

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RICHARD ROE,

Plaintiff,

-against-

THE HOTCHKISS SCHOOL,

Defendant.

Civil Action No.:

COMPLAINT

1. The Hotchkiss School (“Hotchkiss”) is a private boarding school in Lakeville, Connecticut. As a school, particularly a boarding school, Hotchkiss had a clear duty to protect the children in its care. This duty was well known to faculty and administrators, and relied upon by parents, students, and the community at large.

2. The culture and administration at Hotchkiss fostered an environment rife with abuse. The school permitted pedophiles and sexual abusers to remain on its staff and faculty and indeed, protected them. Rampant sexual abuse – of boys and girls – by faculty was widely known by students, faculty, and administrators. Perversely, the School’s highest priority was to protect its reputation over all else – not the safety of the children in its care.

3. When Plaintiff Richard Roe was 15 years old, he was entrusted to the care and supervision of Hotchkiss. The School promised, and Richard trusted, that the School would do everything in its power to keep him safe from harm. Hotchkiss betrayed that trust. Instead of ensuring a safe and secure community, Richard entered an environment of well-known and tolerated sexual assaults and pedophilia. A male teacher, Roy G. Smith, Jr. a/k/a “Uncle Roy,” who was Richard’s English teacher, inappropriately touched Richard on several occasions, and

ultimately drugged and sexually assaulted him. These horrifying acts and others were inflicted on school property, during the school year, and under the noses of the School's teachers and administrators.

4. Richard Roe brings this Complaint to seek recompense for the injuries and life-long suffering Hotchkiss inflicted on him and to shine a light on these and similar events so that the wrongdoers may be held accountable and justice may be done.

5. Richard also seeks injunctive relief, including requiring Hotchkiss to establish policies and procedures that provide guidance in identifying and reporting behaviors that might indicate sexual exploitation and make it clear that the entire school family is responsible for identification and reporting, and further requiring Hotchkiss to engage in a truly independent investigation into child sexual abuse at the School, without the carve-outs and undisclosed representational conflicts of interest that corrupted prior investigations by Carlton Fields, which subsequently were inherited by Locke Lord and resulted in the woefully incomplete report released by Locke Lord on August 18, 2018.¹

II. JURISDICTION AND VENUE

6. Jurisdiction obtains pursuant to 28 U.S.C. § 1332(a).

7. Plaintiff Richard Roe resides in and is a citizen of the State of Rhode Island.

¹ See Ex. A, Report to the Board of Trustees of The Hotchkiss School, prepared by Locke Lord (August 2018) (the "Locke Lord Report"). While everything in the Locke Lord Report supports Plaintiff's allegations here, the Report itself is woefully incomplete, most importantly because it does not include reports of misconduct by Roy Smith. Hotchkiss admitted in its own court filings that "*Roy Smith was beyond the scope of the Carlton Fields investigation.*" *Hotchkiss v. Doe*, Case No. 3:18-mc-00037-VAB [Dkt. 23] at 9 (emphasis added). And it is clear from the experiences of alumni who contacted the prior, fired investigators at Carlton Fields that the investigators' actual practice was to exclude any potential report concerning Roy Smith from the investigation. See *Hotchkiss v. Doe*, Case No. 3:18-mc-00037-VAB [Dkt. 22] at 4. None of the messages from Hotchkiss to the public announcing or describing the purpose and scope of the investigation indicated that reports of sexual abuse by Roy Smith would not be accepted by the Carlton Fields investigation, or that anyone attempting to provide information about abuse by Roy Smith would be told to contact Hotchkiss's defense counsel.

8. Defendant Hotchkiss is a non-stock corporation formed pursuant to the laws of the State of Connecticut with its principal place of business in the State of Connecticut.

9. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

10. Venue lies in this District pursuant to 28 U.S.C. § 1391(a) in that Hotchkiss resides in this District and the events, acts, and omissions giving rise to Plaintiff's claims occurred in this District.

11. Hotchkiss's negligent acts and omissions occurred while Roe was a minor, the action is brought within 30 years from the date Roe attained the age of majority, and this action seeks damages caused by sexual abuse, sexual exploitation, and sexual assault; accordingly, this Complaint is timely filed pursuant to Connecticut General Statutes § 52-577d.

