational purposes.

112. At all relevant times, Defendants Keshet Israel and NCM owed a continuing duty to Plaintiff and the Class to use reasonable care to ensure Freundel was trustworthy, competent, and fit to safely and appropriately utilize the facilities, devices, equipment, machines, and/or supplies entrusted to him for spiritual and/or educational purposes.

113. At all relevant times, Defendants knew or should have known, and/or had actual knowledge, constructive knowledge, and/or reasonable suspicion that Freundel was using the

Defendants' facilities, devices, equipment, machines, and/or supplies to engage in unprofessional, unlawful, and outrageous conduct by photographing and/or video-recording his (and Defendants') congregants and/or students, including Plaintiff and, for Keshet Israel and NCM, members of the Class, without authorization or consent.

114. Defendants breached these duties by entrusting Freundel with the facilities, devices, equipment, machines, and/or supplies that he used to perform the tortious and illegal acts alleged herein, and Defendants knew or should have known Freundel would use the facilities, devices, equipment, machines, and/or supplies entrusted to him to harm his (and Defendants') congregants and/or students.

115. As a direct and proximate result of Defendants' negligence, Plaintiff and the Class have suffered, and will continue to suffer, permanent economic and non-economic damages including (without limitation): great indignity, humiliation, shame, embarrassment, mortification, and other injuries to their physical, mental, emotional, and nervous systems; severe emotional anguish, mental anguish, and psychological distress; the past, present and future cost of medical care including (without limitation) therapy and psychological counseling; lost earnings and diminished capacity; and other pecuniary losses to be established at trial.

COUNT III

VICARIOUS LIABILITY – *RESPONDEAT SUPERIOR* NEGLIGENCE & NEGLIGENCE *PER SE*

116. Plaintiff adopts by reference all allegations contained in the paragraphs above as if fully set forth herein.

117. Plaintiff asserts this claim against Defendants Keshet Israel and NCM individually and on behalf of the Class.

118. Plaintiff asserts this claim against Defendant Georgetown in her individual capacity.

119. At all relevant times, Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted Freundel to remain as such for all relevant periods.

120. At all relevant times, Defendants granted privileges to Freundel to practice as a rabbi and/or professor and, thereby, to render spiritual and educational services to their students and/or congregants, including Plaintiff.

121. At all relevant times, Freundel owed a continuing duty to assure and maintain the safety and privacy of his Georgetown Law students, Keshet Israel congregants, participants in the immersion ritual at the NCM/Keshet Israel Mikvah, and various other members of the public.

122. Freundel breached this duty by, among other things, photographing, videotaping, and/or otherwise sexually exploiting Plaintiff when she participated in the immersion ritual at the NCM/Keshet Israel Mikvah in furtherance of her research paper for the Jewish Studies class she was enrolled in at Georgetown Law.

123. Freundel breached this duty by, among other things, photographing, videotaping, and/or otherwise sexually exploiting members of the Class other than the Named Plaintiff while they participated in the immersion ritual and/or “practice dunks” at the mikvah owned and/or controlled by Keshet Israel and/or NCM.

124. In addition and in the alternative, Defendants owed Plaintiff duties grounded in criminal statutes designed to protect Plaintiff and members of the Class from sexual exploitation including, without limitation: D.C. Code Ann. §§ 22–3531(b), (c), (d), and, upon information and belief, (f)(2).

125. Defendants breached these duties by virtue of Freundel's violation of these statutes while he was Defendants' agent, employee, and/or servant. Freundel's violation of those statutes constitutes negligence *per se* as a matter of the law of the District of Columbia.

126. As a direct, proximate, immediate, and foreseeable result of the foregoing breaches of Defendants' duties, Plaintiff and the Class have suffered, and will continue to suffer, permanent economic and non-economic damages including (without limitation): great indignity, humiliation, shame, embarrassment, mortification, and other injuries to their physical, mental, emotional, and nervous systems; severe emotional anguish, mental anguish, and psychological distress; the past, present and future cost of medical care including (without limitation) therapy and psychological counseling; lost earnings and diminished capacity; and other pecuniary losses to be established at trial.

