

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE**

<p>PB-43 Doe,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>GREGORY M. SCHULZ and SPACE GYMNASTICS CENTER</p> <p style="text-align: center;">Defendants.</p>
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SUMMONS

Index No.:

Plaintiff designates the County of ERIE as the place of trial. The basis of venue is one of the Defendant’s principle place of business is located in ERIE COUNTY and that “a substantial part of the events or omissions giving rise to the claim occurred” in ERIE COUNTY pursuant to NY CPLR § 503(a).

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff’s attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by defaulted for the relief demanded in the complaint.

Dated: New York, New York
July 29, 2020

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COMPLAINT

Index No.:

Plaintiff PB-43 Doe (“Plaintiff”), by and through her undersigned attorneys, as and for her Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. Plaintiff, a former competitive gymnast, was repeatedly sexually abused and assaulted by Defendant Gregory M. Schulz (“Schulz”), the owner and head coach of Defendant Space Gymnastics Center (“Space”) in Kenmore, New York.
3. Plaintiff was approximately 12 years old when the sexual abuse first began, in or about 1983.
4. Schulz held himself out as a qualified gymnastics instructor, despite having no background in the sport, and Schulz’s abuse of Plaintiff occurred while he was acting in his capacity as head coach and owner of Space.

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5. Schulz's sexual abuse of Plaintiff took place over a span of years and occurred in numerous places: on the premises of Space, in hotels, and in the homes of families Plaintiff babysat for.

PARTIES

6. Plaintiff is an individual residing in Erie County, New York.

7. Plaintiff was born in 1970.

8. Defendant Schulz is a resident of Brunswick County, North Carolina and was, at all relevant times, self-employed as the owner and head coach of Defendant Space Gymnastics Center.

9. Defendant Space Gymnastics Center was facility and training center for young gymnasts, authorized to conduct business and doing business at One Delaware Road, Kenmore, New York, 14217

FACTUAL ALLEGATIONS

10. Plaintiff repeats and re-alleges all preceding paragraphs of this Complaint.

11. From approximately 1983 through 1988 Plaintiff was a minor child and competitive gymnast who was enrolled at Space for the purpose of undergoing gymnastic training under Defendant Schulz.

12. At all relevant times, Defendant Schulz was the owner and head coach of Space.

13. At all relevant times, Schulz's duties and responsibilities included providing gymnastics instruction and supervision to gymnasts of various ages, all minor children.

14. At all relevant times Defendant Schulz held himself out as a qualified gymnastics coach for minor children and placed himself in a position of supervision and custody over minor children, behind closed doors and without supervision.

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15. From the beginning of Plaintiff's training at Space Gymnastics Center in 1983 until approximately 1985, Schulz placed himself in position of trust and confidence with the gymnasts of Space, their parents, and the community. During this time, unbeknownst to anyone, Schulz began "grooming" Plaintiff for future abuse.

16. Beginning in or about 1985, Defendant Schulz took advantage of the trust placed in him and began committing heinous and despicable acts of sexual abuse upon Plaintiff that would continue for years.

17. When Plaintiff began training at Space Gymnastics Center in 1983, she attended Kenmore West School, approximately one mile from Space.

18. With three younger siblings and her mother working the night shift, Plaintiff spent most of her time outside school with what would become her "gym family" at Space, including Schulz. Often when she returned home from training late in the evening her father was asleep and her mother was at work.

19. Defendant Schulz exploited Plaintiff's family situation for his own sexual satisfaction. He quickly assumed a role as a "mentor" or "big brother" for Plaintiff.

20. Defendant Schulz would drive Plaintiff to and from her home when possible, particularly on Saturday mornings on his way to the gym. Defendant Schulz would bring doughnuts for Plaintiff's family and would talk to her parents over coffee before heading to Space. This special attention and favors were all part of Schulz' "grooming" of Plaintiff, eventually for sex.

21. Moreover, Defendant Schulz was often an abrupt and intimidating coach, demanding obedience and pushing the gymnasts' physical limits. In this way, Defendant Schulz

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groomed Plaintiff to obey his direction and orders; indeed he made it clear that he would not permit her to compete if she did not comply with his demands.

22. In or about March of 1985, Defendant Schulz began his sexual assaults of Plaintiff. After hours in his office at Space, Defendant Schulz forced Plaintiff to engage in oral sex before driving Plaintiff home.

23. Shortly thereafter, luring or cornering Plaintiff in his office at Space, Defendant Schulz, an adult, began to anally rape Plaintiff on a regular basis. Plaintiff would ask to leave, or to not be compelled to come to Defendant Schulz's office, but his age, stature, demeanor, and verbal demands and threats overpowered her.

