

FILED BY FAX

ALAMEDA COUNTY

June 03, 2020

CLERK OF
THE SUPERIOR COURT
By Gina Fu, Deputy

CASE NUMBER:
RG20063350

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

DEBRA GRODENSKY, G.D., an individual;
CAREN MCKAY, and KATIE KELLY,

Plaintiffs,

vs.

USA SWIMMING, INC., a Colorado
corporation; PACIFIC SWIMMING, a
California corporation; SAN RAMON
VALLEY AQUATICS, a California
corporation; CHABOT AQUATIC
FOUNDATION; and DOES 1 through 25,
inclusive,

Defendants.

Case No.

COMPLAINT FOR DAMAGES

- (1) Sexual Assault of a Minor
- (2) Negligence

Plaintiffs DEBRA GRODENSKY, G.D., an individual; CAREN MCKAY, and KATIE KELLY [together referred to as "PLAINTIFFS"] allege against USA SWIMMING, INC., a Colorado corporation; PACIFIC SWIMMING, a California corporation; SAN RAMON VALLEY AQUATICS, a California corporation; CHABOT AQUATIC FOUNDATION, a business entity of unknown organization; and DOES 1 through 25, inclusive, as follows:

COMMON ALLEGATIONS

1. For years, USA SWIMMING, INC. and PACIFIC SWIMMING enabled their member swim coach, Andrew King, to use his position of authority to manipulate and sexually

1 assault over a dozen minor female swimmers over a thirty (30) year period, including
2 PLAINTIFFS. Both organizations could have taken action to stop this serial pedophile coach
3 from harming children but chose to look the other way. USA SWIMMING, INC. and PACIFIC
4 SWIMMING placed the profits and reputations of their organizations above the safety of their
5 young, vulnerable female athletes. As a result, PLAINTIFFS have suffered from serious, life-
6 long symptoms of emotional and psychological trauma.

7 2. Defendant USA SWIMMING, INC. ["USA SWIMMING"] is a Colorado
8 corporation with its principal place of business in Colorado Springs, Colorado. At all times
9 mentioned herein, USA SWIMMING was doing business in California, including the County of
10 Alameda, collecting membership dues from participating swimmers in this County. USA
11 SWIMMING was originally known as The Competitive Swimming Committee of the AAU, Inc.
12 It was incorporated on May 4, 1977 for the purposes of promoting and improving amateur
13 swimming in the United States, to develop interest and participation in amateur swimming
14 throughout the United States, and to provide competitive swimming opportunities for all ages,
15 sexes, and levels of ability, including international competition. In 1978, as a result of the passage
16 of the Amateur Sports Act, also known as the Ted Stevens Act, USA SWIMMING became the
17 National Governing Body ["NGB"] for competitive swimming in the United States. As NGB for
18 the sport of swimming, USA SWIMMING is responsible for the conduct and administration of
19 the sport in the United States. At the local level, there are approximately fifty-nine (59) Local
20 Swimming Committees ["LSC"] that administer USA SWIMMING activities for designated
21 regions in the United States. USA SWIMMING formulates rules and implements policies and
22 procedures for the LSCs. All of USA SWIMMING's administrators, employees and/or board
23 directors are mandated reporters under California Penal Code §11165.7(a)(7) or (8), and are
24 thereby required to report any reasonable suspicion of sexual assault upon a child.

25 3. Defendant PACIFIC SWIMMING is a California corporation with its principal
26 place of business in the City of Concord, State of California. At all times mentioned herein,
27 PACIFIC SWIMMING was doing business in the County of Alameda. PACIFIC SWIMMING
28 is one of the fifty-nine (59) LSCs within USA SWIMMING and is bound by USA SWIMMING's

1 rules, policies, and procedures. It serves the greater San Francisco Bay Area, the coastal counties
2 of California from Monterey County north to the Oregon border, the Stockton-Modesto area in
3 the state's Central Valley, and the Reno-Lake Tahoe area on the California-Nevada border.
4 PACIFIC SWIMMING is the third largest USA SWIMMING LSC with approximately 120 swim
5 clubs and more than 16,000 swimmers. It currently oversees the operations of eighteen (18) USA
6 SWIMMING member swim clubs in Alameda County. PACIFIC SWIMMING is bound by USA
7 SWIMMING's rules governing safety of its members. All of PACIFIC SWIMMING's
8 administrators, employees and/or board directors are mandated reporters under California Penal
9 Code §11165.7(a)(7) or (8), and are thereby required to report any reasonable suspicion of sexual
10 assault upon a child.

