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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF COCHISE

JANE DOE I; et al.,

Plaintiffs,

v.

THE CORPORATION OF THE  
PRESIDENT OF THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY  
SAINTS, a Utah corporation sole; et al.,

Defendants.

No. S0200CV202000599

**THE CHURCH DEFENDANTS'  
ANSWER TO PLAINTIFFS' FIRST  
AMENDED COMPLAINT**

(Assigned to the Honorable  
Laura Cardinal)

1 Pursuant to Rule 15(a), Ariz.R.Civ.P., Defendants Corporation of the President  
2 of The Church of Jesus Christ of Latter-day Saints; The Church of Jesus Christ of  
3 Latter-day Saints (incorrectly sued herein as The Corporation of the Presiding Bishop of  
4 the Church of Jesus Christ of Latter-Day Saints) (together “COP” or “the Church”); Dr.  
5 John Herrod and Sherrie Farnsworth Herrod (together “Herrod”); and Robert Kim  
6 Mauzy and Michelle Morgan Mauzy (together “Mauzy”), by and through counsel,  
7 hereby submit their Answer as of right in response to Plaintiffs’ First Amended  
8 Complaint (“FAC”) by admitting, denying, and affirmatively alleging as follows.

9 The numbered paragraphs below respond to the numbered paragraphs of the  
10 FAC. Collectively, COP, Herrod and Mauzy are referred to herein as “the Church  
11 Defendants” or “Defendants.” Any allegations set forth in the FAC that are not  
12 expressly admitted in this Answer are deemed denied by these Defendants.

### 13 INTRODUCTION

14 1. Defendants admit that Plaintiffs allege in their FAC various sexual and  
15 other abuse of children perpetrated by the children’s father. Defendants further admit  
16 that the perpetrator confidentially disclosed to Bishop Herrod, acting in his capacity as a  
17 Bishop of the Defendant Church, a very limited aspect of such alleged abuse, and that  
18 Bishop Herrod then strongly encouraged the perpetrator and his wife to report the abuse  
19 to authorities or authorize Bishop Herrod to report the abuse, but the perpetrator and his  
20 wife refused to do either. Defendants were constrained by applicable law from reporting  
21 the abuse without permission of the perpetrator or his wife. Defendants deny the  
22 remaining allegations of Paragraph 1 of the FAC.

23 2. Defendants admit that Plaintiffs have selectively quoted from a handbook  
24 published by the Defendant Church, but Defendants deny the remaining allegations of  
25 Paragraph 2 of the FAC for the reason that such remaining allegations are distortions of  
26 fact, argumentative, misleading and otherwise inaccurate.

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1           3. Defendants admit that the Defendant Church operates a Help Line to assist  
2 Church leaders with legal matters and related issues, but Defendants deny the remaining  
3 allegations of Paragraph 3 of the FAC.

4   **PARTIES AND JURISDICTION**

5           4. Defendants admit, on information and belief, that Paul and Leizza Adams  
6 resided in Cochise County, Arizona, that they had six children, and that Paul Adams was  
7 a United States Border Patrol Agent. Defendants lack sufficient information to admit or  
8 deny the remaining allegations of Paragraph 4 of the FAC.

9           5. Defendants admit the allegations of Paragraph 5 of the FAC.

10           6. Defendants deny that there currently exists an entity by the name of The  
11 Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints,  
12 and Defendants affirmatively allege that such entity changed its name to The Church of  
13 Jesus Christ of Latter-day Saints well before the filing of the FAC. Defendants admit  
14 that the main address of the Church is in Utah as stated and that the Church conducts  
15 certain activities and owns certain property in Arizona. Defendants deny the remaining  
16 allegations of Paragraph 6 of the FAC for the reason that they are argumentative and  
17 misleading.

18           7. Defendants admit that COP and the Church are registered to do business in  
19 Arizona, that they operate temples and other places of religious worship in Arizona, and  
20 that the Church has certain geographic divisions known as stakes, wards and areas.  
21 Defendants deny the remaining allegations of Paragraph 7 of the FAC.