III. PARTIES

12. Richard Roe attended Hotchkiss as a boarding student in the 1990's beginning when he was 15 years old.

13. The Hotchkiss School, founded in 1891, is a private college-preparatory boarding school for grades nine through 12, located in Lakeville, Connecticut.

IV. FACTUAL ALLEGATIONS

A. Hotchkiss Had A Duty To Protect The Children In Its Care

14. Hotchkiss is a school. Parents entrust their minor children to its care, *in loco parentis*. This is the case for day schools, but it is even more so for boarding schools, where children live for the majority of their school years. The boarding school is therefore responsible not only for the children's education, but also their safety, their protection, and their physical and emotional well-being.

15. Hotchkiss administrators and faculty understood this was their duty. Former Headmaster Arthur White used to say on the first day of school, addressing students and parents:

“Parents, your job is to leave.” In other words, the education, health, and safety of your children is Hotchkiss’s duty now.

16. Further, since the 1960s, Connecticut state law has mandated that a teacher who has a “reasonable cause to suspect or believe” that a child under the age of 18 has suffered abuse, which is defined to include “a condition that is the result of maltreatment, including, but not limited to sexual molestation or exploitation, emotional maltreatment or cruel punishment,” is required to report the suspected abuse to law enforcement.²

17. Hotchkiss promised Richard and all its other students that the health and welfare of the students was its highest priority, and accepted a duty to Richard and to the other minor children in its care and custody to do everything within its power to protect them from sexual abuse by other students and by the School’s faculty.

18. That was a lie. What Richard and other students faced was repeated betrayal and emotional abuse, along with crossing of boundaries by so many teachers entrusted to care for the students. By creating and protecting a circle of silence the School assured itself that if something untoward occurred, the child and/or the teachers and faculty would suffer severe retaliatory consequence if any misconduct was reported to anyone outside the School, thereby protecting the School’s reputation and the predators it harbored.

B. Hotchkiss Was Well Aware That Roy Smith And Others Were Repeat Sexual Abusers of Minor Students.

19. Reports show that Hotchkiss was a hotbed of pedophiles and child sexual abusers. Rampant sexual abuse – of boy- and girl-students – by faculty members, including but certainly not limited to “Uncle” Roy Smith, the “beloved English professor,” was widely known by Hotchkiss faculty and administrators.

² Conn. Gen. Stat. §§ 17a-93, 17a-101, 17a-101(a)-(d), 17a-103, 17a-104, 46b-120, 52-146k.

20. Roy Smith and the other faculty predators exhibited classic pedophilic and predatory behavior, out in the open, visible to any and all. Hotchkiss knew or should have known about these predators in its midst.

21. By 1993, there can be no credible defense that the School was unaware of these sexual predators, their appetites, and their misconduct.

22. Roy Smith arrived at Hotchkiss in 1970. He was hired to be a faculty member in the School's English department. Immediately, he also volunteered to serve as the School's athletic trainer. Despite having zero athletic background and no experience, education, or credentials in athletic training or medical care, Smith served as the School's *only* athletic trainer for the next 15 years (and continued to serve in that "fake" trainer role alongside more qualified, credentialed trainers until his departure from the School in or about the year 2000).

23. In that role, Smith provided services to students in the training room nearby the boys' athletic locker room and, at night, in his personal apartment located within a boys' dormitory. Smith perceived his duties to include prescribing and providing muscle relaxants and other pills to the students he "treated" as an athletic trainer.

24. In Hotchkiss's 1984 *Mischianza* school yearbook, a student noted: "[Smith] prescribes aspirin and ice with the confidence of a Mass. General physician"³ even though he had no medical credentials.

25. Smith was universally described by former students and faculty as uniquely touchy-feely and "hands on" – often uncomfortably so – and unusually physical and openly affectionate with boy students (roughhousing, wrestling, patting them on the buttocks, hugging and holding hugs for a long time).

³ Hotchkiss 1984 *Mischianza* school yearbook, p. 4.

26. Smith's inappropriate, sexualized behavior was widely known and frequently publicly commented upon.

27. One former student wrote in his published yearbook quote: "Virgin Roy, you promiscuous homosexual, make sure you keep your hands off those little boys."⁴

28. It was well known and accepted among the Hotchkiss "family" that Smith groomed and abused boys in his School-provided apartment in the boys' dorms. Smith, like other faculty, resided in an apartment in a student dormitory. Unlike other faculty, Smith chose to live in a boys' dormitory for his entire three-decade career, despite the fact that his tenure entitled him to one of the beautiful large private on-campus houses provided for senior faculty.