127. As the principals, masters, and/or employers of Freundel, Defendants are liable for all of the injuries and damages caused by the negligent acts committed by Freundel within the scope of his employment and/or for his negligence *per se* in violating wiretapping and criminal voyeurism statutes while acting as Defendants' agent, employee, and/or servant.

COUNT IV
DIRECT NEGLIGENCE

128. Plaintiff adopts by reference all allegations contained in the paragraphs above as if fully set forth herein.

129. Plaintiff asserts this claim against Defendants Keshet Israel and NCM individually and on behalf of the Class.

130. Plaintiff asserts this claim against Defendant Georgetown in her individual capacity.

131. At all relevant times, Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted Freundel to remain as such for all relevant periods.

132. At all relevant times, Defendants granted privileges to Freundel to practice as a rabbi and/or professor and, thereby, to render spiritual and educational services to their students and/or congregants, including Plaintiff.

133. At all relevant times, Defendants owed a continuing duty to assure and maintain the safety and privacy of their students, congregants, and participants in the immersion ritual at the NCM/Keshet Israel Mikvah.

134. In addition and in the alternative, Defendants owed Plaintiff and the Class a duty to exercise reasonable care under all of the circumstances to protect persons lawfully on their premises from dangers of which they were or should have been aware and over which they had the ability to exercise control. As discussed above, Defendants had actual and/or constructive knowledge and/or notice of the danger posed by Freundel and had the ability to exercise control over him.

135. In addition and in the alternative, Defendants Keshet Israel and/or NCM owed Plaintiff and the Class special legal duties to preserve and protect the sanctity of religious exercise.

136. In addition and in the alternative, Georgetown owed Plaintiff a special duty of care by virtue of Plaintiff's relationship as a student enrolled at Georgetown Law.

137. Defendants breached these duties by failing to take any meaningful action to prevent Freundel from sexually exploiting Plaintiff and members of the Class, despite clear warning signs and numerous red flags.

138. As a direct, proximate, immediate, and foreseeable result of Defendants' conduct, Plaintiff and the Class have suffered, and will continue to suffer, permanent economic and non-economic damages including (without limitation): great indignity, humiliation, shame, embarrassment, mortification, and other injuries to their physical, mental, emotional, and nervous systems; severe emotional anguish, mental anguish, and psychological distress; the past, present and future cost of medical care including (without limitation) therapy and psychological counseling; lost earnings and diminished capacity; and other pecuniary losses to be established at trial.

COUNT V

VICARIOUS LIABILITY – *RESPONDEAT SUPERIOR* INVASION OF PRIVACY—INTRUSION UPON SECLUSION

139. Plaintiff adopts by reference all allegations contained in the paragraphs above as if fully set forth herein.

140. Plaintiff asserts this claim against Defendants Keshet Israel and NCM individually and on behalf of the Class.

141. Plaintiff asserts this claim against Defendant Georgetown in her individual capacity.

142. At all relevant times, Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted Freundel to remain as such for all relevant periods.

143. At all relevant times, Defendants granted privileges to Freundel to practice as a rabbi and/or professor and, thereby, to render spiritual and educational services to their students and/or congregants, including Plaintiff.

144. Freundel invaded the privacy of Plaintiff by, among other things, photographing, videotaping, and/or otherwise sexually exploiting Plaintiff when she participated in the immersion ritual at the NCM/Kesher Israel Mikvah in furtherance of her research paper for the Jewish Studies class she was enrolled in at Georgetown Law.

145. Freundel invaded the privacy of members of the Class other than the Named Plaintiff by, among other things, photographing, videotaping, and/or otherwise sexually exploiting them while they were in the Changing Room and participated in the immersion ritual and/or “practice dunks” at the mikvah owned and/or controlled by Kesher Israel and/or NCM.

146. The Changing Room and the mikvah’s ritual bath areas are objectively and subjectively private, secure, and intimate places and Plaintiff and the Class reasonably expected that they would have privacy in the NCM/Kesher Israel Mikvah’s Changing Room and ritual bath area because, among other things, the individual participating disrobes, showers naked, and participates naked in the mikvah ritual. In addition, only one person at a time is permitted to participate in the mikvah ritual, so the participant reasonably assumes she is alone in a private, secure, and intimate setting.