22           8. Defendants admit that each ward of the Church has a designated Bishop  
23 who serves voluntarily for a limited period of time as the religious leader of the ward  
24 and that Defendants John Herrod and Robert Kim Mauzy were appointed Bishops of the  
25 Bisbee Ward of the Church in Arizona at certain times relevant to the allegations of the  
26 FAC. Defendants further admit that Bishops are the local clergy of the Church and that  
27 they hear confessions and counsel with Church members who have sinned or seek  
28

1 spiritual guidance and counseling. Defendants deny the remaining allegations of  
2 Paragraph 8 of the FAC.

3 9. Defendants admit that the Church and Church leaders seek to foster the  
4 religious and spiritual needs of Church members, but Defendants deny the remaining  
5 allegations of Paragraph 9 of the FAC.

6 10. Defendants admit that the Church, as is the case with virtually all  
7 churches, obtains voluntary contributions from Church members for the purpose of  
8 further Church operations. Defendants deny the remaining allegations of Paragraph 10  
9 of the FAC for the reason that they are argumentative, inaccurate and misleading.

10 11. Defendants admit that John Herrod and Sherrie Farnsworth Herrod are  
11 married, that they resided in Arizona at certain times relevant to the allegations of the  
12 FAC, and that John Herrod served as Bishop of the Bisbee Ward of the Church from  
13 approximately 2008 until early 2013. Defendants deny the remaining allegation of  
14 Paragraph 11 of the FAC.

15 12. Defendants admit that John Herrod was a licensed physician in Arizona at  
16 certain times and that Dr. Herrod provided some medical care for Paul Adams and  
17 Leizza Adams on occasion. Defendants deny the remaining allegation of Paragraph 12  
18 of the FAC.

19 13. Defendants admit that Lenzner Medical Services LLC is and/or was a  
20 private medical practice with which Dr. Herrod was associated for a period of time.  
21 Defendants deny the remaining allegations of Paragraph 13 of the FAC.

22 14. Defendants admit that Robert Kim Mauzy and Michelle Morgan Mauzy  
23 are married, that they resided in Arizona at certain times relevant to the allegations of the  
24 FAC, and that Robert Kim Mauzy served as Bishop of the Bisbee Ward of the Church  
25 from approximately early 2013 to 2018. Defendants deny the remaining allegation of  
26 Paragraph 14 of the FAC.

27 15. Defendants admit, on information and belief, that Shaunice Warr was a  
28 member of the Church at times relevant to the allegations of the FAC, that she served as

1 a United States Border Patrol Agent, and that she served as a Sunday school teacher  
2 within the Bisbee Ward of the Church at certain times. Defendants deny the remaining  
3 allegations of Paragraph 15 of the FAC.

4 16. Defendants admit that Bishops Herrod and Mauzy, when performing their  
5 duties as Bishops of the Bisbee Ward of the Church, were acting for and on behalf of the  
6 Church. Defendants deny the remaining allegations of Paragraph 16 of the FAC.

7 17. Defendants deny the allegations of Paragraph 17 of the FAC.

8 **JURISDICTION AND VENUE**

9 18. Defendants admit the allegations of Paragraph 18 of the FAC.

10 19. Defendants admit the allegations of Paragraph 19 of the FAC.

11 20. Defendants deny the allegations of Paragraph 20 of the FAC.

12 21. Defendants admit the allegations of Paragraph 21 of the FAC.

13 **FACTUAL ALLEGATIONS**

14 22. On information and belief, Defendants admit the allegations of Paragraph  
15 22 of the FAC.

16 23. Defendants admit that, from time to time, the Adams family attended  
17 Church services in the Bisbee Ward, that some of the Adams children, from time to time,  
18 attended Sunday school at the Church, and that, from time to time, Leizza Adams played  
19 the piano at certain Church functions. Defendants deny the remaining allegations of  
20 Paragraph 23 of the FAC.