24. Shocked and panicked, Plaintiff would sometimes go numb and black out from the terror and the pain each time Defendant Schulz confined and raped Plaintiff.

25. Still, as Plaintiff excelled at gymnastics, out-of-town competitions under the auspices of the U.S. Gymnastics Federation (the "USGF") now USA Gymnastics, or "USAG") became regular occurrences but her family could not afford the expense, which included travel, lodging, and the USGF fee. At the urging of Defendant Schulz, Plaintiff roomed with Defendant Schulz while away at competitions, allowing her parents, who were unaware of the sexual abuse, to split the expense.

26. From approximately March 1985 to September 1985, Defendant Schulz, then approximately 26 years old, continued his forcible, anal rape of Plaintiff, a minor child, in the lodgings during out-of-town competitions.

27. These out-of-town competitions often lasted the entire weekend, from Friday through Sunday.

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28. Plaintiff began to self-medicate with ibuprofen to be able to physically compete the day after being raped.

29. Plaintiff made repeated pleas to travel and room with the other girls during out-of-town competitions, which only made Defendant Schulz angry, physically abusive to Plaintiff, and would prevent her from competing.

30. Outside of his continuing, horrific sexual assaults, Schulz remained an absent coach at Space, spending most time in his office while Plaintiff and other students studied the routines, manual, and music provided by the USGF.

31. During the summer of 1985, Plaintiff worked as a babysitter in her neighborhood. Defendant Schulz would find out where Plaintiff was through her family, enter the house where she was babysitting, and, after the children were asleep, forcibly rape Plaintiff before the household's parents came home.

32. Plaintiff lived in constant fear of being raped by Defendant Schulz, never knowing when or where it was going to happen. She was also in constant fear of what would happen if she reported the abuse. There were no safe spaces.

33. Defendant Schulz's abuse continued through 1985 into 1986, and during the summer of 1986, Plaintiff resorted to taking miles-long bike rides out of town to escape. When competitions resumed in September of 1986, Defendant Schulz resumed his repeated sexual abuse of Plaintiff.

34. Though Plaintiff's skill had advanced her close to Olympic-level tryouts, she began faulting out at local competitions as a way of escaping the horrific ordeals out-of-town competitions became.

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35. Defendant Schulz apparently realizing this, callously continued forcing Plaintiff to out-of-town competitions under the guise that Plaintiff was coaching the younger gymnasts so that he could continue to rape Plaintiff.

36. In or about October 1986, Defendant Schulz was married and Plaintiff thought her traumatic experiences would finally end. Instead, it continued and Defendant Schulz would drive Plaintiff to and from his wife's daycare to teach the children tumbling as a means of intimidating her silence.

37. Defendant Schulz continued his rape of Plaintiff until approximately September of 1988, when Plaintiff, with her own car, driver's license, and enrollment in college, was able to finally escape.

38. Defendant Space Gymnastics Center closed approximately two years later, in or about 1990.

39. At all relevant times Defendant Schulz acted in his capacity as owner, employee and agent of Defendant Space Gymnastics Center such that Space Gymnastics Center is legally responsible for Schulz' misconduct.

40. Due to these traumatic events and irreparable injuries, Plaintiff has not entered a gymnastic facility since approximately September 1988.

41. As a result of the foregoing, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing her normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was

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otherwise damaged in an amount that exceeds the jurisdictional limits of lower courts in this State.

42. The sexual abuse of Plaintiff was in violation of Penal Law section 130.

43. To the extent that any Defendant pleads, or otherwise seeks to rely upon Article 16 of the New York Civil Practice Law and Rules (CPLR) to have fault apportioned to another allegedly culpable party, Plaintiff expressly states that Defendants' conduct falls within one or more of the subdivisions of CPLR 1602.

A FIRST CAUSE OF ACTION AGAINST DEFENDANT SCHULZ FOR BATTERY

44. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

45. Defendant Schulz, with intent to do so, engaged in sexual and unlawful acts with Plaintiff which amounted to a series of harmful and offensive contacts to Plaintiff's person.

46. At all relevant times, Plaintiff was a minor and did not and could not consent to these sexual and unlawful acts.

47. As a direct and proximate result of Defendant Schulz's sexual and unlawful acts, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

48. By the reason of the foregoing, Defendant Schulz is liable to Plaintiff for compensatory and punitive damages in amounts that exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction, plus interest and costs.

