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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – FIRST STREET COURTHOUSE

11 E.M.,
12 Plaintiff,
13 v.
14 Varsity Brands, LLC; Varsity Spirit,
LLC; Varsity Brands Holding
15 Company, Inc.; U.S. All Star
Federation, Inc. d/b/a U.S. All Star
16 Federation; USA Federation for Sport
Cheering d/b/a USA Cheer;
17 Charlesbank Capital Partners, LP; Bain
Capital, LP; CheerForce, LLC; Jeffrey
18 G. Webb, an individual; Rebecca
Herrera, an individual; Shawn Herrera,
19 an individual; Shawn Miller, an
individual,
20 Defendants.

CASE NO.
COMPLAINT
DEMAND FOR JURY TRIAL
-IMAGED CASE-

22 Plaintiff files this complaint by and through undersigned counsel of record
23 against the above-named Defendants using only her initials as it is alleged she is a
24 victim of sexual assault. Plaintiff sues the above-named Defendants for money
25 damages in connection with conduct: (1) in violation of the Protecting Young
26 Victims from Sexual Abuse and Safe Sport Authorization Act of 2017, 18 U.S.C.
27 §2255; (2) constituting a civil conspiracy in violation of the Racketeer Influenced
28 and Corrupt Organization (RICO) Act, Title IX of the Organized Crime Control Act

1 of 1970, 18 U.S.C. §1962(c) and (3) giving rise to common law claims of gross
2 negligence, negligent supervision, and assault/battery; and (4) constituting violations
3 of contractual and/or equitable responsibilities owed to Plaintiff. As a direct and
4 proximate result of Defendants' collective and individual conduct, Plaintiff sustained
5 and will continue to sustain actual and ongoing injuries and damages, and in support
6 thereof, she alleges as follows:

7 **INTRODUCTION**

8 1. Beginning in or around 2005 and continuing until around 2008, Plaintiff
9 was an All-Star athlete cheering on behalf of Defendant Cheer Force's Simi Valley
10 location in Moorpark, California. Around the same timeframe, Defendant Cheer
11 Force, and Defendants Becky and Shawn Herrera employed Defendant Shawn Miller
12 as a cheer coach.

13 2. In his capacity as a cheer coach, Defendant Miller was provided
14 unfettered access to minor athletes, including Plaintiff, engaging with these minors
15 on an intimate level and forming bonds with these minor athletes.

16 3. During the operative timeframe, Defendant Shawn Miller was a
17 credentialed USASF coach and/or member, with the authority and ability to appear
18 at USASF member gyms, and to attend USASF-sanctioned events, namely those
19 hosted and affiliated with Defendants Varsity Spirit, LLC, Varsity Brands, Inc., and
20 Varsity Brands Holding Company.

21 4. As set forth more fully herein, beginning in 2005, and by virtue of the
22 position of trust and authority granted to him, Defendant Shawn Miller, individually,
23 in the course and scope of his role with Defendant Cheer Force, and as an authorized
24 representative of Defendants U.S. All-Star Federation, USA Cheer, and Varsity
25 Spirit, LLC, Varsity Brands, Inc., and Varsity Brands Holding Company
26 systematically groomed and sexually abused Plaintiff.

27 5. Though initially terrified to come forward following this abuse, in 2021
28 Plaintiff ultimately reported the abuse to her current coach, who assisted her in

1 reporting the abuse to Defendant U.S. All-Star Federation, the self-styled governance
2 entity over Varsity Spirit, LLC affiliated All-star Cheer.

3 6. Thereafter, rather than helping Plaintiff through the difficult process of
4 reporting traumatic and prolonged sexual and physical abuse, Defendant U.S. All-
5 Star Federation, the official body designated by the Defendants in this case to
6 investigate allegations of abuse in All-star Cheer, re-traumatized Plaintiff, subjecting
7 her to bullying, disbelief, and a dysfunctional investigatory process.

8 7. Meanwhile, at all times relevant to this complaint, Defendant Shawn
9 Miller remained a certified U.S. All-Star Federation coach, authorized to work with
10 underage athletes, until finally, nearly a year after Plaintiff reported him, Defendant
11 Miller was permanently banned from the sport. Yet, upon information and belief, this
12 ban was not enforced because of Plaintiff's report, but instead due to other reports,
13 and this ban did not contemporaneously result in Defendant Miller being reported to
14 law enforcement for his conduct.

15 8. During the relevant timeframe, as certified members of USASF,
16 Defendants Cheer Force, Becky Herrera, Shawn Herrera and Shawn Miller worked
17 in a consortium with Defendants Varsity Brands, LLC, Varsity Spirit, LLC, Varsity
18 Brands Holding Company, (collectively "the Varsity Defendants") and the Varsity
19 Defendants' owners and affiliates, including Defendant U.S. All Star Federation, Inc.
20 d/b/a U.S. All Star Federation ("Defendant USASF"), Defendant USA Federation for
21 Sport Cheering d/b/a USA Cheer ("Defendant USA Cheer"), Defendant Bain Capital,
22 Defendant Charlesbank, and Defendant Jeff Webb to expand the Varsity Defendants'
23 network of minor athletes and prop up the Varsity Defendants' billion-dollar
24 business.

25 9. During the relevant timeframe, and upon information and belief,
26 Defendants Cheer Force, Becky Herrera, Shawn Herrera and Shawn Miller were part
27 of a network of gym owners and coaches empowered and placed in positions of trust
28

1 and authority by the Varsity Defendants, Defendant USASF, Defendant USA Cheer,
2 Defendant Webb, Defendant Bain Capital, and Defendant Charlesbank.

3 10. At the same time, and upon information and belief, the Varsity
4 Defendants, Defendant USASF, Defendant USA Cheer, Defendant Webb, Defendant
5 Charlesbank, and Defendant Bain knew or had reason to know Defendant Miller,
6 Defendant Cheer Force, and Defendants Becky and Shawn Herrera had engaged in
7 significant misconduct and abuse involving USASF-member minor athletes.

8 11. Upon information and belief, the scheme to anoint specific gyms,
9 coaches, choreographers, and vendors at the expense of best safety practices occurred
10 as Defendant U.S. All-Star Federation, and Defendants Varsity Spirit, LLC, Varsity
11 Brands, Inc., and Varsity Brands Holding, Co. were creating and expanding a
12 business model reliant upon a pipeline of young athletes, each of whom was a
13 participant of a member gym, and each of whom represented a significant
14 contribution to the Varsity Defendants' business worth billions of dollars.

15 12. As set forth in this complaint, the Defendants, together and individually
16 have knowingly, or with a reckless disregard, created, organized, and propagated a
17 system of young-athlete abuse against innocent victims including Plaintiff.