21 24. Although Defendants are aware of press reports concerning Paul Adams'  
22 arrest and his alleged abuse of some of his children, Defendants are without sufficient  
23 personal knowledge to form a belief as to the truth of the allegations of Paragraph 24 of  
24 the FAC, and therefore deny such allegations.

25 25. Defendants are without sufficient personal knowledge to form a belief as  
26 to the truth of the allegations of Paragraph 25 of the FAC, and therefore deny such  
27 allegations.

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1           26. Defendants are without sufficient personal knowledge to form a belief as  
2 to the truth of the allegations of Paragraph 26 of the FAC, and therefore deny such  
3 allegations.

4           27. Defendants deny the allegations of Paragraph 27 of the FAC.

5           28. Defendants deny the allegations of Paragraph 28 of the FAC.

6           29. Defendants admit that the Church provides spiritual and religious  
7 counseling for its Church members and seeks to foster a close relationship between the  
8 Church and member families, but Defendants deny the remaining allegations of  
9 Paragraph 29 of the FAC.

10          30. Defendants admit that, among other things, the Relief Society is a  
11 women's organization within each Ward that seeks to help women members of a Ward  
12 in the manner stated in this paragraph of the FAC.

13          31. Defendants admit that the Relief Society is a women's organization within  
14 each Ward. Defendants admit that the visiting teaching program, as it was called at the  
15 time, was overseen by the Relief Society. Virtually all adult women in the congregation  
16 were assigned to visit other women as visiting teachers and had visiting teachers  
17 assigned to them. Defendants deny the remaining allegations of Paragraph 31 of the  
18 FAC.

19          32. Defendants admit the allegations of Paragraph 32 of the FAC.

20          33. Defendants admit the allegations of Paragraph 33 of the FAC.

21          34. Defendants admit the allegations of Paragraph 34 of the FAC.

22          35. Defendants admit the allegations of Paragraph 35 of the FAC.

23          36. Defendants admit that Defendant Warr was a visiting teacher for Leizza  
24 Adams starting in about 2012, but denies that she was assigned to the Adams family  
25 because the Church calls female members to serve as visiting teachers for adult female  
26 members and not for families. Defendants also admit that Ms. Warr taught Sunday  
27 primary school in the Bisbee Ward and that some of the Adams children regularly  
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1 attended those classes. Defendants deny the remaining allegations of Paragraph 36 of  
2 the FAC.

3 37. Defendants admit that Ms. Warr was a visiting teacher for Leizza Adams  
4 starting in about 2012, but Defendants deny the remaining allegations of Paragraph 37 of  
5 the FAC.

6 38. Defendants are without sufficient personal knowledge to form a belief as  
7 to the truth of the allegations of the first sentence of Paragraph 38 of the FAC, and  
8 therefore deny those allegations. Defendants deny the remaining allegations of  
9 Paragraph 38 of the FAC.

10 39. Defendants are without sufficient personal knowledge to form a belief as  
11 to the truth of the allegations of Paragraph 39 of the FAC, and therefore deny those  
12 allegations.

13 40. Defendants are without sufficient personal knowledge to form a belief as  
14 to the truth of the allegations of Paragraph 40 of the FAC, and therefore deny those  
15 allegations.

16 41. Defendants lack knowledge of and are otherwise unaware of the interior or  
17 the contents of the Adams' home as alleged in Paragraph 41 of the FAC, and therefore  
18 deny those allegations.

19 42. Defendants deny the allegations of Paragraph 42 of the FAC and  
20 specifically deny that Defendant Warr had a special relationship with the Adams  
21 children or that Defendant Warr acted at the direction of the "Mormon Church and its  
22 leaders" as alleged or at all.

23 43. Defendants are without sufficient personal knowledge to form a belief as  
24 to the truth of the allegations of Paragraph 43 of the FAC, and therefore deny those  
25 allegations.