11 4. Defendant SAN RAMON VALLEY AQUATICS ["SRV AQUATICS"] is a
12 California corporation with its principal place of business in the City of San Ramon, State of
13 California. SRV AQUATICS was, at all relevant times, a local swim club bound by the rules,
14 policies, and procedures of PACIFIC SWIMMING and USA SWIMMING. All of SRV
15 AQUATICS' administrators, employees and/or board directors are mandated reporters under
16 California Penal Code §11165.7(a)(7) or (8), and are thereby required to report any reasonable
17 suspicion of sexual assault upon a child.

18 5. Defendant CHABOT AQUATIC FOUNDATION ["CHABOT AQUATICS"] is
19 a business entity of unknown organization with its principal place of business in the City of
20 Hayward, County of Alameda, State of California. CHABOT AQUATICS was, at all relevant
21 times, a local swim club in the County of Alameda bound by the rules, policies, and procedures
22 of PACIFIC SWIMMING and USA SWIMMING. All of CHABOT AQUATICS's
23 administrators, employees and/or board directors are mandated reporters under California Penal
24 Code §11165.7(a)(7) or (8), and are thereby required to report any reasonable suspicion of sexual
25 assault upon a child.

26 6. Andrew King ["King"] was, at all relevant times, a USA SWIMMING approved,
27 certified and/or registered swim coach, entrusted with the care and safety of its female, minor
28 members, including PLAINTIFFS. King was also a PACIFIC SWIMMING approved, certified

1 and/or registered swim coach, entrusted with the care and safety of its female, minor members,
2 including PLAINTIFFS, from 1981 through 1992, and from 2000 through 2009.

3 7. Plaintiff DEBRA GRODENSKY [DOB: March 28, 1969] was, at all relevant
4 times, a California resident and a member of USA SWIMMING and PACIFIC SWIMMING.

5 8. Plaintiff G.D. [DOB: December 28, 1971] was, at all relevant times, a California
6 resident and a member of USA SWIMMING and PACIFIC SWIMMING. Due to the sensitive
7 nature of the childhood sexual abuse allegations contained in this complaint G.D. has elected to
8 sue under her initials.

9 9. Plaintiff CAREN MCKAY [DOB: May 13, 1974] was, at all relevant times, a
10 California resident and a member of USA SWIMMING and PACIFIC SWIMMING.

11 10. Plaintiff KATIE KELLY [DOB: October 30, 1969] was, at all relevant times, a
12 California resident and a member of USA SWIMMING and PACIFIC SWIMMING.

13 11. In or about 1980, SRV AQUATICS hired King to be its head swim coach. By that
14 point in his career, King had coached several swim clubs and was successful in developing a
15 number of elite swimmers.

16 12. Before arriving at SRV AQUATICS, King groomed a nationally acclaimed
17 swimmer while coaching at a local USA SWIMMING/PACIFIC SWIMMING member swim
18 club located about fourteen (14) miles north of SRV AQUATICS. King began having an intimate
19 relationship with that swimmer when she was 17 years old and married her when she was 19 years
20 old.

21 13. While coaching at SRV AQUATICS, King engaged in highly inappropriate
22 behavior with the club's young female swimmers. He performed hot oil rubdowns on them
23 wherein he massaged their upper thighs and lower back. He would help shave their legs. He held
24 their hands and hugged them on the pool deck. He placed them on his lap and massaged their
25 shoulders. He fraternized with them outside of swimming practices and events. He drove them
26 to and from swim practices alone. He had dinner and lunches with them alone. He had swimmers
27 sleep at his house the evening before big swimming events.

28

1 14. Plaintiff DEBRA GRODENSKY ["GRODENSKY"] became an athlete member
2 of SRV AQUATICS on or around 1977 when she was 8 years old. She began training under
3 King in or about 1980 when she was 11 years old.

4 15. Starting in 1980, King used his coaching position to groom GRODENSKY in
5 preparation for his future sexual advances. King told GRODENSKY that her body was curvy,
6 sexy and that she had blossomed early. King gave her extra attention and affection, showed her
7 favoritism, gave her gifts related to her favorite cartoon character, engaged in personal
8 conversations with her, had dinner with her and her family, treated her to lunches between swim
9 events, drove her alone to and from practices in his vehicle. As GRODENSKY grew to trust
10 King, he began to psychologically alienate her from her friends and family.

11 16. PLAINTIFFS are informed and believe and thereon allege that by 1981, USA
12 SWIMMING, PACIFIC SWIMMING, and SRV AQUATICS knew, had reason to know, or was
13 otherwise on notice that King had engaged in highly inappropriate grooming behavior and sexual
14 misconduct with his minor female athletes, and that he previously had an intimate relationship
15 with a 17-year-old swimmer.

16 17. King began sexually assaulting GRODENSKY when she was 12 years old. The
17 sexual assaults quickly escalated in their nature and frequency. He began by giving her intimate
18 rubdown massages of her body. He then fondled her breasts and vagina. Later, King digitally
19 penetrated her vagina and orally copulated her. Many of the sexual assaults occurred at or around
20 PACIFIC SWIMMING and USA SWIMMING events. At travel meets, King often isolated
21 GRODENSKY in hotel rooms and in his vehicle to perform sexual acts on her.

