



**JANIS DALE**  
148 Wall Street, Apt. 532  
Camden, South Carolina 29020

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STATE OF NEW YORK  
SUPREME COURT: COUNTY OF ERIE

PB-42 DOE,  vs.  JANIS DALE,  	Plaintiff,    Defendants.
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**COMPLAINT**

Index No.:

Plaintiff PC-42 Doe by and through his undersigned attorneys, as and for his 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. From approximately 1987 to 1992, Plaintiff PC-42 Doe was sexually abused by Dwight Dale, Defendant Janis Dale’s husband, on the premises of Defendant’s home.<sup>1</sup>
3. At all relevant times, Dwight Dale paid cash or exchanged narcotics, such as crack cocaine, to have sex with minors at Defendant’s home.
4. Prior to Plaintiff’s abuse, in approximately 1982, Dwight Dale was convicted of sodomizing a nine (9) year old boy in North Tonawanda, New York.
5. At all relevant times, prior to Plaintiff’s sexual abuse, Defendant knew or should have known of Dwight Dale’s conviction and his propensities to sexually abuse minor boys.

<sup>1</sup> Michael Beebe and Dick Dawson, *Boy Believes Father Also Used Brothers In Sex-For-Drugs Swap*, Buffalo News (Aug. 7, 1992).

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6. Despite this knowledge, Defendant knowingly and/or recklessly permitted and allowed Dwight Dale to have unfettered, unsupervised access to Plaintiff at Defendant's home, including weekend-long overnight stays.

7. Despite this knowledge, Defendant carelessly, negligently, and recklessly placed Plaintiff in harm's way, failed to protect Plaintiff from sexual abuse by Dale, failed to supervise Plaintiff and Dale, failed to timely investigate Dale's misconduct, failed to provide safe premises free of sexual predators, and is otherwise responsible for the sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

#### **PARTIES**

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

9. Plaintiff was born in 1981.

10. Defendant Dale is an individual residing in Kershaw County, South Carolina.

11. At all relevant times, Defendant was married to Dwight Dale and owned the premises where Plaintiff was sexually abused.

#### **FACTUAL ALLEGATIONS**

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

13. At all relevant times, Defendant was married to Dwight Dale.

14. In approximately 1982, Dwight Dale was charged with sodomizing a nine (9) year old boy in North Tonawanda, New York. He was ultimately convicted and sentenced to five years probation for the abuse of this boy.

15. At all relevant times, Defendant was married to Dwight Dale and lived with him in her home at 155 Bellingham Drive, Buffalo, New York.

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16. At all relevant times, Defendant owned the premises at 155 Bellingham Drive, Buffalo, New York.

17. At all relevant times, Dwight Dale used Defendant's home to offer money or sell narcotics, such as crack cocaine, in exchange for sex with minor children. Dwight Dale would have sex with minor children at Defendant's home and elsewhere.

18. At Defendant's home, from approximately 1987 to 1992, Dwight Dale, on multiple occasions engaged in unpermitted, forcible, and harmful sexual contact with Plaintiff.

19. During the time of the abuse, Plaintiff was approximately six (6) to eleven (11) years old and Dwight Dale was over 21 years old.

20. The sexual contact was in violation of Article 130 of New York Penal Law.

21. In approximately 1992, Plaintiff reported Dwight Dale to the authorities who subsequently charged him with first and second degree sodomy, first-degree sexual abuse, and possession of crack-cocaine.

22. Further, Defendant was also charged with drug possession and endangering the welfare of a child.

23. In 1994, Dwight Dale was convicted of sexually abusing Plaintiff and sentenced to prison. In 1997, Dwight Dale died while serving his sentence in prison.

24. At all relevant times, prior to Plaintiff's abuse, Defendant knew or should have known of Dwight Dale's conviction in the 1980's and his propensities to sexually abuse minor boys.

25. Nonetheless, Defendant knowingly and/or recklessly allowed Dwight Dale to have unfettered, unsupervised access to Plaintiff in Defendant's home, including during weekend-long overnight stays.

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26. The sexual abuse of Plaintiff by Dale was foreseeable.