26 44. Defendants have no personal knowledge sufficient to form a belief as to  
27 the truth of the allegations of Paragraph 44 of the FAC, and therefore deny those  
28 allegations.

1           45. Defendants have no personal knowledge sufficient to form a belief as to  
2 the truth of the allegations of Paragraph 45 of the FAC, and therefore deny those  
3 allegations.

4           46. Defendants deny each and every allegation of Paragraph 46 of the FAC,  
5 and Defendants affirmatively allege that certain allegations of such Paragraph are  
6 contrary to the clergy exception to the Arizona reporting statute.

7           47. Defendants deny the allegations of Paragraph 47 of the FAC.

8           48. Defendants are without sufficient personal knowledge to form a belief as  
9 to the truth of the first two sentences of Paragraph 48 of the FAC, and therefore deny  
10 those allegations. Defendants specifically deny the allegations of the last sentence of  
11 Paragraph 48 of the FAC.

12           49. Defendants assert that the Church Bishops had no right or obligation,  
13 consistent with the clergy exception to the Arizona reporting statute and other Arizona  
14 law, to disclose a confidential and privileged communication with a Church member and  
15 therefore Defendants deny the allegations of Paragraph 49 of the FAC as those  
16 allegations pertain to these Defendants.

17           50. Defendants deny the allegations of Paragraph 50 of the FAC.

18           51. The matters that are the subject of Paragraph 51 of the FAC involve  
19 privileged communications under Arizona law. Without waiving any such privilege,  
20 Defendants deny those allegations.

21           52. The matters that are the subject of the first sentence of Paragraph 52 of the  
22 FAC involve privileged communications under Arizona law. Without waiving any such  
23 privilege, Defendants deny those allegations. Defendants specifically deny that any such  
24 privilege was waived, and Defendants deny the remaining allegations of Paragraph 52 of  
25 the FAC as being argumentative and misleading.

26           53. Defendants admit that Bishop Herrod counseled with both Paul and Leizza  
27 Adams at times, instructed both of them to report to authorities any abuse of their  
28 children that may have occurred or authorize him to do so, but they both refused.



- 1           54. Defendants admit the allegations of Paragraph 54 of the FAC.
- 2           55. Defendants deny the allegations of Paragraph 55 of the FAC.
- 3           56. Upon information and belief, Defendants admit the allegations of  
4 Paragraph 56 of the FAC.
- 5           57. Defendants deny the allegations of Paragraph 57 of the FAC.
- 6           58. Defendants deny the allegations of Paragraph 58 of the FAC.
- 7           59. Defendants deny the allegations of Paragraph 59 of the FAC.
- 8           60. Defendants admit that the Church, through its outside counsel, has a Help  
9 Line that is available to Church leaders with respect to certain legal issues that arise  
10 from time to time, and Defendants admit that Bishop Herrod called the Help Line at a  
11 certain point or points. Defendants deny the remaining allegations of Paragraph 60 of  
12 the FAC.
- 13           61. Defendants admit only that Plaintiffs have quoted a small portion of the  
14 Bishops Handbook. Defendants deny the remaining allegations of Paragraph 61 of the  
15 FAC.
- 16           62. Defendants admit that the quoted language appears in the Utah Supreme  
17 Court case entitled *MacGregor v. Walker*, but allege that this partial quotation contained  
18 in Paragraph 62 of the FAC is used misleadingly by Plaintiffs and that Plaintiffs have  
19 failed to point out that the Court in that case held that the Help Line was beneficial and  
20 gave rise to no duty to a third party.
- 21           63. Defendants deny the allegations of Paragraph 63 of the FAC.
- 22           64. Defendants deny the allegations of Paragraph 64 of the FAC.
- 23           65. Defendants deny the allegations of Paragraph 65 of the FAC.
- 24           66. Defendants deny the allegations of Paragraph 66 of the FAC.
- 25           67. Defendants deny the allegations of Paragraph 67 of the FAC.
- 26           68. Defendants deny the allegations of Paragraph 68 of the FAC.
- 27           69. Defendants deny the allegations of Paragraph 69 of the FAC.
- 28           70. Defendants admit that Bishop Herrod ceased his duties as Bishop in

1 approximately 2012, but Defendants deny the remaining allegations of Paragraph 70 of  
2 the FAC.