22 18. In or about 1984 (while GRODENSKY was a minor), information circulated
23 amongst the SRV AQUATICS community of King having an intimate relationship with
24 GRODENSKY. That information eventually spread far beyond the SRV AQUATICS
25 community to the point where GRODENSKY's competitors would raise the issue with her.

26 19. Under King's tutelage, GRODENSKY quickly became an elite All America
27 swimmer. In Summer of 1984, 15-year-old GRODENSKY qualified for a USA SWIMMING
28 Nationals competition in Fort Lauderdale, Florida. GRODENSKY was the only female athlete

1 on her team under the age of 18 who qualified for the event. GRODENSKY traveled with her
2 SRV AQUATICS swim team to the weeklong competition. King was the chaperone for the trip.
3 On said trip, King performed full body rubdowns on GRODENSKY in the bleachers adjacent to
4 the pool deck and in his hotel room. King spent time alone with GRODENSKY in her hotel room
5 and his hotel room. During said trip, King had sexual intercourse with GRODENSKY for the
6 first time.

7 20. On her 16th birthday, King asked GRODENSKY to marry him. GRODENSKY
8 became very concerned and quit the sport of swimming for a period of time. King told
9 GRODENSKY that her swimming career would end if she told anyone about their affair.

10 21. In or about 1985, SRV AQUATICS did not renew King's employment contract
11 with the club due to the affair he was having with GRODENSKY. That same year, King went on
12 to form CHABOT AQUATICS in Hayward, California and acted as head coach for said club.

13 22. While coaching at CHABOT AQUATICS, King continued to engage in highly
14 inappropriate behavior with minor female swimmers. He frequently hosted parties on his sailboat
15 residence with no parents, chaperones, or other adult supervision present. He allowed his female
16 swimmers to borrow and drive his car. He performed rubdowns on them wherein he massaged
17 their upper thighs and lower back. He held their hands and hugged them on the pool deck. He
18 placed them on his lap and massaged their shoulders. He fraternized with them outside of
19 swimming practices and events. He drove them to and from swim practices alone. He had dinner
20 and lunches with them alone.

21 23. King created a toxic sexual culture at CHABOT AQUATICS. He openly
22 discussed sexual topics and encouraged his swimmers to do the same. He goaded his male
23 swimmers to "bang" girls at their schools. He forced his swimmers to play a game he referred to
24 as "suck face". "Suck face" consisted of forcing two young swimmers to kiss for an extended
25 period while the rest of the team looked on. The longer the two juveniles kissed, the earlier King
26 would dismiss the team from practice. The incentive of having a shortened practice caused the
27 other team members to pressure their peers to perform the embarrassing, public kissing exhibition.
28

1 24. King instructed the parents at CHABOT AQUATICS to never come into his office
2 or come onto the pool deck. He made the parents sign an agreement that they would not step foot
3 on the pool deck or interfere with practices in any way. King used practices and his office to
4 conceal his grooming behavior and sexual misconduct with young female swimmers.

5 25. While King coached at CHABOT AQUATICS, information circulated amongst
6 that swimming community about King's prior intimate relationship with GRODENSKY.

7 26. PLAINTIFFS are informed and believe and thereon allege that by at least 1986,
8 CHABOT AQUATICS knew, had reason to know, or was otherwise on notice that King had
9 engaged in highly inappropriate grooming behavior and sexual misconduct with his minor female
10 athletes, and that he previously had an intimate relationship with at least one underage swimmer.

11 27. Plaintiff G.D. became an athlete member of CHABOT AQUATICS on or around
12 1985 when she was 13 years old. At her first swim practice, King asked the teenage boys on the
13 team, who ranged from ages 12-18, to rank G.D.'s appearance from 1-10 in front of the whole
14 team.

15 28. Similar to GRODENSKY's experience, King quickly began grooming G.D. in
16 preparation for his future sexual advances. King complimented her body and said she was a
17 "doll". He would touch her anytime he was near her. He would rub her shoulders, grab her
18 forearms, and swat at her butt. King would often take her into his office and lock the door.

19 29. In or around 1986, King continued to sexually assault G.D. He performed
20 rubdown massages on her in his office where he would touch her breasts and upper thighs. King
21 told G.D. it would help her with her swim times. King would routinely rub her butt at swim
22 practices. King would have G.D. sit on her lap at swim meets. As G.D. got older and her body
23 developed, King made sexual comments about her to other swimmers in her presence such as
24 "Wow, she sure is developing nicely." In or about 1987, King asked G.D. to go on his sailboat
25 in San Francisco Bay. While the two were alone on the boat, King kissed her neck and forcefully
26 kissed her with his tongue.