18 13. This is a complaint for legal and equitable relief for the victims of this
19 scheme.

20 **JURISDICTION, PARTIES, AND VENUE**

21 14. This action arises pursuant to and involves questions requiring the
22 interpretation of the laws of the United States and thus subject matter jurisdiction is
23 conferred upon the Court by 28 U.S.C. §1331.

24 15. Supplemental jurisdiction over state law claims is conferred upon the
25 Court by 28 U.S.C. §1367(a).

26 16. Currently, and during the operative timeframe of this complaint,
27 Plaintiff was a citizen and resident of California, in Ventura County.

28

1 17. At all times relevant to this complaint, Defendant Cheer Force has been
2 an All-star cheer and tumbling gym with a principal place of business in California.
3 Upon information and belief, at all times relevant to this complaint, Defendant Cheer
4 Force was an authorized USASF vendor, and, by and through its employees, owners,
5 agents, and authorized representatives, all within the course and scope of their
6 responsibilities, did interact on a daily basis with minor children, at various USASF
7 member gyms, camps, clinics, and competitions throughout the country.

8 18. Upon information and belief, at all times relevant to this complaint,
9 Defendant Shawn Miller (“Defendant Miller”) was a USASF-credentialed member
10 coach providing services to USASF-member minor athletes at Defendant Cheer
11 Force and other authorized gyms in the Varsity Spirit, LLC network. As an
12 authorized USASF member, Defendant Miller was empowered to access USASF-
13 member minor athletes including Plaintiff. As of today, Defendant Miller is a citizen
14 and resident of California, in Los Angeles County.

15 19. Upon information and belief, and at all times relevant to this complaint,
16 Defendants Becky and Shawn Herrera (“the Herrera Defendants”) were USASF-
17 credentialed member gym owners and coaches, providing services to USASF-
18 member minor athletes in various locations in California. As authorized USASF
19 members, the Herrera Defendants were empowered and are still empowered to access
20 USASF-member minor athletes including Plaintiff. As of today, the Herrera
21 Defendants are citizens and residents of California, in Ventura County.

22 20. At all times relevant to this complaint, Defendant Jeff Webb
23 (“Defendant Webb”) was a citizen of Memphis, Tennessee, and created, owned,
24 operated, and controlled Defendant Varsity Brands, LLC, Defendant Varsity Spirit,
25 LLC, Defendant Varsity Brands Holding Company, Inc., Defendant USASF, and
26 Defendant USA Cheer, all of which did business throughout the United States.

27 21. At all times relevant to this complaint, Defendant Varsity Brands, LLC
28 (f/k/a Varsity Brands, Inc.) (“Defendant Varsity Brands”) has been a for-profit entity

1 organized under the laws of Delaware with its principal place of business in
2 Memphis, Tennessee. It is the corporate parent company of Defendant Varsity Spirit,
3 LLC (f/k/a Varsity Spirit Corporation).

4 22. At all times relevant to this complaint, Defendant Varsity Spirit, LLC
5 (f/k/a Varsity Spirit Corporation) (“Defendant Varsity Spirit”) has been a for-profit
6 entity organized under the laws of Tennessee with its principal place of business in
7 Memphis, Tennessee. As set forth more fully herein, during the operative timeframe,
8 Defendant Varsity Spirit has been the world’s largest purveyor of merchandise,
9 branding, camps, clinics, and competitions for the private All-star cheer industry,
10 encompassing as much as 90% of the industry’s gyms, coaches, vendors, and
11 athletes.

12 23. At all times relevant to this complaint, Defendant Varsity Brands
13 Holding Company, Inc. (“Defendant Varsity Brands Holding”) has been a for-profit
14 entity organized under the laws of Texas with its principal place of business in
15 Farmers Branch in Dallas County, Texas.

16 24. Throughout this complaint, Defendants Varsity Spirit, LLC, Varsity
17 Brands, LLC and Varsity Brands Holding Company, Inc., shall be referred to as the
18 “Varsity Defendants”. At all times relevant to this Complaint, either directly or
19 through affiliates, including those wholly owned and/or controlled, the Varsity
20 Defendants organized, promoted, produced, and/or managed merchandise, branding,
21 cheer camps, and competitions throughout the United States including California.

22 25. Beginning in or around 2003, and at all times relevant to this complaint,
23 Defendant U.S. All Star Federation, Inc. d/b/a U.S. All Star Federation (hereinafter
24 “Defendant USASF”) has been a Tennessee non-profit corporation with its principal
25 place of business in Memphis, Tennessee, and the self-proclaimed governing and
26 regulatory body promulgating and enforcing rules for private All-star cheer. At all
27 times relevant hereto, Defendant USASF has been controlled and funded by the
28 Varsity Defendants.

1 26. Beginning in or around 2006, and during the operative timeframe of this
2 Complaint, Defendant USA Federation for Sport Cheering d/b/a USA Cheer
3 (“Defendant USA Cheer”) has been a non-profit entity organized and existing in the
4 state of Texas, and the governing body for sport cheering throughout the United
5 States. Defendant USA Cheer is controlled and funded by the Varsity Defendants as
6 described further herein.

7 27. At all times relevant to this Complaint, the Varsity Defendants and
8 Defendants USASF and USA Cheer either directly and/or through their affiliates,
9 which they control, have: (a) promulgated and/or enforced rules governing
10 competitive cheer coaching, competitive cheer training, cheer camps and
11 competitions throughout the United States; (b) organized, promoted, produced,
12 and/or managed cheer camps, clinics, and competitions throughout the United States
13 and furthered the goals and purposes of the conspiracy and conduct set forth herein;
14 (c) established guidelines and assessed whether to certify gyms, coaches, and
15 vendors, including without limitation those named herein, as members of USASF
16 and/or USA Cheer, and to otherwise provide “credentials” for these coaches,
17 vendors, and affiliates; and (d) required that athletes, coaches, vendors purchase
18 annual memberships with Defendant USASF and in order to participate in the Varsity
19 Defendants’ sanctioned events, and to access USASF member minor athletes.

20 28. At all times relevant to this complaint, Defendant Charlesbank Capital
21 Partners, LP (hereinafter “Defendant Charlesbank”) has been a for-profit entity
22 organized under the laws of Massachusetts with its principal place of business in
23 Boston, Massachusetts. As set forth herein, and during the relevant timeframe,
24 Defendant Charlesbank has been a minority and/or majority owner of the Varsity
25 Defendants.