3 71. Defendants deny the allegations of Paragraph 71 of the FAC.

4 72. Defendants deny the allegations of Paragraph 72 of the FAC.

5 73. Defendants deny the allegations of Paragraph 73 of the FAC.

6 74. Defendants deny the allegations of Paragraph 74 of the FAC.

7 75. Defendants admit that Paul Adams was excommunicated from the Church,  
8 but Defendants deny the remaining allegations of Paragraph 75 of the FAC.

9 76. Defendants admit, upon information and belief, that John Herrod, in his  
10 capacity as a physician, saw Paul Adams and Leizza Adams on occasion, but Defendants  
11 deny the remaining allegations of Paragraph 76 of the FAC.

12 77. Defendants are without sufficient personal knowledge to form a belief as  
13 to the truth of the allegations of Paragraph 77 of the FAC and therefore deny those  
14 allegations.

15 78. Defendants are without sufficient personal knowledge to form a belief as  
16 to the truth of the allegations of Paragraph 78 of the FAC and therefore deny those  
17 allegations.

18 79. Defendants are without sufficient personal knowledge to form a belief as  
19 to the truth of the allegations of Paragraph 79 of the FAC and therefore deny those  
20 allegations.

21 80. Defendants are without sufficient personal knowledge to form a belief as  
22 to the truth of the allegations of Paragraph 80 of the FAC and therefore deny those  
23 allegations.

24 81. Defendants are without sufficient personal knowledge to form a belief as  
25 to the truth of the allegations of Paragraph 81 of the FAC and therefore deny those  
26 allegations.

27  
28

1           82. Defendants are without sufficient personal knowledge to form a belief as  
2 to the truth of the allegations of Paragraph 82 of the FAC and therefore deny those  
3 allegations.

4           83. Defendants deny the allegations of Paragraph 83 of the FAC.

5           84. Defendants deny the allegations of Paragraph 84 of the FAC.

6           85. Defendants are without sufficient personal knowledge to form a belief as  
7 to the truth of the allegations of Paragraph 85 of the FAC and therefore deny those  
8 allegations.

9           86. Defendants are without sufficient personal knowledge to form a belief as  
10 to the truth of the allegations of Paragraph 86 of the FAC and therefore deny those  
11 allegations.

12           87. Defendants are without sufficient personal knowledge to form a belief as  
13 to the truth of the allegations of Paragraph 87 of the FAC and therefore deny those  
14 allegations.

15           88. On information and belief, Defendants admit the allegations of Paragraph  
16 88 of the FAC.

17           89. On information and belief, Defendants admit the allegations of Paragraph  
18 89 of the FAC.

19           90. On information and belief, Defendants admit the allegations of Paragraph  
20 90 of the FAC.

21           91. Defendants are without sufficient personal knowledge to form a belief as  
22 to the truth of the allegations of Paragraph 91 of the FAC and therefore deny those  
23 allegations.

24           92. Defendants are without sufficient personal knowledge to form a belief as  
25 to the truth of the allegations of the first two sentences of Paragraph 92 of the FAC and  
26 therefore deny those allegations. Defendants deny the remaining allegations of  
27 Paragraph 92 of the FAC.

28

1           93. Defendants are without sufficient personal knowledge to form a belief as  
2 to the truth of the allegations of Paragraph 93 of the FAC and therefore deny those  
3 allegations.

4           94. Defendants are without sufficient personal knowledge to form a belief as  
5 to the truth of the allegations of Paragraph 94 of the FAC and therefore deny those  
6 allegations.