27 30. Plaintiff CAREN MCKAY ["MCKAY"] became an athlete member of CHABOT
28 AQUATICS in or about 1985 when she was 11 years old. King immediately began grooming

1 MCKAY in preparation for his future sexual advances. King complimented her body, gave her
2 inappropriate hugs, and placed her on his lap while he spoke with her. King gave her extra
3 attention and affection, showed her favoritism, bought her stuffed animals and clothing, engaged
4 in personal conversations with her, treated her to dinner, and drove her alone to and from practices
5 in his vehicle

6 31. In or about 1986, King continued to sexually assault MCKAY. He would kiss her
7 and fondle her breasts. King engaged in sexual intercourse with MCKAY when she was only
8 12.5 years old. The sexual assaults occurred at or around various USA SWIMMING and
9 PACIFIC SWIMMING events across the state. King continued to perpetrate sexual intercourse
10 upon MCKAY until the Summer of 1991.

11 32. Plaintiff KATIE KELLY ["KELLY"] became an athlete member of CHABOT
12 AQUATICS in or about 1987 when she was 17 years old.

13 33. Immediately after joining CHABOT AQUATICS, King made sexually explicit
14 comments to KELLY about her physique, including her breasts. King would wrap his arm around
15 KELLY and whisper into her ear comments such as: "Your body is so hot, do you have any idea
16 what you do to me?" and "You're so tight, oh baby". KELLY could feel the warmth of his breath
17 on her neck and ear and his quivering lips. While King was in his office alone with KELLY, he
18 told her that having sex would help her with her period cramps. He asked KELLY to kiss another
19 male swimmer in front of the whole team. King's constant sexual advances made KELLY feel
20 extremely uncomfortable.

21 34. King continued to engage in sexually inappropriate conduct towards KELLY after
22 she reached the age of majority. On two more instances, King asked KELLY to kiss another male
23 swimmer in front of her teammates. During the latter of those instances, King threatened to
24 punish the entire swim team with a strenuous workout if she did not kiss a fellow male swimmer
25 for at least thirty (30) seconds. Due to immense pressure from King and her peers, KELLY kissed
26 the male swimmer for over thirty (30) seconds. It was a humiliating experience for KELLY.

27 35. The disturbingly inappropriate conduct of KING was widely known throughout
28 the swimming community, including amongst those people at PACIFIC SWIMMING and USA

1 SWIMMING. KELLY overheard a conversation during practice between PACIFIC
2 SWIMMING representatives wherein one of them openly acknowledged King was a "pedophile,"
3 and/or "child molester" and was sleeping with his swimmers. PLAINTIFFS are informed and
4 believe and thereon allege that neither of these individuals took any action to protect female
5 swimmers from King.

6 36. PLAINTIFFS are informed and believe and thereon allege that while coaching
7 SRV AQUATICS and CHABOT AQUATICS, King sexually assaulted at least ten (10) young
8 female swimmers under defendants' control. King impregnated one underage swimmer, resulting
9 in her undergoing an abortion.

10 37. PLAINTIFFS are informed and believe and thereon allege that in or about the
11 Summer of 1993 King abruptly left the Bay Area, amid extensive allegations of sexual
12 misconduct, and was hired to serve as a swim coach in Oak Harbor, Washington at a swim club
13 which was also a member of USA SWIMMING. At this time, King remained a coach member
14 in good standing with USA SWIMMING.

15 38. Allegations of King engaging in sexual misconduct with a young female swimmer
16 circulated within the Oak Harbor community. At least two (2) women reported King's sexual
17 misconduct to the police prompting an investigation by the Oak Harbor Police Department.

18 39. In or about June of 1997, on the eve of a public meeting wherein allegations of
19 King's inappropriate behavior with respect to young swimmers was to be openly discussed, King
20 abruptly resigned from his swim coach position.

21 40. In or about December of 2000, King became the head swim coach at San Jose
22 Aquatics, a local swim club under the jurisdiction of USA SWIMMING and PACIFIC
23 SWIMMING.

24 41. On or around January 20, 2003, KELLY submitted a written complaint to
25 PACIFIC SWIMMING representatives about King's past inappropriate behavior. Specifically,
26 she advised PACIFIC SWIMMING that King forced her and another swimmer under his control,
27 to kiss in front of him and the swim team for at least 30 seconds, under the penalty of a more
28 rigorous swim practice session. KELLY said King was a "terribly abusive coach" who sexually

1 harassed and verbally abused his swimmers. She said King at times would call his female
2 swimmers a "stupid bitch".

3 42. PACIFIC SWIMMING forwarded KELLY's complaint to USA SWIMMING's
4 Executive Director, Chuck Wielgus, and its Secretary/General Counsel, B. Wells O'Brien. USA
5 SWIMMING and PACIFIC SWIMMING did not take any disciplinary action against King in
6 response to KELLY's complaint.