29. Smith encouraged students to come to his apartment for evening hours in order for Smith to provide for special individualized "assistance" with their school work. This perfect opportunity provided Smith with access and opportunity to select and target the most vulnerable of potential victims. Smith's practice was long-standing and well-refined. It, too, was well-known, and accepted and protected by the School's administration.

30. According to a published biography of The Hotchkiss School authored by Hotchkiss alumni and based on written and taped interviews in the School's archives of former students and faculty, Smith was not the only Hotchkiss teacher who had sexually abused and assaulted young boys and girls on school property before Richard attended The Hotchkiss School.⁵

31. And beginning in 2016, hundreds of alumni and former faculty have contacted the School's so-called "independent" investigations to report incidents of child sexual abuse at the School going back decades, with numerous names coming up repeatedly in reports as chronic

⁴ Hotchkiss 1988 *Mischianza* school yearbook.

⁵ Kolowrat, Ernest, "Hotchkiss: A Chronicle of an American School" (1992).

pedophile abusers.⁶ The recently released Locke Lord report found: “It is clear that Hotchkiss missed several opportunities to protect the student body....there were multiple reports made by survivors, other students, and faculty at or near the time of the abuse that should have spurred the School to action.”⁷

32. Hotchkiss was also on notice of Smith’s predatory pedophile nature because other Smith victims had reported assaults and rapes by Smith to Hotchkiss administrators prior to Richard’s time at the School. For example, a student in the 1980s wrote an article intended for the student newspaper, discussing the failure of the School’s mental health counselors, faculty, and administrators to respond appropriately to students’ complaints, including his own complaints of having been sexually assaulted by proctors and raped by “Uncle Roy”. That student, John Doe, gave a copy of the proposed article to then-headmaster Arthur White. White told John that he was already aware of John’s complaints, he took no steps to protect John and other vulnerable children from further assaults by Smith, and he took no steps to hold Smith accountable for raping a young boy. Instead, the headmaster forbade John from publishing the article, and he conspired to prevent John from informing the students, their parents, and the School community about Smith’s sexual assault and his aberrant and predatory propensities and behavior.⁸

C. Hotchkiss Had A Culture Of Covering Up Abuse and Protecting Abusers, Including Smith.

33. Abuse is particularly pervasive and destructive in school settings because students are taught to trust teachers. Schools are also a place where teachers are more often believed than are students and in which there is a power and status differential that privileges teachers and

⁶ See Ex. A, Locke Lord Report.

⁷ Ex. A, Locke Lord Report at 26.

⁸ Complaint ¶¶ 54-56 [Dkt. 1], *John Doe v. The Hotchkiss School*, No. 3:15-cv-00160-VAB (D. Conn.).

other educators.⁹ Indeed, Hotchkiss had a strong protective culture that discouraged reporting and actively retaliated against reporters.

34. As an initial matter, Hotchkiss had no policy for identifying or reporting sexual misconduct. Sexual misconduct policies were the norm at schools in the 1970s as well as today, and for a school not to have one was highly inappropriate. Without having a policy for reporting, it sends a message of discouragement and allows retaliation against reporters to flourish.¹⁰

35. As the leading authority on school sexual abuse writes, most reports of educator sexual misconduct comes to the attention of school officials in five ways: formal complaints, informal complaints, observed abuse, observed suspicious behaviors, or rumors and/or anonymous reports. Formal and informal complaints are most likely to originate from victims or parents of victims. Seldom is the abuse reported by a teacher, even if the child has told the teacher. While formal reports might not be made in school, informal information is passed on through rumor, innuendo, and jokes.¹¹

36. Several studies estimate that only about 6 percent of all children report sexual abuse by an adult to someone who can do something about it. The other 94 percent do not tell anyone or talk only to a friend. (And they swear their friend to secrecy.)¹²

37. Sadly, when alleged misconduct is reported, the majority of complaints are ignored or disbelieved. Other students note this lack of response and conclude that abusive teachers (or coaches or administrators) cannot be stopped. After all, if the School will not act,