7           95. Defendants deny the allegations of Paragraph 95 of the FAC and  
8 affirmatively allege that Arizona law exempts clergy from reporting information learned  
9 during a confidential communication with a Church member.

10          96. Defendants deny the allegations of Paragraph 96 of the FAC.

11          97. Defendants deny the allegations of Paragraph 97 of the FAC.

12          98. Defendants deny the allegations of Paragraph 98 of the FAC.

13          99. Defendants deny that Dr. Herrod was the family physician of the Adams  
14 family, deny that Dr. Herrod treated Plaintiffs, and deny that Dr. Herrod obtained any  
15 reportable information under Arizona reporting statutes at any time.

16          100. Defendants deny the allegations of Paragraph 100 of the FAC.

17          101. Defendants deny the allegations of Paragraph 101 of the FAC.

18          102. Defendants deny the allegations of Paragraph 102 of the FAC.

19   **COUNT ONE: NEGLIGENCE**

20   **(Against All Defendants)**

21          103. Defendants incorporate each of the admissions, denials and allegations of  
22 Paragraphs 1 through 102 above as if fully set forth herein.

23          104. Defendants deny the allegations of Paragraph 104 of the FAC.

24          105. Defendants deny the allegations of Paragraph 105 of the FAC.

25          106. Defendants deny the allegations of Paragraph 106 of the FAC.

26          107. Defendants deny the allegations of Paragraph 107 of the FAC.

27          108. Defendants deny the allegations of Paragraph 108 of the FAC.

28          109. Defendants deny the allegations of Paragraph 109 of the FAC.

1 110. Defendants deny the allegation of Paragraph 110 of the FAC.

2 111. Defendants admit the allegations concerning A.R.S. 13-3620, but allege  
3 that such statute has no applicability to Defendants on the facts of this case.

4 112. Defendants admit the allegations of Paragraph 112 of the FAC, but allege  
5 that Arizona reporting requirements have no applicability to Defendants on the facts of  
6 this case.

7 113. Defendants deny the allegations of Paragraph 113 of the FAC.

8 114. Defendants deny the allegations of Paragraph 114 of the FAC.

9 115. Defendants deny the allegations of Paragraph 115 of the FAC.

10 116. Defendants deny the allegations of Paragraph 116 of the FAC.

11 117. Defendants deny the allegations of Paragraph 117 of the FAC.

12 118. Defendants deny the allegations of Paragraph 118 of the FAC.

13 119. Defendants deny the allegations of Paragraph 119 of the FAC.

14 **COUNT TWO: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

15 **(Against All Defendants)**

16 120. Defendants incorporate each of the admissions, denials and allegations of  
17 Paragraphs 1 through 119 above as if fully set forth herein.

18 121. Defendants deny the allegations of Paragraph 121 of the FAC.

19 122. Defendants deny the allegations of Paragraph 122 of the FAC.

20 123. Defendants deny the allegations of Paragraph 123 of the FAC.

21 124. Defendants deny the allegations of Paragraph 124 of the FAC.

22 **COUNT THREE: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

23 **(Against All Defendants)**

24 125. Defendants incorporate each of the admissions, denials and allegations of  
25 Paragraphs 1 through 124 above as if fully set forth herein.

26 126. Defendants are without sufficient personal knowledge to form a belief as  
27 to the truth of the allegations of Paragraph 126 of the FAC and therefore deny those  
28 allegations.

1 127. Defendants deny the allegations of Paragraph 127 of the FAC.

2 128. Defendants deny the allegations of Paragraph 128 of the FAC.

3 129. Defendants deny the allegations of Paragraph 129 of the FAC.

4 **COUNT FOUR: BREACH OF FIDUCIARY DUTY**

5 **(Against All Defendants)**

6 130. Defendants incorporate each of the admissions, denials and allegations of  
7 Paragraphs 1 through 129 above as if fully set forth herein.

8 131. Defendants deny the allegations of Paragraph 131 of the FAC.