26 29. At all times relevant to this complaint, Defendant Bain Capital, LP
27 (hereinafter “Defendant Bain Capital”) has been a for-profit entity organized under
28 the laws of Massachusetts, with its principal place of business in Boston, Suffolk

1 County, Massachusetts. Since 2018, Defendant Bain Capital has been the majority
2 owner of the Varsity Defendants.

3 30. This Court has jurisdiction over this case because the abuse and
4 subsequent reporting described herein occurred in Ventura County, California and,
5 at all relevant times, Defendants were present in, and/or doing business in Ventura
6 County, California, and were availing themselves of the rights and responsibilities of
7 the laws of California.

8 31. Venue is proper in this Court because the events giving rise to this
9 lawsuit occurred in Ventura County, California.

10 **TIMELY FILING**

11 32. As set forth herein, this complaint alleges causes of action arising under
12 and out of assault and battery perpetrated against Plaintiff while she was a minor
13 under eighteen years of age, and by adults who were agents, employees, and/or
14 authorized representatives of the Defendants, and/or over whom Defendants,
15 including the Varsity Defendants exercised a significant degree of control.

16 33. As it relates to the conduct alleged in this complaint, Plaintiff had no
17 opportunity to know of the accruing harm perpetrated by all of the Defendants,
18 including the Varsity Defendants, Defendant Webb, Defendant USASF, and
19 Defendant USA Cheer, including Defendants' failures to abide by internal policies
20 and procedures related to sexual abuse and misconduct, failing to make or follow
21 through with mandatory reports, failing to undertake appropriate investigations, and
22 failing to enforce and institute rigorous rules against sexual abuse of minor athletes
23 within the Varsity Defendants' network.

24 34. Upon information and belief, Defendants took efforts to conceal their
25 failures, or acted with reckless disregard related to timely, effective, appropriate
26 investigation, reporting, follow up and governance, and to generally protect
27 vulnerable athletes including Plaintiff. Defendants' actions made it impossible to
28 know the danger presented, or that Defendants could have prevented that danger.

1 35. Plaintiff has further abided by the laws of California related to timely
2 filing as set forth in C.A. Code Section 340.1, and as supported by the Certificate of
3 Merit and Attorney Certificate included as exhibits to this Complaint.

4 36. As such, Plaintiff's claims are timely by virtue of arising out of assault
5 and battery that occurred while Plaintiff was a minor under the age of eighteen,
6 pursuant to the laws of California, as well as through equitable tolling based upon
7 Defendants' conduct in concealing violations of or operating with a reckless
8 disregard toward Plaintiff's rights.

9 **FACTUAL ALLEGATIONS**

10 **I. The Competitive Cheer World**

11 37. Private All-star cheer is a competitive and dynamic sport where athletes
12 compete in a team setting, mixing a variety of disciplines including cheer, dance, and
13 tumble.

14 38. In contrast to traditional sideline cheer, where athletes generally
15 compliment another sport, such as football or basketball, All-star competitive cheer
16 is a focus unto itself.

17 39. Because of its unregulated nature, All-star cheer is not subject to
18 traditional seasonal limitations, or other restrictions against year-round performance
19 and training.

20 40. As such, All-star cheer requires an extreme amount of commitment from
21 athletes and their families, with near constant training, cross-training, and frequent
22 competition travel through multiple seasons throughout the year.

23 41. This level of dedication is costly. A single season can, at minimum, cost
24 between \$3,000 to \$7,000 per team member. Some families spend \$20,000 or more
25 for transportation, lodging, membership and entrance fees, as well as merchandise,
26 uniforms, and other accessories and incidentals, incurred in connection with the
27 numerous competitions the athletes attend throughout the year.

28

1 42. In All-star cheer, the Varsity Defendants have emerged as the pre-
2 eminent business.

3 43. In 1971, Defendant Jeff Webb began his work in cheerleading as an
4 employee at the National Cheerleaders Association working for Lawrence Herkimer,
5 known as the original pioneer of cheer.

6 44. During his work with Herkimer, Defendant Webb familiarized himself
7 and began forming a plan to monetize the operation of cheerleading “camps” – days-
8 long events where athletes would converge to learn new skills.

9 45. In 1974, Defendant Webb left Herkimer and formed his own group,
10 which he similarly named the Universal Cheerleaders Association. By and through
11 Universal Cheerleaders Association, Defendant Webb grew his footprint in the cheer
12 industry, promoting and showcasing his cheer camps, which grew throughout the
13 1980s.

14 46. During the 1980s, Defendant Webb’s cheer camp organization
15 transformed into Defendant Varsity Spirit.

16 47. As with Herkimer’s association, Defendant Varsity Spirit began as a
17 provider of cheer camps.

18 48. Defendant Varsity Spirit, LLC thereafter expanded into competitions,
19 merchandising, branding, social media, and even gym ownership and management.

20 49. By the early 2000’s, Defendant Varsity Spirit a/k/a Varsity Brands, Inc.
21 publicly represented itself as:

- 22 a. The largest designer, marketer, and supplier of cheerleader dance team
23 uniforms and accessories;
- 24 b. The biggest operator of cheerleading and dance team training camps and
25 clinics;
- 26 c. A leading organizer of special events for extracurricular activities;
- 27 d. A major provider of studio dance conventions and competitions; and
- 28

1 e. A producer of studio dance apparent for studio dance competitions.¹

2 50. As early as 2002, the largest source of revenue for Varsity Brands, Inc.
3 came from its connection with All-star cheer.

4 51. Through their various dealings in the cheer industry, at all times relevant
5 to this complaint, and upon information and belief, the Varsity Defendants have
6 controlled an estimated 80-90% of the market.

7 52. As of today, and as set forth more fully herein, a substantial portion of
8 the revenue from each individual athlete who cheers for a Varsity affiliate goes
9 directly to the Varsity Defendants.

10 53. The total competitive cheer industry is estimated to include as many as
11 four million athletes throughout the United States and is further estimated to generate
12 billions of dollars of revenue annually.

13 54. For instance, in or around 2021, Bain Capital reported Defendant
14 Varsity Spirit's annual earnings exceeded \$1.3 billion.

15 55. A huge source of revenue in the All-star world are the cheer camps,
16 clinics, and competitions held locally, regionally, nationally, and even worldwide.
17 These events frequently require athletes to travel across state lines, and to various
18 fees.

19 56. Today, these events are hosted and conducted under the guidance,
20 certification, and rulemaking of a group of entities created, controlled, and funded by
21 the Varsity Defendants, including Defendants Bain and Charlesbank.

22 57. Specifically, in or around 2003, and in response to the formation of the
23 National All-Star Cheerleading Coaches Congress ("NACCC"), Defendant Webb
24 and the Varsity Defendants founded Defendant USASF to provide governance and
25 regulatory support for the All-star cheer world.