7 43. Beginning in or about May of 2008, through March of 2009, King used his head
8 coach position at San Jose Aquatics to sexually assault another underage female swimmer. In or
9 about March of 2009, said swimmer notified her youth pastor of her abuse who thereon reported
10 it to the authorities.

11 44. On April 2, 2009, the San Jose Police Department arrested King. King was
12 charged with multiple violations of Penal Code §288 (molestation of a child). In September of
13 2009, King was convicted of three (3) counts of Penal Code §288(c) and seventeen (17) counts
14 of §288(a). As a result, King was sentenced to 40 years in state prison.

15 45. The true names and/or capacities, whether individual, corporate, associate, or
16 otherwise, of defendants named herein as DOES 1 through 25, inclusive are unknown to
17 PLAINTIFFS at this time, and PLAINTIFFS therefore sue said defendants by such fictitious
18 names. PLAINTIFFS will seek leave to amend this Complaint to allege their true names and
19 capacities when the same have been ascertained. PLAINTIFFS are informed and believe and
20 thereon allege that each of the defendants designated herein as a DOE is responsible in some
21 manner or is otherwise legally liable to PLAINTIFFS for the injuries complained of herein.

22 46. At all times herein mentioned, some or all of the defendants was an agent, servant,
23 employee, partner, alter ego, joint venture, franchisee, aider and abettor, and/or co-conspirator,
24 and engaged in a common or common enterprises with each of the remaining defendants herein,
25 and was at all relevant times acting within the course and scope of said agency, service,
26 employment, partnership, joint venture, franchise, unlawful enterprise, conspiracy and/or other
27 lawful or unlawful conduct as herein alleged.

28

1 47. Each plaintiff is over the age of 39. PLAINTIFFS’ action is one for damages as a
 2 result of childhood sexual assault for which the statute of limitations has been extended pursuant
 3 to Code of Civil Procedure §340.1(q). PLAINTIFFS have complied with the provisions of Code
 4 of Civil Procedure §340.1(f), (g) and (h). PLAINTIFFS’ counsel executed certificates of merit
 5 as to all defendants, which are attached hereto as **Exhibit 1**. A licensed mental health practitioner
 6 executed a certificate of merit as to PLAINTIFFS’ action which is attached hereto as **Exhibit 2**.

7 **FIRST CAUSE OF ACTION**

8 **SEXUAL ASSAULT OF A MINOR**

9 As and for a First Cause of Action, plaintiffs DEBRA GRODENSKY, G.D., CAREN
 10 MCKAY, and KATIE KELLY allege against defendants USA SWIMMING, INC., PACIFIC
 11 SWIMMING and DOES 1 through 5 as follows:

12 48. PLAINTIFFS hereby incorporate all paragraphs of the Common Allegations, as
 13 though set forth in full herein.

14 49. As minors entrusted to the care of defendants, a special relationship existed by
 15 which defendants were obligated to protect PLAINTIFFS from harm.

16 50. King used his position of trust and authority as a USA SWIMMING and PACIFIC
 17 SWIMMING approved swim coach to groom PLAINTIFFS for his sexual advances and
 18 thereafter committed lewd and lascivious acts upon PLAINTIFFS and/or sexually abused,
 19 molested, harassed and/or improperly touched PLAINTIFFS.

20 51. USA SWIMMING and PACIFIC SWIMMING ratified King’s conduct by failing
 21 to repudiate his predatory behavior and/or sexual assaults by, *inter alia*, by allowing King to
 22 continue coaching its minor members after numerous allegations arose against him including
 23 those involving PLAINTIFFS, failing to report his sexual misconduct with minors to the
 24 authorities, and concealing his predatory behavior from the public and the swimming community.

25 52. As a legal result of the foregoing, PLAINTIFFS were injured in health, strength
 26 and activity, sustaining bodily injuries and shock and injury to their nervous systems and persons,
 27 all of which caused and continue to cause PLAINTIFFS great mental, physical and nervous pain
 28 and suffering; PLAINTIFFS have thereby sustained damages in an amount in excess of the

1 minimum jurisdictional limits of this court.

2 53. As a further legal result of the conduct of the defendants, and each of them,
3 PLAINTIFFS required to and did employ physicians and counselors for examination, treatment
4 and care, and incurred, and will continue in the future to incur, medical and incidental expenses,
5 including counseling costs, the exact amount of which is unknown to plaintiffs at this time.

