

LAW OFFICE OF MARK GALLAGHER  
MARK F. GALLAGHER 6016-0  
776 Kailua Road, Suite 201  
Kailua, Hawai'i 96734  
Telephone: 535-1500

1ST CIRCUIT COURT  
STATE OF HAWAII  
FILED

2013 MAR -1 PM 1:15

S. TAMANAHA  
CLERK

Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JOHN ROE NO. 8,

Plaintiff,

vs.

JAY RAM aka GARY WINNICK; JOHN  
DOES 1-10; JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE  
PARTNERSHIPS 1-10; DOE NON-PROFIT  
ENTITIES 1-10; and DOE GOVERNMENTAL  
ENTITIES 1-10,

Defendants.

CIVIL NO. **13-1-0609-03 VLC**  
(Non-Motor Vehicle Tort)

COMPLAINT; SUMMONS

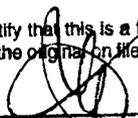
**COMPLAINT**

Plaintiff John Roe No. 8, a fictitious name used to protect Plaintiff's privacy interest, alleges the following against Defendant JAY RAM aka GARY WINNICK:

**PARTIES**

- a. Plaintiff John Roe No. 8 (hereinafter referred to as "Plaintiff") is an adult male who resides in the City and County of Honolulu, State of Hawaii. Plaintiff was a minor at the time of the sexual abuse alleged herein.

I do hereby certify that this is a full, true, and correct copy of the original on file in this office.

  
Clerk, Circuit Court, First Circuit

Roe /Complaint

- b. At all times material, Defendant Jay Ram, aka Gary Winnick (hereinafter referred to as "Defendant") was an adult male resident of Hawaii County, State of Hawaii and is currently believed to be residing in Saipan, MP, or the Commonwealth of the Northern Mariana Islands.
- c. Defendants JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, DOE NON-PROFIT ENTITIES 1-10, and DOE GOVERNMENTAL ENTITIES 1-10 (hereinafter referred to as "Doe Defendants") are persons, corporations, partnerships, business entities, non-profit entities, and/or governmental entities who acted in a negligent, wrongful or tortious manner which proximately caused or contributed to injuries and damages sustained by Plaintiff. Plaintiff has been unable to ascertain the names and identities of the above-named Doe Defendants from the investigation that has been conducted to date. Accordingly, Plaintiff has sued the unidentified Doe Defendants herein with fictitious names pursuant to Rule 17(d) of the Hawai'i Rules of Civil Procedure, and Plaintiff will substitute the true names, identities, capacities, acts and/or omissions of the Doe Defendants when the same are ascertained.
- d. Plaintiff has satisfied the requirements of Hawaii Revised Statutes, Section 657, specifically Act 68 enacted in 2012.

### **FACTUAL ALLEGATIONS**

1. In approximately 1978 when Plaintiff was approximately five years old, Plaintiff was placed in foster care in California.

2. In approximately 1983-1984, when Plaintiff was approximately ten to eleven years old, Defendant legally Jay Ram adopted Plaintiff in California. Defendant also adopted other minor boys.

3. From approximately 1983 to 1987, Plaintiff lived with the Defendant in Corning, California. In approximately 1987, Defendant Jay Ram moved his adopted boys, including Plaintiff, to Hakalau, Hawaii where he constructed a house and operated a farm. In Hawaii, Defendant Jay Ram isolated Plaintiff and his other adopted children, prohibiting them from visiting friends' houses, having girlfriends and playing sports.

4. From approximately 1984 to approximately 1989, Defendant engaged in unpermitted, harmful and offensive sexual contact upon the person of the minor Plaintiff. The sexual contact and/or acts constituted or would have constituted criminal offenses under part V or VI of chapter 707 (Haw. Rev. Stat. Sections 707-730 (2011)). Defendant Jay Ram also engaged in unpermitted, harmful and offensive sexual contact upon the persons of other of his adopted boys and resisted attempts to remove them from his custody in an effort to conceal his past abuse and to continue with his ongoing abuse of the children.

5. The sexual abuse and exploitation occurred on multiple occasions over a period of approximately five years.

6. The sexual abuse and exploitation of Plaintiff by Defendant Jay Ram is part of a larger pattern of sexual abuse of other boys, many of whom he legally adopted. Defendant Jay Ram used threats, coercion, physical force and psychological abuse to carry out his acts of sexual abuse and to keep his adopted boys from reporting the abuse to authorities and others in the community who could have helped them.

7. The sexual abuse of Plaintiff and the circumstances under which it occurred caused Plaintiff to develop various maladies, injuries, and coping mechanisms including, but not limited to, post traumatic stress disorder, intense anger, drug and alcohol abuse, and anxiety.

8. As a direct result of the sexual abuse and sexual exploitation and other wrongful conduct described herein, Plaintiff has suffered and continues to suffer from injuries including, but not limited to: great pain of mind and body; severe and permanent emotional distress; physical manifestations of emotional distress; feelings of shame, embarrassment, severe anger, and powerlessness; was prevented and will continue to be prevented from performing normal daily activities and obtaining the full enjoyment of life; will incur expenses for medical and psychological treatment, therapy and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity.