147. Freundel’s conduct is and would be highly offensive to an ordinary, reasonable person.

148. As a direct, proximate, immediate, and foreseeable result of Freundel’s conduct, Plaintiff and the Class have suffered, and will continue to suffer, permanent economic and non-economic damages including (without limitation): great indignity, humiliation, shame, embarrassment, mortification, and other injuries to their physical, mental, emotional, and nervous systems; severe emotional anguish, mental anguish, and psychological distress; the past, present and future cost of medical care including (without limitation) therapy and psychological

counseling; lost earnings and diminished capacity; and other pecuniary losses to be established at trial.

149. As the principals, masters, and/or employers of Freundel, Defendants are liable for all of the injuries and damages caused by the intentional acts committed by Freundel within the scope of his employment.

COUNT VI

VICARIOUS LIABILITY – *RESPONDEAT SUPERIOR* VIOLATION OF D.C. CODE ANN. § 23-542(a)--WIRETAPPING

150. Plaintiff adopts by reference all allegations contained in the paragraphs above as if fully set forth herein.

151. Plaintiff asserts this claim against Defendants Keshet Israel and NCM individually and on behalf of the Class.

152. Plaintiff asserts this claim against Defendant Georgetown in her individual capacity.

153. This Count is brought pursuant to D.C. Code Ann. § 23-554(a).

154. At all relevant times, Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted Freundel to remain as such for all relevant periods.

155. At all relevant times, Defendants granted privileges to Freundel to practice as a rabbi and/or professor and, thereby, to render spiritual and educational services to their students and/or congregants, including Plaintiff.

156. Freundel willfully intercepted and/or willfully endeavored to intercept Plaintiff's oral communications by means of one or more audio electronic recording devices while Plaintiff

participated in the immersion ritual at the NCM/Kesher Israel Mikvah in furtherance of her research paper for the Jewish Studies class she was enrolled in at Georgetown Law.

157. Freundel willfully intercepted and/or willfully endeavored to intercept the oral communications of the members of the Class other than the Named Plaintiff by means of one or more audio electronic recording devices while they were in the Changing Room and participated in the immersion ritual and/or “practice dunks” at the mikvah owned and/or controlled by Kesher Israel and/or NCM.

158. The Changing Room and the mikvah’s ritual bath areas are objectively and subjectively private, secure, and intimate places and Plaintiff and the Class reasonably expected that they would have privacy in the NCM/Kesher Isreal Mikvah’s Changing Room and ritual bath area because, among other things, the individual participating disrobes, showers naked, and participates naked in the mikvah ritual. In addition, only one person at a time is permitted to participate in the mikvah ritual, so the participant reasonably assumes she is alone in a private, secure, and intimate setting.

159. As a direct, proximate, immediate, and foreseeable result of Freundel’s conduct, Plaintiff and the Class have suffered, and will continue to suffer, permanent economic and non-economic damages including (without limitation): great indignity, humiliation, shame, embarrassment, mortification, and other injuries to their physical, mental, emotional, and nervous systems; severe emotional anguish, mental anguish, and psychological distress; the past, present and future cost of medical care including (without limitation) therapy and psychological counseling; lost earnings and diminished capacity; and other pecuniary losses to be established at trial.

160. As the principals, masters, and/or employers of Freundel, Defendants are liable for all of the injuries and damages caused by the intentional acts committed by Freundel within the scope of his employment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages against Defendant Georgetown in excess of the jurisdictional minimum in an amount to be proven at trial;
- b. Awarding Plaintiff and the Class compensatory damages against Defendants Keshet Israel and NCM in excess of the jurisdictional minimum in an amount to be proven at trial;
- c. Awarding Plaintiff and the Class such other relief as may be appropriate; and
- d. Granting Plaintiff and the Class their prejudgment interest, costs, and reasonable attorneys' fees.

DEMAND FOR JURY TRIAL

Plaintiff demands that this case be tried by a jury on all counts.

Dated: December 1, 2014

Respectfully submitted,



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