6 54. The acts of USA SWIMMING and PACIFIC SWIMMING perpetrated upon these
7 minor PLAINTIFFS were fraudulent, malicious and/or oppressive within the meaning of Civil
8 Code §3294 in, *inter alia*, concealing King's known predatory behavior from the swimming
9 community, plaintiffs and/or their parents, disregarding complaints about King's misconduct,
10 refusing to notify legal authorities of a reasonable suspicion of child abuse in violation of statute,
11 and/or engaging in acts designed to conceal King's sexual abuse of PLAINTIFFS when they were
12 minors.

13 **SECOND CAUSE OF ACTION**

14 **NEGLIGENCE**

15 **Count 1 - As to USA Swimming, Pacific Swimming, SRV Aquatics and Does 6-15**

16 As and for a Second Cause of Action, plaintiff DEBRA GRODENSKY alleges against
17 defendants USA SWIMMING, INC., PACIFIC SWIMMING, SAN RAMON VALLEY
18 AQUATICS, and DOES 6 through 15, inclusive, as follows:

19 55. Plaintiff GRODENSKY hereby incorporates all paragraphs contained in her
20 Common Allegations and First Cause of Action as though set forth in full herein.

21 56. Due to the special relationship between GRODENSKY and defendants, said
22 defendants, and each of them, owed GRODENSKY a duty to, *inter alia*, protect her from sexual
23 assault by this approved coach, retain and/or supervise suitable coaches to whom her care was
24 entrusted, warn of all knowable dangers presented by the coach so retained, institute and enforce
25 appropriate policies, procedures, rules, regulations, and requirements necessary to prevent
26 inappropriate sexual conduct by coaches, to report to the legal authorities any reasonable
27 suspicion of child abuse, to implement reasonable safeguards to avoids acts of childhood sexual
28 assault, and/or to otherwise conduct themselves with due care so as to avoid injuring

1 GRODENSKY.

2 57. Said defendants, and each of them, breached said duties by, *inter alia*, failing to
3 properly screen King before he began coaching at SRV AQUATICS, failing to properly supervise
4 GRODENSKY and King, failing to appropriately train coaches and volunteers on inappropriate
5 behaviors between adult coaches and minor members, failing to implement and/or enforce proper
6 policies and procedures for the protection of minor swimmers, failing to report inappropriate
7 behaviors to the authorities for proper investigation, failing to intervene on GRODENSKY's
8 behalf, failing to ban King from the sport of swimming, and/or failing to notify GRODENSKY
9 and others in the swimming community of the risk King posed to young female swimmers.

10 58. As a legal result of defendants' acts and/or omissions, GRODENSKY sustained
11 injuries and damages as hereinbefore alleged.

12 **Count 2 - As to USA Swimming, Pacific Swimming, Chabot Aquatics, and Does 16-25**

13 As and for a Second Cause of Action, plaintiffs G.D., CAREN MCKAY, and KATIE
14 KELLY allege against defendants USA SWIMMING, INC., PACIFIC SWIMMING, CHABOT
15 AQUATIC FOUNDATION, and DOES 16 through 25, inclusive, as follows:

16 59. Plaintiffs G.D., CAREN MCKAY, and KATIE KELLY hereby incorporate all
17 paragraphs contained in their Common Allegations and First Cause of Action as though set forth
18 in full herein.

19 60. Due to the special relationship between plaintiffs and defendants, said defendants,
20 and each of them, owed plaintiffs a duty to, *inter alia*, protect them from sexual assault by their
21 coach, retain and/or supervise suitable coaches to whom their care was entrusted, warn of all
22 knowable dangers presented by the coach so retained, institute and enforce appropriate policies,
23 procedures, rules, regulations, and requirements necessary to prevent inappropriate sexual
24 conduct by coaches, to report to the legal authorities any reasonable suspicion of child abuse, to
25 implement reasonable safeguards to avoid acts of childhood sexual assault, and/or to otherwise
26 conduct themselves with due care so as to avoid injuring plaintiffs.

27 61. Said defendants, and each of them, breached said duties by, *inter alia*, failing to
28 properly screen King before he began coaching at CHABOT AQUATIC FOUNDATION, failing

1 to properly supervise plaintiffs and King, failing to appropriately train coaches and volunteers on
 2 inappropriate behaviors between adult coaches and minor members, failing to implement and/or
 3 enforce proper policies and procedures for the protection of minor swimmers, failing to report
 4 inappropriate behaviors to the authorities for proper investigation, failing to intervene on
 5 plaintiffs' behalf, failing to ban King from the sport of swimming, and/or, failing to notify
 6 plaintiffs and others in the swimming community of the risk King posed to young female
 7 swimmers.

8 62. As a legal result of defendants' acts and/or omissions, plaintiffs sustained injuries
 9 and damages as hereinbefore alleged

10 **PRAYER**

11 WHEREFORE, PLAINTIFFS prays for judgment as follows:

- 12 1. For all special and all other economic damages according to proof;
- 13 2. For general damages and other non-economic relief, according to proof;
- 14 3. For punitive damages against defendants USA SWIMMING, and PACIFIC
 15 SWIMMING;
- 16 4. For prejudgment interest, as allowed by law;
- 17 5. For costs of suit herein; and,
- 18 6. For such other and further relief as the court may deem fit and proper.