26
27 ¹ See Varsity Brands, Inc., Form 10-K, (Apr. 1, 2002), available at:
28 https://www.sec.gov/Archives/edgar/data/874786/000093041302001124/c23854_10k.txt

1 58. After forming Defendant USASF, Defendant Webb mandated that All-
2 star athletes cheering on behalf of Varsity-affiliated gyms purchase a USASF
3 membership as a requirement to compete at Varsity-sponsored events. Moreover,
4 gyms and coaches who wished to compete at and attend Varsity-sponsored events
5 were also required to become members of USASF.

6 59. Expanding the USASF footprint, in or around 2006, the Varsity
7 Defendants promoted certain all-star member clubs and coaches as being “USASF
8 Certified,” a seal that Defendants represented was synonymous with a warranty that
9 a gym, a coach, a choreographer, and any adult certified by USASF was held to the
10 highest standards, and followed best safety practices, including to prevent athlete
11 abuse.²

12 60. Upon information and belief, this credentialing served as a signal to
13 parents and athletes that USASF would continually monitor and ensure compliance
14 by its member gyms, coaches, vendors, and other affiliates by providing a gate-
15 keeping function and an enhanced level of security and quality at USASF sanctioned
16 events, which were essentially synonymous with Varsity Defendant events.

17 61. Upon information and belief, the Varsity Defendants, including by and
18 through their funders, Defendants Bain and Charlesbank, require gyms to sign multi-
19 year supply contracts whereby the gyms are paid cash rebates from Varsity Spirit,
20 LLC for buying merchandise, participating in events, and working alongside Varsity-
21 approved vendors.

22 62. The Varsity Defendants control every aspect of cheerleading at every
23 level in the United States. The Varsity Defendants even own several gyms and cheer
24 programs, many of which were failing or mismanaged before Varsity’s takeover.
25

26 ² For instance, as it relates to USASF’s “greenlight determination,” USASF represents that
27 “[b]ackground checks are a critical component of any athlete protection program. At USASF, we
28 believe thorough a [sic] background check of all individuals who engage in regular contact with
minor athletes is the first step toward protecting those athletes.” *See* USASF Directory FAQs for
2022-2023, available at: [USASF Member Directory](#).

1 63. All-star athletes competing on behalf of Varsity-member gyms pay
2 monthly or annual fees to the gym as well as annual fees to USASF, as well as the
3 Varsity Defendants for music, training, competition attendance, uniforms,
4 accessories, and other related fees.

5 64. Coaches and vendors likewise pay monthly or annual fees to USASF,
6 USA Cheer, and the Varsity Defendants to obtain annual approval to continue on as
7 vendors and members of the Varsity Defendants' network.

8 65. The Defendants and their certified gyms encourage members to pay
9 these fees, dues, and other expenses via auto-draft or credit card.

10 66. During the operative timeframe, Defendants also created restrictions
11 against athletes who compete on behalf of a Varsity-affiliated gym from transferring
12 between Varsity-affiliated gyms without permission. This control over athlete
13 movement and preclusion against selecting a gym of the athlete's choice is a
14 significant impediment against athletes reporting misconduct.

15 67. During the creation and enlargement of this Varsity network, Defendant
16 Webb remained intimately involved and interested in the ongoing affairs of the
17 Varsity Defendants. Jackie Kennedy, Varsity Spirit's VP of marketing, said of
18 Defendant Webb in January of 2019, "Jeff is still teaching and leading camps
19 alongside our summer camp instructors. His passion permeates into all of the people
20 here at Varsity Spirit, and Jeff cares about every single employee. He takes the time
21 to meet every new employee. He learns their name, where they are from and what
22 they are passionate about."

23 68. At all times relevant to this complaint, and by virtue of the closed
24 network they created, the Varsity Defendants, and Defendants Bain and Charlesbank
25 obtained access to minor USASF members, including Plaintiff, marketing to them
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1 that participation with a USASF Certified gym would provide the athlete with access
2 to the highest echelon competitions in the sport under strict safety standards.³

3 69. Meanwhile, membership in USASF, and with a Varsity-affiliated gym
4 mandates competing in a specified number of annual Varsity events, and under
5 circumstances, and around adults who were specifically curated by the Varsity
6 Defendants, and Defendants USASF and USA Cheer.

7 70. When attending Varsity events, members and their families are required
8 to purchase rooms at a designated Varsity-chosen hotel at reportedly inflated prices.
9 Varsity dubs this system “stay-to-play.” Upon information and belief, failure by an
10 athlete to adhere to “stay-to-play” could subject the entire team to disqualification.

11 71. At all times relevant to this complaint, at these gyms, events, camps, and
12 clinics, the Varsity Defendants and Defendant USASF knew or had reason to know
13 that coaches were exposing minor athletes to alcohol and drugs.

14 72. Upon information and belief, once athletes join Varsity-affiliated,
15 USASF All-Star cheer gyms, coaches and other gym staff begin suggesting one-on-
16 one coaching time, closed choreography time, or participation in skills clinics and
17 camps where the parent is not allowed to attend. Athletes are told this level of
18 intensive training is necessary to rise to the next level, compete in higher divisions,
19 win prestige and celebrity status that will enable the athlete to cheer at the collegiate
20 level, and possibly become coaches themselves one day. This system of promoting
21 intensive one-on-one time with the athletes gives coaches, choreographers, and other
22 USASF approved vendors increased access to young and impressionable athletes and
23 corresponds to the Varsity Defendants’ system of camps and competitions, creating
24 further generations of Varsity coaches and Varsity-backed gyms.

25
26
27 ³ See “Sanctioned Competitions,” USASF available at: [Sanctioned Competitions - Cheer & Dance | USASF](#)
28 (“When All Star clubs attend USASF Sanctioned Competitions, they can be assured their athletes,
coaches, and parents are attending events that comply with the sport’s best safety practices.”).

1 73. To encourage even greater athlete participation, the Varsity Defendants,
2 their funders, in conjunction with their member gyms, coaches, and vendors used
3 targeted marketing and branding specifically aimed at a younger audience, including
4 minors such as Plaintiff. For example, in 2011 the Varsity Defendants created
5 “Cheerlebrity,” a competition created by the Varsity Defendants in the image of
6 *American Idol* which sought to promote Varsity All-star gyms and cheerleaders
7 through social media presence.

8 74. Upon information and belief, during the operative timeframe of this
9 complaint and continuing through the present, Defendant Miller, the Herrera
10 Defendants, and Defendant Cheer Force were well-known in the Varsity Spirit, LLC
11 community, enjoying status and promotion on the Varsity Defendants’ marketing and
12 branding content.