### **COUNT ONE**

#### **SEXUAL ASSAULT AND BATTERY AGAINST JAY RAM A/K/A GARY WINNICK**

9. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

10. While Plaintiff was a minor child, Defendant intentionally touched and manipulated the body and genitals of Plaintiff in a sexual manner.

11. At all times material, the aforesaid conduct of Defendant was harmful or offensive to Plaintiff and done without Plaintiff's consent.

12. Defendant knew or should have known that Plaintiff would find such conduct offensive.

13. As a direct result of Defendant's intentional conduct, Plaintiff has suffered the

injuries and damages described herein including, but not limited to post traumatic stress disorder, severe and emotional distress, feelings of shame, embarrassment, severe anger, and powerlessness.

## **COUNT TWO**

### **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST JAY RAMA/K/ A GARY WINNICK AND ALL DOE DEFENDANTS**

14. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

15. Defendant's conduct toward Plaintiff, as described herein, was outrageous and extreme.

16. A reasonable person would not expect or tolerate the sexual harassment, molestation and abuse of Plaintiff by Defendant.

17. Defendant's conduct described herein was intentional and malicious and done for the purpose of causing or with the substantial certainty that Plaintiff would suffer humiliation, mental anguish, and emotional and physical distress.

18. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer pain and suffering, including but not limited to post traumatic stress disorder, anxiety, embarrassment and emotional distress.

19. Plaintiff, based on information and belief, alleges that Defendant's conduct was oppressive, malicious and despicable in that it was intentional and done in conscious disregard of Plaintiff's right to be free from such tortious behavior, such as to constitute oppression, fraud or malice.

### **COUNT THREE**

#### **GROSSLY NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS AGAINST DEFENDANT JAY RAM A/K/A GARY WINNICK AND ALL DOE DEFENDANTS**

20. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

21. Defendant's conduct toward Plaintiff, as described herein, was outrageous and extreme.

22. A reasonable person would not expect or tolerate the sexual harassment, molestation and abuse of Plaintiff by Defendant.

23. Defendant's conduct toward Plaintiff, as described herein, was outrageous and extreme.

24. Defendant's conduct described herein was grossly negligent and done for the purpose of causing or with the substantial certainty or reckless or conscious disregard of the likelihood that Plaintiff would suffer humiliation, mental anguish, and emotional and physical distress.

25. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer, pain and suffering, including but not limited to post traumatic stress disorder, anxiety, embarrassment and emotional distress.

26. Plaintiff, based on information and belief, alleges that the Defendant's conduct was grossly negligent, oppressive, malicious and despicable in that it was done in a reckless manner or with a conscious disregard for the rights and safety of others including Plaintiff, and was carried out with a conscious disregard of his right to be free from such tortious behavior, such as to constitute oppression, fraud or malice.

**COUNT FOUR**

**PUNITIVE DAMAGES AGAINST DEFENDANT JAY RAMA/K/A GARY WINNICK  
AND ALL DOE DEFENDANTS**

27. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

28. The conduct of the Defendants or each of them constituted gross negligence, intentional, willful and wanton, or malicious misconduct or was conducted with such a want of care as to constitute a conscious indifference to the rights of others including Plaintiff warranting the imposition of punitive damages.

**DOE DEFENDANTS**

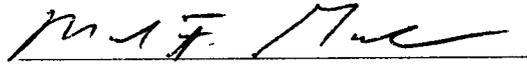
Plaintiff incorporates all paragraphs of this Complaint as if fully set forth under this count.

29. Doe Defendants are persons or entities whose wrongful acts and/or omissions in some way proximately caused or contributed to Plaintiff's injuries in ways presently unknown to Plaintiff.

30. Doe Defendants are vicariously liable for the negligence of their agents and/or employees through the doctrine of respondeat superior.

WHEREFORE, Plaintiff prays that judgment be entered in their favor, and against Defendants, jointly and severally for general, special, and punitive damages, together with costs of suit, attorneys' fees, pre- and post-judgment interest, and other relief pursuant to Rule 54 of the Hawaii Rules of Civil Procedure.

DATED: Honolulu, Hawaii, March 1, 2013.

A handwritten signature in black ink, appearing to read "M. F. Gallagher", written over a horizontal line.

Mark Gallagher  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

JOHN ROE NO. 8,

Plaintiff.

vs.

JAY RAM aka GARY WINNICK; JOHN  
DOES 1-10; JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE  
PARTNERSHIPS 1-10; DOE NON-PROFIT  
ENTITIES 1-10; and DOE GOVERNMENTAL  
ENTITIES 1-10,

Defendants.

CIVIL NO.

(Non-Motor Vehicle Tort)

SUMMONS

SUMMONS

STATE OF HAWAI'I

To the above-named Defendants:

You are hereby summoned and required to file with the court and serve upon THE LAW OFFICE OF MARK GALLAGHER, Plaintiffs' attorney, whose address is 776 Kailua Road, Suite 201, Kailua, Hawai'i 96734, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

DATED: Honolulu, Hawai'i, MAR - 1 2013.

S. TAMANAHA

Clerk of the above-entitled court



SEAL

**In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the First Circuit Court Administration Office at PHONE NO. 539-4333, FAX 539-4322, or TTY 539-4853, at least ten (10) working days prior to your hearing or appointment date.**