21 Dated: June 3, 2020

CORSIGLIA, MCMAHON & ALLARD LLP

22
 23 By: 

24 B. ROBERT ALLARD
 25 MARK J. BOSKOVICH
 26 Attorneys for Plaintiffs



EXHIBIT 1

1 **B. ROBERT ALLARD (#175592)**
 2 **MARK J. BOSKOVICH (#298688)**
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6 Attorneys for Plaintiffs

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8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

9
10 DEBRA GRODENSKY, G.D., an individual;
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13 USA SWIMMING, INC., a Colorado
14 corporation; PACIFIC SWIMMING, a
15 California corporation; SAN RAMON
16 VALLEY AQUATICS, a California
17 corporation; CHABOT AQUATIC
FOUNDATION; and DOES 1 through 25,
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18 Defendants.

Case No.

**ATTORNEY CERTIFICATE OF MERIT
RE: DEFENDANT USA SWIMMING,
INC. [CCP §340.1(f)]**

19
20 I, MARK J. BOSKOVICH, do hereby declare and certify:

21 1. I am the attorney for plaintiffs in the above-entitled action.

22 2. I have reviewed the facts of the case filed on behalf of plaintiffs against
23 defendant USA Swimming, Inc.

24 3. I have consulted with Dr. Calvin Colarusso about this case. Dr. Colarusso is a
25 mental health practitioner licensed to practice in California and is not a party to this lawsuit. I
26 reasonably believe Dr. Colarusso is knowledgeable of the relevant facts and issues involved in
27 this particular action.


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4. Based on my review of the facts of this case and my consultation with Dr. Colarusso, I believe that there is reasonable and meritorious cause for filing the action against defendant USA Swimming, Inc.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 3, 2020

CORSIGLIA, MCMAHON & ALLARD LLP

By: 
MARK J. BOSKOVICH
Attorneys for Plaintiff

1 **B. ROBERT ALLARD (#175592)**
 2 **MARK J. BOSKOVICH (#298688)**
 3 **CORSIGLIA MCMAHON & ALLARD LLP**
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 5 San Jose, California 95112
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6 Attorneys for Plaintiffs

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8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

9
10 DEBRA GRODENSKY, G.D., an individual;
CAREN MCKAY, and KATIE KELLY,

11 Plaintiffs,

12 vs.

13 USA SWIMMING, INC., a Colorado
14 corporation; PACIFIC SWIMMING, a
California corporation; SAN RAMON
15 VALLEY AQUATICS, a California
corporation; CHABOT AQUATIC
16 FOUNDATION, a California corporation;
and DOES 1 through 25, inclusive,

17 Defendants.
18

Case No.

**ATTORNEY CERTIFICATE OF MERIT
RE: DEFENDANT PACIFIC
SWIMMING [CCP §340.1(f)]**

19
20 I, MARK J. BOSKOVICH, do hereby declare and certify:

21 1. I am the attorney for plaintiffs in the above-entitled action.

22 2. I have reviewed the facts of the case filed on behalf of plaintiffs against
23 defendant Pacific Swimming.

24 3. I have consulted with Dr. Calvin Colarusso about this case. Dr. Colarusso is a
25 mental health practitioner licensed to practice in California and is not a party to this lawsuit. I
26 reasonably believe Dr. Colarusso is knowledgeable of the relevant facts and issues involved in
27 this particular action.
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4. Based on my review of the facts of this case and my consultation with Dr. Colarusso, I believe that there is reasonable and meritorious cause for filing the action against defendant Pacific Swimming.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 3, 2020

CORSIGLIA, MCMAHON & ALLARD LLP

By: 
MARK J. BOSKOVICH
Attorneys for Plaintiff

1 **B. ROBERT ALLARD (#175592)**
 2 **MARK J. BOSKOVICH (#298688)**
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6 Attorneys for Plaintiffs

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

DEBRA GRODENSKY, G.D., an individual;
 CAREN MCKAY, and KATIE KELLY,
 Plaintiffs,

vs.

USA SWIMMING, INC., a Colorado
 corporation; PACIFIC SWIMMING, a
 California corporation; SAN RAMON
 VALLEY AQUATICS, a California
 corporation; CHABOT AQUATIC
 FOUNDATION; and DOES 1 through 25,
 inclusive,
 Defendants.

Case No.