13 75. As such, at all times relevant to this complaint, the Varsity Defendants
14 boosted the reputations of Defendant Miller, the Herrera Defendants, and Defendant
15 Cheer Force in the cheer community to obtain access to new crops of minor athletes,
16 to boost revenues, and to boost Defendant Cheer Force and the Herrera Defendants
17 reputations and footprints in the Varsity world.

18 76. To further perpetuate this connection between member athletes, coaches
19 and vendors, upon information and belief, the Varsity Defendants encouraged parents
20 to allow their children to travel with their coaches to gyms, camps and competitions,
21 and to stay with host-families, choreographers, and gym owners, and further
22 encouraged minor athletes to look up to these leaders in their sport.

23 77. The Varsity Defendants, Defendant USA Cheer and Defendant USASF
24 tout the safety and security of their affiliate-gyms, coaches, and vendors, and the
25 Varsity Defendants’ competitions, camps, and clinics to lull parents into comfort
26 whereby parents have no fear for the safety of their children when working in
27 conjunction with a Varsity-sanctioned event or a USASF member adult.

28

1 78. The system is designed to disassociate the athletes from their families,
2 and foster closeness with the Varsity-sponsored gyms, coaches, and gym owners.

3 79. To perpetuate their scheme to create an unending pipeline of new
4 athletes, coaches, and gym owners, Defendant Bain Capital, Defendant Charlesbank,
5 the Varsity Defendants, Defendant USA Cheer and Defendant USASF rely heavily
6 upon the network of coaches, vendors, and affiliates such as Defendant Miller, the
7 Herrera Defendants and Defendant Cheer Force.

8 80. At all times relevant to this complaint, and upon information and belief,
9 the Varsity Defendants, Defendants Charlesbank, and Defendant Bain Capital have
10 perpetuated an atmosphere among their member gyms, with their network of coaches,
11 as well as through camps and competitions, that encourages a party mentality of
12 alcohol and drug use, and which fails to adequately protect athletes from emotional,
13 sexual, or physical harm and abuse.

14 81. At the same time, these Defendants have held themselves out as
15 providing a safe and superior environment to justify collecting an enhanced fee from
16 parents and athletes. This system created a revolving door of young athletes to
17 perpetuate the organization for years, with these athletes spending tens of thousands
18 of dollars on gym fees, member fees, dues, coaching, uniforms, camps, training,
19 competitions, music, choreography, and other merchandise, until the athletes either
20 came of age or became coaches and gym owners.

21 **II. The Varsity Defendants' Control over All-star Cheer**

22 82. At all times relevant to this complaint, and under the direction and
23 control and/or supervision of Defendant Webb, Defendant Bain Capital, and
24 Defendant Charlesbank, to perpetuate the business of the Varsity Defendants,
25 Defendant USASF, and Defendant USA Cheer, Defendants have relied upon access
26 to child athletes who compete at Varsity-affiliated gyms, and in Varsity competitions,
27 and who further purchase Varsity products, uniforms, and merchandise.

28

1 83. The Varsity Defendants created Defendant USASF through a \$1.8
2 million interest-free loan. The 2004 non-profit charter certificate lists USASF’s
3 address to be Varsity’s address.

4 84. At its inception, USASF was purportedly established to be the
5 “sanctioning body” that would regulate All-star cheer by setting guidelines, policies,
6 procedures, and processes to ensure an environment that was safe for young athletes
7 in the All-star cheer arena.

8 85. In 2006, Defendant USASF began “certifying” All-star cheer gyms with
9 a special seal of approval, a credential that warranted the gym and its coaching staff
10 could be trusted for cheerleader safety.

11 86. Defendant USASF also credentialed coaches and vendors, requiring that
12 these individuals register with USASF and, by and through the USASF seal,
13 certifying the individuals as safe, and green-lighting them to participate in USASF-
14 sanctioned events, camps, clinics, and competitions.

15 87. Beginning in or around 2006, and during the operative timeframe of this
16 Complaint, unless an adult registered with USASF, they would not be allowed to
17 participate in any USASF sponsored or sanctioned activity.

18 88. As a further demonstration of its authority, in 2009, Defendant USASF
19 created the “Professional Responsibility Code,” which purportedly applied to all
20 members and memorialized its founding principles not only to “maximize...the
21 integrity and legitimacy of the all-star industry, *but to safeguard the athletes who*
22 *participate.*” (Emphasis added).

23 89. Yet, according to its plain language, the ethics USASF strived to achieve
24 aimed more at discouraging member gyms from internal poaching or solicitation
25 rather than respecting the bodily integrity of young athletes.

26 90. For instance, the ethical standards outlined in the Professional
27 Responsibility Code include the following:
28

- 1 i. I pledge, as a member of the USASF, I will not initiate contact
2 with another program's athletes and families in an effort to solicit
3 or otherwise entice them to leave the program they belong to and
4 participate in my program. This practice is unethical;
- 5 ii. I pledge, as a member of the USASF, I will not encourage any of
6 my athletes or family members to contact another program's
7 athletes and families during the competitive season in an effort to
8 solicit or otherwise entice them to leave the program they belong
9 to and participate in my program. This practice is unethical.
- 10 iii. I pledge, as a member of the USASF, I will honor and encourage
11 everyone to respect all mutual agreements and/or contracts made
12 between parties, whether formal or informal, by programs,
13 coaches and athletes....

14 *See USASF Professional Responsibility Code, Version 11.0, Process.*

15 91. By creating a Professional Responsibility Code requiring members to
16 pledge against internal competition, USASF essentially guaranteed that gyms within
17 the Varsity network would enjoy unfringed access to athletes and their families.

18 92. Defendant USASF also took over the reporting and investigation into
19 allegations of misconduct at member gyms, and by individual members, creating a
20 central reporting mechanism. As such, if an athlete or their family wished to report
21 an incident or issue to the member gym, the athlete was directed to Defendant
22 USASF.

23 93. In 2007, Defendant Webb and Varsity Spirit, LLC formed USA Cheer,
24 which was also established to provide guidelines, policies, procedures, and processes
25 to ensure a safe environment for young athletes in All-star cheer.

26 94. Defendant USA Cheer was also created with an interest-free loan from
27 the Varsity Defendants. The director of education and programs, Jim Lord, has listed
28 Defendant USA Cheer's address to be the same as Varsity's.

1 95. Defendants USASF and USA Cheer were responsible for creating and
2 enforcing guidelines, policies, procedures, and processes for reporting coaches for
3 misconduct and taking appropriate action for that misconduct.

4 96. However, Defendants USASF and USA Cheer were both operated and
5 controlled by the Varsity Defendants.