A SECOND CAUSE OF ACTION AGAINST DEFENDANT SCHULZ FOR ASSAULT

49. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

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50. Defendant Schulz, with intent to do so, engaged in sexual and unlawful acts with Plaintiff, which created a reasonable apprehension in Plaintiff of immediate harmful or offensive contact to Plaintiff's person.

51. At all relevant times, Plaintiff was a minor and did not consent to these sexual and unlawful acts.

52. As a direct and proximate result of Defendant Schulz's sexual and unlawful acts, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

53. By the reason of the foregoing, Defendant Schulz is liable to Plaintiff for compensatory and punitive damages in amounts that exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction, plus interest and costs.

**A THIRD CAUSE OF ACTION AGAINST DEFENDANT SCHULZ FOR FALSE
IMPRISONMENT**

54. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

55. Prior to and during the sexual and unlawful acts with Plaintiff, Schulz, with intent, confined her in rooms and spaces where she could not escape.

56. Plaintiff, a minor child, was conscious of the confinement as she felt trapped and overpowered by Schulz, an adult.

57. Plaintiff did not in any way consent to the confinements by Schulz, and the confinements were not privileged in any way.

58. As a direct and proximate result of Defendant Schulz's conduct, Plaintiff suffered severe emotional distress including psychological and emotional injury as described above.

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59. By the reason of the foregoing, Defendant Schulz is liable to Plaintiff for compensatory and punitive damages in amounts that exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction, plus interest and costs.

A FOURTH CAUSE OF ACTION AGAINST DEFENDANT SCHULZ FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

60. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

61. Defendant Schulz engaged in sexual and unlawful acts with Plaintiff with intent to cause, or with reckless disregard for the probability of causing, Plaintiff to suffer severe emotional distress.

62. Defendant Schulz's conduct was both extreme and outrageous in character, beyond all possible bounds of decency, atrocious and intolerable in a civilized world.

63. Defendant Schulz committed these sexual and unlawful acts maliciously, fraudulently, and oppressively with the wrongful intention of injuring Plaintiff and in disregard to Plaintiff's rights.

64. As a direct and proximate result of Defendant Schulz's conduct, Plaintiff suffered severe emotional distress including psychological and emotional injury as described above.

65. By the reason of the foregoing, Defendant Schulz is liable to Plaintiff for compensatory and punitive damages in amounts that exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction, plus interest and costs.

A FIFTH CAUSE OF ACTION AGAINST DEFENDANT SPACE FOR NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT

66. Plaintiff repeats and re-alleges each and every allegation set forth above as if fully set forth herein.

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67. At all relevant times, the Defendant Space affirmatively and/or impliedly represented to minor children, their families, and the general public that employees and agents working in Space, including Schulz, did not pose a risk of sexually abusing children, and that children, including Plaintiff, would be safe in its care.

68. Defendant Space knew or should have known this representation was false and that employing Schulz and giving him unfettered access to children, including Plaintiff, posed an unacceptable risk of harm to children.

69. Defendant Space was negligent and did not use reasonable care in its training, if any, of minor students and parents about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

70. Defendant Space was negligent and did not use reasonable care in their training, if any, of coaches and/or adult staff about the risk of sexual abuse in their institution and facilities, to identify signs of sexual abuse, grooming behaviors, or sexual predators, and to report any suspicion that a minor may be getting abused, maltreated, groomed, or otherwise sexually abused.

71. Defendant Space carelessly, negligently, with gross negligence, and recklessly failed to have in place an appropriate policy and/or practice to monitor, supervise or oversee Schulz's interactions with minor athletes such as Plaintiff, in order to keep them safe from sexual abuse.

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72. The careless, negligent, grossly negligent, and reckless misconduct Defendant Space as described herein was done with utter disregard as to the potential profound injuries which would ensue, and with depraved indifference to the health and well-being of children.

73. As a direct and proximate result of Defendant Space's misconduct, Plaintiff suffered grave injury, including physical, psychological and emotional injury and damages as described above.

74. By the reason of the foregoing, Defendant Space is liable to Plaintiff for compensatory and punitive damages in amounts that exceed the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with interest and costs.

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for her injuries, in an amount to be determined at trial;
- b. Awarding Plaintiff punitive damages for her injuries, in an amount to be determined at trial;
- c. Awarding Plaintiff prejudgment interest, to the extent available by law;
- d. Awarding Plaintiffs costs and disbursements and attorneys' fees to the extent available by law; and
- e. Awarding such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

1. Plaintiff demands a trial by jury of all issues triable by jury in this action.

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Dated: July 29, 2020

Yours, etc.

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