ATTORNEY CERTIFICATE OF MERIT
RE: DEFENDANT SAN RAMON
VALLEY AQUATICS [CCP §340.1(f)]

19
 20 I, MARK J. BOSKOVICH, do hereby declare and certify:
 21 1. I am the attorney for plaintiffs in the above-entitled action.
 22 2. I have reviewed the facts of the case filed on behalf of plaintiff Debra
 23 Grodensky against defendant San Ramon Valley Aquatics.
 24 3. I have consulted with Dr. Calvin Colarusso about this case. Dr. Colarusso is a
 25 mental health practitioner licensed to practice in California and is not a party to this lawsuit. I
 26 reasonably believe Dr. Colarusso is knowledgeable of the relevant facts and issues involved in
 27 this particular action.
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4. Based on my review of the facts of this case and my consultation with Dr. Colarusso, I believe that there is reasonable and meritorious cause for filing the action against defendant San Ramon Valley Aquatics.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 3, 2020

CORSIGLIA, MCMAHON & ALLARD LLP

By: 
MARK J. BOSKOVICH
Attorneys for Plaintiff

1 **B. ROBERT ALLARD (#175592)**
 2 **MARK J. BOSKOVICH (#298688)**
 3 **CORSIGLIA MCMAHON & ALLARD LLP**
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6 Attorneys for Plaintiffs

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8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

9

10 DEBRA GRODENSKY, G.D., an individual;
 11 CAREN MCKAY, and KATIE KELLY,

12 Plaintiffs,

13 vs.

14 USA SWIMMING, INC., a Colorado
 15 corporation; PACIFIC SWIMMING, a
 16 California corporation; SAN RAMON
 17 VALLEY AQUATICS, a California
 18 corporation; CHABOT AQUATIC
 19 FOUNDATION, a California corporation;
 and DOES 1 through 25, inclusive,

20 Defendants.

Case No.

**ATTORNEY CERTIFICATE OF MERIT
 RE: DEFENDANT CHABOT AQUATIC
 FOUNDATION [CCP §340.1(f)]**

21

22 I, MARK J. BOSKOVICH, do hereby declare and certify:

- 23 1. I am the attorney for plaintiffs in the above-entitled action.
- 24 2. I have reviewed the facts of the case filed on behalf of plaintiffs G.D., Caren
 25 McKay, and Katie Kelly against defendant Chabot Aquatic Foundation.
- 26 3. I have consulted with Dr. Calvin Colarusso about this case. Dr. Colarusso is a
 27 mental health practitioner licensed to practice in California and is not a party to this lawsuit. I
 28 reasonably believe Dr. Colarusso is knowledgeable of the relevant facts and issues involved in
 this particular action.

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4. Based on my review of the facts of this case and my consultation with Dr. Colarusso, I believe that there is reasonable and meritorious cause for filing the action against defendant Chabot Aquatic Foundation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 3, 2020

CORSIGLIA, MCMAHON & ALLARD LLP


By: 
MARK J. BOSKOVICH
Attorneys for Plaintiff

EXHIBIT 2

1 **B. ROBERT ALLARD (#175592)**
 2 **MARK J. BOSKOVICH (#298688)**
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 7 Fax: (408) 289-8127
 8 rallard@cmalaw.net
 9 mboskovich@cmalaw.net

Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

10 DEBRA GRODENSKY, G.D., an individual;
 11 CAREN MCKAY, and KATIE KELLY,

Plaintiffs,

vs.

14 USA SWIMMING, INC., a Colorado
 15 corporation; PACIFIC SWIMMING, a
 16 California corporation; SAN RAMON
 17 VALLEY AQUATICS, a California
 18 corporation; CHABOT AQUATIC
 19 FOUNDATION; and DOES 1 through 25,
 20 inclusive,

Defendants.

Case No.

**LICENSED MENTAL HEALTH
PRACTITIONER CERTIFICATE OF
MERIT [CCP §340.1(f)]**

I, CALVIN A. COLARUSSO, M.D., do hereby declare and certify:

- 22 1. I am a California licensed mental health care practitioner. I currently practice in
 23 the state of California.
- 24 2. I am not a party to this lawsuit.
- 25 3. I am not currently treating, nor have I ever treated any of the plaintiffs in this
 26 case.

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4. I have interviewed plaintiffs Debra Grodensky, G.D., Caren McKay, and Katie Kelly and I have general knowledge of the relevant facts and issues raised in this particular lawsuit.

5. In my professional opinion, based on my knowledge of the relevant facts and issues raised in this particular lawsuit and my interviews of the four plaintiffs, there is a reasonable basis to believe that plaintiffs Debra Grodensky, G.D., Caren McKay, and Katie Kelly were all subjected to childhood sexual abuse by defendant Andrew King.

I declare under penalty of perjury, and pursuant to the laws of the state of California, that the foregoing is true and correct and that the certificate was executed on May 31, 2020, at La Jolla, California.

Calvin A. Colarusso M.D.
CALVIN A. COLARUSSO M.D.