⁹ See Ex. B, Educator Sexual Misconduct: A Synthesis of Existing Literature, Prepared for the U.S. Department of Education Office of the Under Secretary Policy and Program Studies Service by Carol Shakeshaft, U.S. DEPARTMENT OF EDUCATION DOC # 2004-09 (2004).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

what can a mere student do? But the most common reason that students don't report educator sexual misconduct is fear that they won't be believed. And students have good reasons for that fear: Because of the power differential, the reputation difference between the educator and the child, or the mindset that children are untruthful, many reports by children are ignored or given minimal attention.¹³

D. Injury To Richard Roe Could Not Have Happened If Hotchkiss Had Not Given Roy Smith Access And Opportunity.

38. The School's affirmative acts – including housing Smith in and giving him unfettered access to and authority over a boys' dormitory, allowing him unsupervised access to vulnerable young children, allowing him without any medical credentials to give pills to children, and allowing him to work in the athletics program and locker room areas where he was able to touch and leer at the naked and partially-clothed bodies of boys – created, and exposed Richard to, a known high degree of risk of harm.

39. Without the access and opportunity Hotchkiss gave Smith, he could not have abused so many young boys, including Richard Roe. This access and opportunity – this freedom to prey on young boys – was afforded to Smith by the administrators and faculty of Hotchkiss.

40. Dorms were run by the dorm heads, of which Roy Smith became one after he assaulted Richard. Each dorm was the dorm head's fiefdom, and dorm heads were free to run the dorm however they wished. There were no rules or guidelines from the administration to faculty on how to run the dorms. This, too, allowed predators like Smith access to children at all hours and ample opportunity to groom and abuse children in their own homes. Displaying classic pedophile behavior, Smith capitalized on this access and opportunity.

¹³ *Id.*

E. Richard Roe's Experience.

41. Richard first encountered Smith when he had him as an English teacher during his Upper-Mid (Junior) year at Hotchkiss.

42. Smith was known to Richard as being a difficult grader that required students to come meet with him on revisions for nearly all of their papers if they wished to improve their grade. Smith preferred students to meet with him in his apartment, located in one of the boys' dormitories. Students were expected to make appointments; dropping in unannounced was disfavored by Smith.

43. Richard sought out and worked with Smith to revise almost every paper Richard had written, because Smith was a harsh grader and Richard believed he needed a good grade in English in order to apply to and get admitted to the best college or university.

44. Over time, the meetings became more social, and Smith would gossip about other students and teachers. Before Smith would say anything gossipy, he would close the door between his apartment and the dormitory hallway and lock it.

45. Eventually, Smith would no longer delay his ritual of door closure. Smith would close the door right when Richard arrived. Richard hoped that this meant that Richard had achieved a certain status with Smith, and took it as an honor and a sign that he was succeeding in Smith's estimation, and that his hard work and diligence would earn him a great college recommendation from Smith.

46. Smith established very clearly defined ritualized conduct of his student, Richard. When working on papers with Smith, Richard always had to sit side-by-side next to Smith on his couch. Smith frequently make a point by rubbing or squeezing Richard's upper thigh, or putting his arm over Richard's shoulder as they looked at a document or book together during these "study sessions".

47. Richard disliked the contact but worried about offending Smith and losing his best opportunity for an edge into acceptance at a top tiered school. So, Richard sat there and complied with Smith's odd rituals of sitting side beside, and not rebuffing any touching by Smith. Richard, then just a hopeful boy who had never been victimized by an opportunistic pedophile, believed his discomfort was outweighed by the implicit promise of a better grade and recommendation.

48. When Richard got up to leave the apartment, Smith would often spring up to unlock the door, and pat Richard's back or backside as Richard was leaving, then wave to Richard as Richard walked way down the hall to the stairs.

49. One night, Smith patted the back of Richard's leg as Richard was leaving. Smith did so in such a way as to hit Richard's testicles with his fingers. At the time, Richard dismissed it as an accident.

50. On another occasion, Smith patted Richard's right thigh very high up, such that Smith hit Richard's penis with his hand. Richard snatched Smith's wrist immediately and moved Smith's hand away. Smith apologized.

51. Richard often found that Smith's moods were volatile and unpredictable. So, Richard attempted to try to keep Smith in one of his expansive moods rather than one of his down moods by avoiding saying or doing anything that could offend or anger Smith.