6 97. The Varsity Defendants controlled Defendant USASF from inception.
7 The Varsity Defendants submitted the original trademark application for the marks
8 “U.S. All Star Federation” and “USASF.”

9 98. For at least the first 15 years of its existence, and upon information and
10 belief, Defendant USASF’s offices were located at Defendant Varsity Spirit’s
11 corporate address, a Varsity representative answered the phone for USASF, USASF
12 employees were paid directly by Varsity, and Varsity cashed checks issued to the
13 USASF.

14 99. Defendant Varsity Spirit, LLC was listed as the owner of Defendant
15 USASF.

16 100. During the operative timeframe of this complaint, the Varsity
17 Defendants also controlled the Board of Directors for Defendant USASF, which sets
18 policy for USASF. The Board is composed of 13 voting members, one seat each for
19 the seven cheer competition producers that started the USASF, the USASF
20 Chairman, a senior USASF staff member, and four program owner members,
21 including the Chairman of the National All Stars Connection. Two USASF board
22 seats are permanent and are held by representatives named by the Chairman of the
23 USASF. As Varsity has acquired more and more of Defendant USASF’s founding
24 event producers, it has continued to expand its control of the USASF Board, with as
25 much as 75% of the seats on the Board of Directors. The seats that Varsity does not
26 control do not have voting rights.

27 101. Defendant USASF’s website is located at www.usasf.net, a URL which
28 was once openly owned by the Varsity Defendants.

1 102. Upon information and belief, the Varsity Defendants eventually began
2 concealing ownership and control of the URL behind the registration of “PERFECT
3 PRIVACY, LLC.”

4 103. As with Defendant USASF, Defendant USA Cheer listed Defendant
5 Varsity Spirit, LLC’s Tennessee headquarters as its own headquarters, and Defendant
6 USA Cheer’s board included six Varsity employees.

7 104. Under Defendant USA Cheer’s bylaws, its thirteen-member board must
8 include members from the following seven organizations: The Universal
9 Cheerleaders Association, CheerSport, National Cheerleaders Association, United
10 Spirit Association, American Cheerleaders Association, Universal Dance
11 Association, and JAMfest.

12 105. Each of the seven aforementioned associations is owned by Defendant
13 Varsity Spirit.

14 106. Jane Patterson, a former staffer of the Nonprofit Risk Management
15 Center who consulted on youth sports safety, said he has never heard of an
16 arrangement quite like the one between Varsity Sprit, LLC and these non-profit
17 governing bodies. He said Varsity Spirit, LLC’s control of USASF meant, “whatever
18 Varsity wants, Varsity can get” in terms of rules and regulation of the cheer world.

19 107. Defendant Jeff Webb, has publicly stated that teams performing at
20 Varsity Competitions who wore a full Varsity uniform and accessories received
21 higher scores.

22 108. Upon information and belief, this structure meant that the Varsity
23 Defendants were entirely self-regulated and were not answerable to any independent
24 entity.

25 109. In the 2010s, and amidst reports of sexual abuse against young athletes
26 competing in a variety of sports, Congress authorized the creation of the U.S. Center
27 for SafeSport, whose goal is to end sexual, emotional, and physical abuse on behalf
28 of athletes.

1 110. Around the same time, in 2010, in Cheer Coach & Advisor Magazine⁴,
2 Defendant USASF was officially quoted as saying, “Through credentialing, coaches
3 are made aware of expectations as teachers and role models. It is the goal of the
4 USASF to infuse good decisions into each and every credentialed coach so that they
5 may expand the positive life experience of all-star cheerleading and dance into the
6 lives of the youth they encourage. USASF is recognized as the baseline of education
7 for each individual coach and also expect these standards to be met.”

8 111. Upon information and belief, since its founding, USASF has purported
9 to support the SafeSport mission, and has recognized the importance of protecting
10 athletes from sexual, physical, and emotional abuse within the sport.

11 112. By 2021, when Plaintiff reported her abuse to Defendant USASF,
12 athletes and their families, including Plaintiff, had been led to believe Defendant
13 USASF was responsible for protecting athletes from harm.

14 113. Instead, and specifically related to Plaintiff, USASF has failed in its
15 obligation to appropriately investigate reports of misconduct, to communicate
16 internally and with law enforcement about misconduct, and has further failed to
17 operate as intended.

18 114. The Varsity Defendants, through Defendants USASF and USA Cheer,
19 can and do enforce bans of athletes, coaches, vendors, affiliates, and teams for minor
20 rule infractions like the size of hairbows and the use of glitter. However, these
21 Defendants have repeatedly failed to enforce suspensions or bans of coaches,
22 choreographers, and music producers who are known or suspected to have committed
23 child sexual abuse, including, without limitation, Defendant Shawn Miller.

24 115. As set forth herein, Defendant Varsity Spirit, LLC, through Defendants
25 USASF and USA Cheer, has created and is responsible for oversight and enforcement
26 of their Professional Responsibility Codes, which in addition to discouraging
27

28 ⁴ At the time of this particular issue, Defendant Webb served on the editorial board of Cheer Coach & Advisor.

1 competition among members, specifically acknowledges the threat of harm or abuse
2 by coaches in cheer. For instance, according to the USASF Professional
3 Responsibility Code, “Once a coach-Athlete relationship is established, a Power
4 imbalance is presumed to exist throughout the coach-Athlete relationship (regardless
5 of age) and is presumed to continue for Minor Athletes after the coach-Athlete
6 relationship terminates until the Athlete reaches 20 years of age.”

7 116. According to its own literature, the Professional Responsibility Code is
8 applicable to “all members,” which includes and encompasses individual Defendant
9 Miller, Defendant Becky Herrera and Defendant Shawn Herrera, and Defendant
10 Cheerforce.

11 117. At the same time that Defendant USASF, Defendant USA Cheer, and
12 the Varsity Defendants, publicly supported the mission of SafeSport, the Varsity
13 Defendants were simultaneously lobbying against the inclusion of cheer as a sport.

14 118. The Varsity Defendants’ efforts to preclude cheer from being
15 considered a sport is directly in line with Defendant Varsity Spirit’s business model.
16 If cheer were considered a sport, it would necessarily increase athlete oversight and
17 regulation, and would diminish the times, methods, and places that the athletes would
18 be allowed to compete.

19 119. From 2014 to 2018, Defendant Charlesbank wholly owned the Varsity
20 Defendants and thus owned Defendants USA Cheer and USASF and provided capital
21 to the Varsity Defendants and Defendants USA Cheer and USASF for the purpose
22 of building the network of Varsity-affiliated private gyms and coaches throughout
23 the United States.