9 132. Defendants deny the allegations of Paragraph 132 of the FAC.

10 133. Defendants deny the allegations of Paragraph 133 of the FAC.

11 134. Defendants deny the allegations of Paragraph 134 of the FAC.

12 135. Defendants deny the allegations of Paragraph 135 of the FAC.

13 136. Defendants deny the allegations of Paragraph 136 of the FAC.

14 **COUNT FIVE: MEDICAL MALPRACTICE/MEDICAL NEGLIGENCE**

15 **(Against John Herrod/Lenzner Medical Clinic)**

16 137. Defendants incorporate each of the admissions, denials and allegations of  
17 Paragraphs 1 through 136 above as if fully set forth herein.

18 138. Defendants deny the allegations of Paragraph 138 of the FAC.

19 139. Defendants deny the allegations of Paragraph 139 of the FAC.

20 140. Defendants deny the allegations of Paragraph 140 of the FAC.

21 141. Defendants deny the allegations of Paragraph 141 of the FAC.

22 142. Defendants deny the allegations of Paragraph 142 of the FAC.

23 143. Defendants deny the allegations of Paragraph 143 of the FAC.

24 144. Defendants admit that a physician owes a duty of reasonable care to a  
25 patient, but Defendants otherwise deny the allegations of Paragraph 144 of the FAC.

26 145. Defendants deny the allegations of Paragraph 145 of the FAC.

27 146. Defendants deny the allegations of Paragraph 146 of the FAC.

28 147. Defendants deny the allegations of Paragraph 147 of the FAC.

1                                   **COUNT SIX: MEDICAL NEGLIGENCE/NEGLIGENT**

2                                   **HIRING/RETENTION/SUPERVISION**

3                                   **(Against Lenzner Medical Clinic)**

4                   148. Defendants incorporate each of the admissions, denials and allegations of  
5 Paragraphs 1 through 147 above as if fully set forth herein.

6                   149. Defendants deny the allegations of Paragraph 149 of the FAC.

7                   150. Defendants deny the allegations of Paragraph 150 of the FAC.

8                                   **COUNT SEVEN: RATIFICATION**

9                                   **(Against All Defendants)**

10                  151. Defendants incorporate each of the admissions, denials and allegations of  
11 Paragraphs 1 through 150 above as if fully set forth herein.

12                  152. Defendants deny the allegations of Paragraph 152 of the FAC.

13                  153. Defendants deny the allegations of Paragraph 153 of the FAC.

14                  154. Defendants deny the allegations of Paragraph 154 of the FAC.

15                                  **COUNT EIGHT: CIVIL CONSPIRACY**

16                                  **(Against All Defendants)**

17                  155. Defendants incorporate each of the admissions, denials and allegations of  
18 Paragraphs 1 through 154 above as if fully set forth herein.

19                  156. Defendants deny the allegations of Paragraph 156 of the FAC.

20                  157. Defendants deny the allegations of Paragraph 157 of the FAC.

21                                  **COUNT NINE: PUNITIVE DAMAGES**

22                  158. Defendants incorporate each of the admissions, denials and allegations of  
23 Paragraphs 1 through 157 above as if fully set forth herein.

24                  159. Defendants deny the allegations of Paragraph 159 of the FAC.

25                                  **CASE TIER**

26                  160. Defendants admit that this is a Tier 3 case under the Arizona Rules of Civil  
27 Procedure.

1 **AFFIRMATIVE DEFENSES**

2 **First Affirmative Defense**

3 The FAC fails to state a claim upon which relief can be granted against these  
4 Defendants.

5 **Second Affirmative Defense**

6 Plaintiffs' claims against Defendants are barred in whole or in part because they  
7 have not established or sufficiently pled that their claimed injury and damages were  
8 caused to any extent by Defendants.

9 **Third Affirmative Defense**

10 Plaintiffs' claims against Defendants are barred in whole or in part because they  
11 have not suffered any damages as a result of any conduct on the part of Defendants.