52. By the end of the winter term, Richard was regularly visiting Smith's dormitory apartment, visiting at least every other week to revise drafts of English class papers. Richard would often wonder if his papers were graded below their merit in order to necessitate such meetings.

53. In April of Richard's upper-mid (junior) year, before the spring recess, Richard had an appointment with Smith in his apartment to finalize some revisions and discuss a new spring project.

54. When Richard entered the apartment, there was music playing softly and Smith seemed to be in one of his good moods. Richard sat on the couch, and Smith offered Richard some tea. Smith had never offered Richard food or beverages before, so Richard accepted politely.

55. Smith brought the tea to Richard, explaining it was some kind of herbal tea. The tea was an odd yellow color, barely lukewarm, and bitter tasting, but Richard forced himself to drink it politely.

56. Smith began asking Richard about his family and home life, seeming to dig for gossip. Richard deflected, imagining Smith repeating anything Richard revealed, since Smith seemed to thrive on those sorts of secrets.

57. Smith did not seem to be in any hurry to get to work, and they had a meandering conversation about old movies and his record collection. The music was still playing and Richard began to have difficulty following the conversation. Smith excused himself to go to the other room, and Richard took that opportunity to finish his tea in one big swig. The tea tasted so bad that Richard could not continue to sip it, but he did not want to be rude by not finishing it, because he worried that would offend Smith. The music kept playing and Richard felt suddenly very lethargic. Richard closed his eyes for just a moment to rest them while Smith was out of the room.

58. When Richard next opened his eyes, he was not sitting up straight any longer, he was leaning off to his right side looking down at his lap. Smith was pulling off Richard's pants

and then his boxer shorts. Richard could not move or speak; he felt like he could not breathe. Richard recalls wanting to scream, kick, punch, or run but not being able to do so. Richard could see Smith's head and shoulders move over Richard's exposed lower body, and heard Smith say: "Don't worry. Uncle knows just what to do with that. Let Uncle take care of that." Then, Richard felt his flaccid penis being scratched by Smith's rough mouth and pain in his urethra like it was being sucked inside out. Richard felt panic and anger and helpless despair, and then his vision fogged over as he passed out again.

59. Richard woke up with a huge gasp for air and found he was sitting upright again. He was completely disoriented; nothing felt right. He thought something bad had happened, but he did not know what. He stood up, and everything felt wrong. His pants were falling down because his belt was on the wrong hole. His shirt was tucked into his underwear in one place. He immediately set about fixing his pants and shirt and belt. As he moved his clothes about, he could feel a wet spot in the back of his boxer shorts.

60. Smith appeared from the door to the back of the residence and commented to him that Richard must have been very tired because he had fallen asleep. He put his hands on both of Richard's arms, and told him that he might be getting sick and that he should go back to his dorm and go straight to bed.

61. Richard then left Smith's apartment, struggling to get down the staircase on unsteady legs. He could not balance and remembers feeling like he was drunk. As he started walking towards his dorm he had his first flashback of what had happened, starting to hyperventilate and forcing himself to control it. He got back to his own dormitory and went into the first floor bathroom, beginning to feel really nauseous. Over and over he told himself to just act like it hadn't happened.

62. In the bathroom, Richard took off his pants and boxers, and noticed a gelatinous yellow material in his boxers that wasn't excrement. He balled up the boxers and threw them away, and immediately went back to his room and went to bed.

63. Richard was ashamed, confused, frightened and in shock. He told no one what happened. Shortly thereafter, he became extremely ill and was ultimately diagnosed with an infection that appeared with "no known" etiology.

64. Due to the extreme emotional trauma of the event, and Richard's attempts to push the assault out of his mind and act like it had never happened, Richard's academic performance took a dramatic downturn. He experienced repeated episodes of a total state of disorganization and panic that he could not control. He had lost any ability to focus on his schoolwork, particularly in more difficult subjects. Richard had a full course load of advanced and challenging courses at this point. And whereas his junior year had begun with stellar academic performance, his teachers noticed a distinct change in April, immediately after Smith drugged and assaulted Richard. In one contemporaneous teacher note accompanying Richard's upper-mid spring report card, his teacher noted: "[Richard] will be unhappy with his year average in [this course], as am I. From April on, [Richard] really dropped the ball in [this course]..." Contemporaneous comments from other teachers expressed similar dismay at Richard's plummeting performance mid-way through his upper-mid (junior) spring term, as compared to his stellar performance previously.