24 120. During this same timeframe, Defendant Charlesbank, as well as the
25 Varsity Defendants, reaped massive financial benefits associated with the growing
26 network of families who came into Varsity-affiliated gyms, and who believed the
27 Varsity Defendants were providing safe and protective environments for families
28 through the governance of Defendants USASF and USA Cheer.

1 121. In 2018, Defendant Bain Capital purchased the Varsity Defendants from
2 Charlesbank for roughly \$2.8 billion. At the time of the sale, Defendant Charlesbank
3 made a new investment in Varsity alongside Defendant Bain and retained a minority
4 stake in the business.

5 122. Related to its purchase, Defendant Bain Capital stated: “This new
6 partnership presents Varsity Brands with an exciting opportunity to continue to
7 expand and improve our products and services while remaining steadfast to our
8 commitment to improving student life and overall engagement.... Bain Capital’s
9 extensive consumer and technology experience and their commitment to our mission
10 of empowering young people will help us accelerate our growth to a new level.”⁵

11 123. In addition, Defendant Bain represented: “For over 50 years, Varsity
12 Brands has served as an essential force for good as part of the academic and athletic
13 student experience...We are excited to partner with the company’s experienced,
14 committed management team to amplify the company’s ecommerce operations and
15 digital expansion, while accelerating its growth through complementary acquisitions
16 and organic initiatives to become the go-to source for every school’s sport, spirit and
17 achievement needs.”⁶

18 124. Upon information and belief, Defendant Bain’s accelerated growth
19 model for the Varsity Defendants depended upon access to an ever-expanding
20 network of young athletes who would not only purchase Varsity branded
21 merchandise but would also continue to attend Varsity events. In that regard, during
22 the operative timeframe, the Varsity Defendants issued annual invoices to members,
23 including coaches, gyms, and athletes, payment of which was mandatory and
24 ultimately profited Defendant Bain and its minority partner Defendant Charlesbank.

25
26 ⁵ See “Varsity Brand, the Leader in Elevating Student Experiences in Sports, Spirit, and
27 Achievement, to be Acquired by Bain Capital Private Equity,” June 19, 2018, available at: [Varsity
Brands, the Leader in Elevating Student Experiences in Sports, Spirit, and Achievement, to be Acquired by Bain
Capital Private Equity | Bain Capital](#).

28 ⁶ *Id.*

1 125. Meanwhile, at the time of Defendant Bain’s acquisition, the Varsity
2 Defendants were embroiled in very public litigation arising out of the Varsity
3 Defendants’ alleged anti-competitive tactics in acquiring gyms and curbing other
4 event-companies.

5 126. In 2020, former Varsity-member coach and “Cheerlebrity” Jerry Harris,
6 star of the Netflix series “Cheer,” was accused of soliciting sex from two children
7 during the 2019 Varsity-competition season. Harris plead guilty in February, 2022,
8 and was sentenced in July, 2022 on two counts, one of which included traveling
9 across state lines with the intent of soliciting sex from a minor. This travel occurred
10 in conjunction with a cheer competition.

11 127. After the Bain acquisition, on December 7, 2020, Defendants USASF
12 and USA Cheer announced a universal system for reporting athlete safety concerns,
13 as well as a central repository listing ineligible coaches and individuals. Defendants
14 USASF and USA Cheer stated that these measures “will provide a robust athlete
15 safety infrastructure readily available across the entire cheer community.”

16 128. This list, the “Unified Ineligibility List,” is accessible online, lists the
17 nature of the infraction, occasionally provides public documentation, and names the
18 offender.

19 129. As of the date of filing, this list included roughly 234 entries.

20 130. Upon information and belief, the vast majority of the suspensions, both
21 temporary and permanent, are related to claims of sexual misconduct between minors
22 and their coaches, choreographers, and other adults. Some of the alleged misconduct
23 dates back more than ten years.

24 131. Far from providing security for athletes, the list is replete with
25 temporary suspensions where the only information provided is “Member policy
26 violated related to athlete protection,” with no records or other documentation, nor
27 does the list indicate whether mandatory additional reports were made, included
28 reports to law enforcement.

1 132. Defendant Shawn Miller is one such coach recently added to this list.

2 133. In addition, the list does not provide the status of the investigation, and,
3 upon information and belief, is not updated on a regular basis.

4 134. Any USASF member who is suspended has the right to appeal the
5 decision. Yet, and upon information and belief, the affected athletes never receive
6 notice that the suspended coach has invoked their appellate rights, nor are the athletes
7 otherwise involved in this appellate process or decision.

8 135. Defendant USASF admits on its own website that it does not include all
9 decisions, but rather “only those that could pose a potential risk to the broader sport
10 community.” Whether an offense rises to the level of posing a potential risk to the
11 broader sport community is left entirely to the discretion of USASF.

12 136. The majority of instances of misconduct included on the USASF list
13 arise out of sexual harm or misconduct. This repeated misconduct gave notice to all
14 Defendants that a broader issue existed within the Varsity Defendants’ cheer
15 community.

16 137. Yet, other than the list, upon information and belief, the Varsity
17 Defendants made few if any modifications to the internal screening process for
18 coaches and made no modifications to the gym and competition environment.

19 138. Defendant USASF also puts forth an annual membership directory,
20 which identifies adult members, and represents that every adult member included on
21 the directory has undergone Safe Sport training.

22 139. Upon information and belief, during the interim of the allegations set
23 forth in this complaint related to Plaintiff, the Varsity Defendants, in conjunction
24 with Defendant USASF and Defendant USA Cheer, have hosted multiple
25 competitive events, and have sponsored or endorsed camps and clinics throughout
26 the United States.

27 140. At the same time, individual gyms and coaches would receive
28 substantial benefits from affiliation with the Varsity Defendants, including the

1 reputational benefits of being affiliated with Defendant USASF, Defendant USA
2 Cheer, the Varsity Defendants’ brands, and monetary benefits directly linked to the
3 number of competitions in which a gym participated as well as the number of athletes
4 the gym brought to the competition.

5 141. As the Varsity Defendants’ footprint in All-star grew, the Varsity
6 Defendants bolstered certain coaches, athletes, and gyms, including through social
7 media, often liking posts and messages by specific athletes and coaches and
8 providing these same athletes and coaches with promotional codes to pass on to
9 minor athletes to sell the Varsity Defendants’ goods and services.

10 142. In this way, the Varsity Defendants perpetuate the enterprise, boosting
11 the reputations and exposure of selected individuals, while member gyms, coaches,
12 and affiliates supplied the Varsity Defendants with hundreds of millions of dollars of
13 revenue from under-age athletes.