12 **Fourth Affirmative Defense**

13 Plaintiffs' claims against Defendants are barred in whole or in part because  
14 Defendants owed them no duty.

15 **Fifth Affirmative Defense**

16 Plaintiffs' claims against Defendants are barred in whole or in part because their  
17 injuries are due to the actions, omissions and negligence of persons other than  
18 Defendants.

19 **Sixth Affirmative Defense**

20 Plaintiffs' claims against Defendants are barred in whole or in part because  
21 Plaintiffs' damages were caused by the conduct or actions of persons over whom  
22 Defendants had no control and no duty to control.

23 **Seventh Affirmative Defense**

24 Plaintiffs' claims against Defendants are barred in whole or in part by the  
25 doctrines of intervening and superseding cause.

26 **Eighth Affirmative Defense**

27 Plaintiffs' claims against Defendants are barred in whole or in part because  
28 Arizona law does not provide a private cause of action for alleged violation of Arizona's



1 reporting statutes.

2 **Ninth Affirmative Defense**

3 Any recovery against COP must be diminished, reduced, and allocated as  
4 required by Arizona law in proportion to the fault and/or culpable conduct of other  
5 persons or entities, whether or not they are parties to this lawsuit.

6 **Tenth Affirmative Defense**

7 Plaintiffs' claims against Defendants are barred under the clergy exception to the  
8 Arizona reporting statutes.

9 **Eleventh Affirmative Defense**

10 Plaintiffs' claims, in whole or in part, are barred by the First Amendment to the  
11 United States Constitution and related jurisprudence and by the Arizona Constitution as  
12 well as the doctrine of religious abstention.

13 **Twelfth Affirmative Defense**

14 Defendant John Herrod, M.D. never treated or examined the Adams children, had  
15 no physician/patient relationship with any of them, and never obtained any information  
16 from or about them in his professional capacity as a physician. Thus, Dr. Herrod owed  
17 no legal duty to Plaintiffs arising out of his practice of medicine.

18 **Thirteenth Affirmative Defense**

19 Plaintiffs' malpractice claims against Dr. John Herrod fail as a matter of law  
20 under A.R.S. 12-561 et seq. for the reason that such claims (Counts 5 and 6 of the FAC)  
21 do not allege injury to Plaintiffs from the rendering of medical services to Plaintiffs.

22 **Fourteenth Affirmative Defense**

23 Plaintiffs' claim of civil conspiracy fails as a matter of law.

24  
25 **GENERAL STATEMENT**

26 The allegations of Plaintiffs' FAC are, in substantial part, unfounded, immaterial,  
27 impertinent, scandalous and knowingly false, and are being pursued against these  
28 Defendants by Plaintiffs and their counsel in bad faith within the meaning of A.R.S. 12-

1 349. Accordingly, these Defendants reserve the right to seek sanctions against Plaintiffs  
2 and/or their counsel at the conclusion of this litigation.

3 WHEREFORE, Defendants pray for relief as follows:

4 A. For an order dismissing all claims in the FAC against Defendants with  
5 prejudice and on the merits; and

6 B. For such further relief as the Court may deem appropriate and just.

7 C. For Defendants' costs incurred in this action.

8 D. For such other and further relief as is just.

9 DATED this 8th day of November, 2021.

10 OSBORN MALEDON, P.A.

11  
12 By /s/ William J. Maledon  
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25 Attorney for Defendants the Church, Herrod  
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27 ORIGINAL of the foregoing e-filed and a COPY  
28 e-mailed this 8th day of November, 2021, to:

The Honorable Laura Cardinal  
Cochise County Superior Court  
[lcarranza@courts.az.gov](mailto:lcarranza@courts.az.gov)

1 COPY of the foregoing e-served via AZTurboCourt  
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29 /s/ Jessica A. Lopez  
30 \_\_\_\_\_  
31 9175979