65. Richard also deteriorated physically immediately following his assault by Smith. He lost over 20 pounds in an extremely short time period. He felt sick, and when he sought medical care for the infection he contracted immediately after the assault.

66. In the years after his time at Hotchkiss, Richard suffered school and career difficulty, difficulty sleeping, repeated panic attacks, and intrusive nightmares and flashbacks. His emotional turmoil and feelings of helplessness also led to excessive self-medication through substance abuse. He struggled with thoughts of suicidal ideation, planning, and even unsuccessful attempts to end his life. His personal relationships with friends, family, and loved ones were damaged by his inability to form trusting relationships. Smith's sexual assault of Richard left him susceptible to being panicked and occasionally violent when awoken in a disorienting place. Above all, he has maintained a degree of perpetual, unwarranted self-hatred and self-blame.

67. The harm inflicted on Richard as a young vulnerable boy at Hotchkiss has adversely affected his ability to enter into and maintain lasting meaningful relationships with others, to feel safe in school environments, and to enter and maintain mentor relationships in school and professionally. Richard's ability to maintain intimate physical, sexual, and emotional relationships with other human beings has been irreparably damaged. As a result of the abuse he suffered at and because of Hotchkiss, Richard has sustained physical pain and suffering, and Richard has sustained, and will continue over the course of his lifetime to suffer, severe emotional distress and mental pain and anguish.

V. FIRST CLAIM FOR RELIEF (NEGLIGENCE)

68. Plaintiff incorporates by reference each allegation set forth in the preceding paragraphs.

69. Hotchkiss assumed responsibility for, among other things, the students' protection, safety, and well-being.

70. Hotchkiss promised Richard that the health and welfare of the students was the School's highest priority.

71. Hotchkiss accepted a duty to Richard and to the other minor children in its care and custody to do everything within its power to protect them from sexual abuse by other students and by the School's faculty.

72. Hotchkiss agreed that it had a duty and responsibility to keep the children in its care and custody safe from harm.

73. Notwithstanding these duties, responsibilities, and promises to keep Richard safe from harm, at the time that he entered and attended Hotchkiss, the School and its teachers and administrators knew, and should have known, that Smith held and expressed sexualized feelings about the minor boys in his care.

74. At the time that Hotchkiss exposed Richard to "Uncle Roy" Smith, it was on actual and constructive notice that Smith desired young boys and had acted on his desires in the past by engaging young boys in sexualized conversation and by touching young boys in inappropriate and sexual ways and drugging and assaulting them.

75. Hotchkiss's affirmative acts – including housing Smith in and giving him unfettered access to and authority over a boys' dormitory, allowing him unsupervised access to vulnerable young children, and allowing him to work in the athletics program and locker room areas where he was able to touch and leer at the naked and partially-clothed bodies of young boys – created, and exposed Richard to, a known high degree of risk of harm.

76. Hotchkiss was on actual and constructive notice of Smith's aberrant character, past conduct, and tendencies for more than 20 years before this incident occurred.

77. Hotchkiss was on actual and constructive notice of the gravity of the harm that would result if Smith molested one or more of the boys in the School's care and custody.

78. Hotchkiss knew that no other person or entity would assume the responsibility for preventing Smith from molesting young boys.

79. Even if Hotchkiss had not been on actual or constructive notice of the past aberrant behavior and propensities of “Uncle Roy”, it knew and should have known that housing adult males who are sexually attracted to young boys with, and giving them unrestricted access to, a never-ending community of young vulnerable boys created a high degree of risk of inappropriate and sexualized behavior.

80. Thus, Hotchkiss created a situation that it knew and should have known was likely to be dangerous to Richard and to the other children in its care.

81. Despite having created the dangerous situation, Hotchkiss failed and refused to take appropriate precautions against the risk of harm.

82. Richard experienced ongoing confusion and mental suffering he was experiencing as a result of “Uncle Roy’s” abuse.

83. As a result of Hotchkiss’s acts and omissions, Richard’s ability to engage in normal life’s activities has been permanently impaired and he has been and will be unable to lead and enjoy a normal life.