27. Defendant owed Plaintiff a reasonable duty of care because she undertook custody of Plaintiff when he lawfully visited or stayed at her home.

28. Defendant owed Plaintiff a duty to protect him from harm because Defendant's acts and omissions created a foreseeable risk of harm to Plaintiff.

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

30. 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.

### **FIRST CAUSE OF ACTION**

#### **NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT**

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

32. Prior to the sexual abuse of Plaintiff, Defendant learned or should have learned that Dale was not fit to be with or around children, especially alone and unsupervised.

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33. Defendant became aware, or should have become aware of Dale's propensity to commit sexual abuse and of the risk to Plaintiff's safety.

34. Defendant negligently allowed and permitted Dale to have unfettered, unsupervised access to Plaintiff in her home with knowledge of Dale's propensity for the type of behavior which resulted in Plaintiff's injuries.

35. Defendant was negligent and did not use reasonable care in her supervision and direction of Plaintiff and Dale, failed to monitor their activities, even though she knew or should have known that leaving Dale unsupervised posed a threat of sexual abuse to Plaintiff; allowed the misconduct described above to occur and continue; and Defendants was otherwise negligent.

36. Defendant was negligent and did not use reasonable care in the supervision and direction of Plaintiff and Dale and in otherwise failed to ensure Plaintiff was safe in her home.

37. Dale would not have been in a position to sexually abuse Plaintiff had Defendant been negligent in the supervision and direction of Plaintiff and Dale.

38. Defendant carelessly, negligently and recklessly failed to monitor, supervise or oversee Plaintiff and Dale, in order to keep Plaintiff safe from sexual abuse, and Defendants were otherwise negligent.

39. The careless, negligent and reckless misconduct by Defendant 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.

40. As a direct and proximate result of Defendants' misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

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41. By the reason of the foregoing, Defendant is liable to Plaintiff for compensatory and punitive damages, in an amount that exceeds the jurisdictional limits of lower courts in this State, to be determined at trial, together with interest and costs.

**SECOND CAUSE OF ACTION**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

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

43. The sexual abuse of Plaintiff was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized world.

44. Defendant's aforesaid negligent, grossly negligent and reckless misconduct, endangered Plaintiff's safety and caused him to fear for his own safety.

45. Defendant's knew or disregarded the substantial probability her acts or omissions would cause severe emotional distress to Plaintiff.

46. As a direct and proximate result of Defendant's foregoing misconduct, Plaintiff suffered severe emotional distress including psychological and emotional injury as described above.

47. By the reason of the foregoing, Defendant is liable to Plaintiff for compensatory and punitive damages in an amount that exceeds the jurisdictional limits of lower courts in this State, to be determined at trial, together with interest and costs.

**THIRD CAUSE OF ACTION**

**PREMISES LIABILITY**

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

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49. At all relevant times, Defendant owned, operated, and/or controlled the premises at 155 Bellingham Drive, Buffalo, New York, including the areas where the sexual abuse of Plaintiff occurred.

50. At all relevant times, Plaintiff was rightfully present at the aforementioned premises.

51. Defendant had a duty to see that the premises at which Plaintiff was rightfully present were in a reasonably safe condition for the intended use by others, like Plaintiff, whose presence was reasonably anticipated and invited.

52. Defendant was knew or should have known that Dale was a convicted pedophile who had sexually abused a minor boy.

53. Defendant knowingly, willfully, recklessly, and/or negligently failed to provide a reasonably safe premises that was free from the presence of sexual predators, like Dale, and/or the risk of sexual assault by the occupants of the premises, including Dale. Defendant thereby breached her duty of care of Plaintiff.

54. As a direct and proximate result of Defendants' misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

55. By reason of the foregoing, Defendants is liable to Plaintiff for compensatory and punitive damages in an amount that exceeds the jurisdictional limits of lower courts in this State, to be determined at trial, together with interest and costs.

**WHEREFORE**, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for his injuries, in an amount to be determined at trial;

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- b. Awarding Plaintiff punitive damages for his 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**

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

Dated: July 31, 2020

Yours, etc.

**PHILLIPS & PAOLICELLI, LLP**

/s/ Michael DeRuve

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