84. The harm inflicted on Richard as a vulnerable boy at Hotchkiss has adversely affected his ability to enter into and maintain lasting meaningful relationships with others.

85. Richard’s ability to maintain intimate physical, sexual, and emotional relationships with other human beings has been irreparably damaged.

86. As a result of Hotchkiss’s negligence, Richard has sustained physical pain and suffering.

87. As a result of Hotchkiss's negligence, Richard has sustained, and will continue over the course of his lifetime to suffer, severe emotional distress and mental pain and anguish.

88. Richard's injuries and damages were caused by the negligence of Hotchkiss, its teachers, administrators, employees and agents, for whose negligence Hotchkiss is liable, in the ways previously described and in the following ways:

- a. Hotchkiss, by commission and omission, allowed and tolerated sexual assaults and humiliation;
- b. Hotchkiss, by commission and omission, failed and refused to train and supervise school teachers and other School employees, including "Uncle Roy" Smith;
- c. Hotchkiss hired teachers and other employees, including Smith, despite actual or constructive knowledge of their propensity and desire to molest young boys;
- d. Hotchkiss retained teachers and other employees, including Smith, despite actual or constructive knowledge of their propensity and desire to molest young boys; and
- e. Hotchkiss failed to warn Richard of the risk of harm to which he was subjected while attending Hotchkiss.

89. Hotchkiss owed Richard a duty of care, it breached that duty, its breach caused Richard to be assaulted and molested, and Richard suffered damages as a result.

VI. SECOND CLAIM FOR RELIEF (RECKLESSNESS)

90. Plaintiff incorporates by reference each allegation set forth in the preceding paragraphs.

91. Hotchkiss, acting through its administrators, teachers, and staff, was consciously aware of the fact that it created a substantial risk to Richard Roe.

92. Notwithstanding Hotchkiss's conscious awareness of the risk to Richard, Hotchkiss failed to take necessary and appropriate steps to reduce or eliminate the risk.

93. Notwithstanding Hotchkiss's conscious awareness of the risk to Richard, Hotchkiss took affirmative steps to exacerbate the risk and to make harm and injury to Richard more likely.

94. The injuries suffered by Richard were caused by the reckless or callous indifference, or the wanton misconduct, of Hotchkiss.

VII. THIRD CLAIM FOR RELIEF (NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)

95. Plaintiff incorporates by reference each allegation set forth in the preceding paragraphs.

96. Hotchkiss created an unreasonable risk of causing Richard Roe emotional distress.

97. Richard's distress was foreseeable.

98. The emotional distress was severe enough that it might result in illness or bodily harm.

99. Hotchkiss's conduct was the cause of Richard's distress.

VIII. FOURTH CLAIM FOR RELIEF (INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

100. Plaintiff incorporates by reference each allegation set forth in the preceding paragraphs.

101. Hotchkiss intended to inflict emotional distress or it knew or should have known that emotional distress was the likely result of its conduct.

102. Hotchkiss's conduct was extreme and outrageous.

103. Hotchkiss's conduct was the cause of Richard's distress.

104. The emotional distress sustained by Richard was severe.

IX. FIFTH CLAIM FOR RELIEF (BREACH OF FIDUCIARY DUTY)

105. Plaintiff incorporates by reference each allegation set forth in the preceding paragraphs.

106. A fiduciary relationship existed between Hotchkiss and Richard Roe which gave rise to (a) a duty of loyalty on the part of Hotchkiss to Richard, (b) an obligation on the part of Hotchkiss to act in the best interests of Richard, and (c) an obligation on the part of Hotchkiss to act in good faith in any manner relating to Richard.

107. Hotchkiss advanced its own interests to the detriment of Richard.

108. Richard has sustained damages.

109. Richard's damages were proximately caused by Hotchkiss's breach of its fiduciary duty to him.

X. PRAYER FOR RELIEF

Wherefore, Richard Roe prays for the following relief:

1. Compensatory damages;
2. Punitive damages;
3. Injunctive relief; and
4. Such other relief as the Court deems just and proper.

Dated: October 12, 2018



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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RICHARD ROE,

Plaintiff,

-against-

THE HOTCHKISS SCHOOL,

Defendant.

Civil Action No.:

CLAIM FOR JURY TRIAL

Plaintiff, through counsel, claims this matter for trial by jury.

Dated: October 12, 2018



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