14 143. Upon information and belief, the Varsity Defendants, Defendant
15 Charlesbank, and Defendant Bain Capital relied upon adult members to create a
16 replenishing group of underage athletes, and future coaches, and gym owners, to
17 provide a guaranteed stream of revenue.

18 144. As such, and upon information and belief, it was contrary to the Varsity
19 Defendants’ business model for Defendants USASF and USA Cheer to ban adult
20 members from their system, as every adult member represented a pipeline of current
21 and future revenue for the Varsity Defendants.

22 145. Rather, when allegations about a specific coach or Varsity affiliate were
23 made, the Varsity Defendants, Defendant USASF, and Defendant USA Cheer either
24 ignored the allegations, created cumbersome investigatory processes that further
25 traumatized victims, determined the allegations were not “credible” based upon
26 arbitrary criteria, or allowed the would-be abuser to quietly exit the Varsity-affiliated
27 program, with the result that the accused could relocate to a new gym or facility
28 without parents knowing about the allegations of misconduct.

1 146. At all times relevant to this complaint, and upon information and belief,
2 Defendants Bain Capital and Defendant Charlesbank knew or should have known
3 that the Varsity Defendants, Defendant USASF, and Defendant USA Cheer were not
4 appropriately enforcing policies, processes, and procedures related to athlete safety,
5 and that the Varsity Defendants were hosting events without regard for, and in
6 contravention to the safety of child athletes.

7 147. Moreover, and upon information and belief, to incentivize coaches and
8 gyms, Defendants Bain Capital, and Charles Bank authorized, and the Varsity
9 Defendants offered, significant monetary benefits to increase sales of Varsity goods,
10 and participation in Varsity events, including by providing cash rebates and
11 promotional codes, as well as in creating event environments that comingled child-
12 athletes with adult coaches, gym owners, and choreographers. In these
13 environments, it was reasonably foreseeable that the athletes would be minimally
14 supervised.

15 148. Upon information and belief, this gym and event environment fostered
16 and contributed to the sexual, mental, and physical abuse inflicted upon the athletes.

17 149. Upon information and belief, this environment was the brainchild of
18 Defendant Jeff Webb, who used the competitions as a mechanism for his companies
19 to establish dominance in the cheer market.

20 150. During the timeframe relevant to this complaint, Plaintiff is informed
21 and believes that employees of the Varsity Defendants resigned their positions
22 because of the abuse and systemic failures they saw within the system, including
23 failures to uniformly apply policies and procedures related to athlete safety, rampant
24 drug use within the leadership of the Varsity Defendants, as well as alcohol and drug
25 use by athletes during competitions, and general favoritism and promotion of teams
26 that chose to endorse or affiliate with the Varsity Defendants, disadvantaging
27 independent teams.

28

1 151. Defendant Webb was previously Varsity's president but resigned in
2 2020 at roughly the same time that the Jerry Harris sex abuse scandal surfaced.

3 152. During the operative timeframe of this complaint, Defendant USASF
4 received numerous reports and allegations against coaches, choreographers,
5 videographers, and music directors, including Defendant Miller. Upon information
6 and belief, the general response from Defendant USASF was to disregard these
7 reports and accusations.

8 153. A 2020 investigative series by journalists Marisa Kwiatkowski and
9 Tricia L. Nadolny for USA Today revealed scores of repeat sex offenders active
10 within USASF certified gyms and preferred vendor lists.⁷ Some of the cases of which
11 Defendants Bain Capital, Charlesbank, and the Varsity Defendants had or should
12 have had knowledge include:

- 13 a. A Virginia gym owner was convicted of sexual battery and assault and
14 placed on the sex offender registry after three girls he coached at his
15 Virginia gym came forward. As of 2020, this coach was still listed as
16 the gym's owner and was still USASF certified. Varsity continued to
17 invite his gym to competitions. One of his victims had to stop cheering
18 competitively because her convicted abuser was allowed to stay
19 involved around children and in proximity to her.
- 20 b. A Charlotte coach who was arrested for two counts of sexual assault of
21 a minor and lost his middle school teaching job continued to have access
22 to minors afterward. Though the gym's owners claimed he was told he
23 was no longer welcome to work with the gym's athletes after his arrest,
24 he continued to appear in official social media accounts of the gym, was
25 connected by the gym director to parents for private lessons and

26
27 ⁷ [https://www.usatoday.com/in-depth/news/investigations/2020/09/18/cheerleading-cheer-](https://www.usatoday.com/in-depth/news/investigations/2020/09/18/cheerleading-cheer-investigation-sexual-misconduct-sex-offender-banned-list/3377622001/)
28 [https://www.usatoday.com/in-depth/news/2020/12/23/cheerleading-cheer-sexual-misconduct-complaints-](https://www.usatoday.com/in-depth/news/2020/12/23/cheerleading-cheer-sexual-misconduct-complaints-usasf/6484248002/)
[usasf/6484248002/](https://www.usatoday.com/in-depth/news/2020/12/23/cheerleading-cheer-sexual-misconduct-complaints-usasf/6484248002/)

1 attended a Varsity event in Florida where he was photographed posing
2 next to the gym’s athletes in a gym uniform with the word “Coach” on
3 his shorts.

4 c. A coach who had been fired from a gym and charged with child
5 pornography was discovered to still be working in the cheer industry by
6 the gym owner who had originally fired him. The gym owner called
7 Varsity, who told her his background check was fine. After she went to
8 the courthouse to get the records of his conviction and sent them to
9 Varsity, months passed and the man continued coaching children at
10 Varsity events through USASF gyms.

11 d. A Washington gym owner was not banned by USASF until more than a
12 year after the organization received reports in 2018 that he had been
13 accused of sexual misconduct with minors.

14 154. All of this information was therefore available to Defendants in 2021,
15 when Plaintiff made her report to Defendant USASF.

16 155. Upon information and belief, during the operative timeframe Defendant
17 USASF refused or failed to report non-member coaches and adults accused of
18 misconduct to law enforcement – contravening representations that USASF and its
19 members are mandatory reporters. (*See*, USASF Terms and Conditions of Coach
20 Membership).

21 156. Upon information and belief, Defendant USASF has received hundreds
22 of complaints against coaches, choreographers, videographers, and others accused of
23 sexual misconduct.

24 157. Until recently, however, Defendant USASF failed to dedicate fulltime
25 staff to managing investigation of these complaints.

26 158. Ginger Wilczak, the part-time contract employee USASF eventually
27 hired to field reports of misconduct, stated that she worked 10 hours per week at
28

1 most.⁸ In an interview with Mary Carillo in an HBO Real Sports investigative
2 segment, she reported that she had been actively prevented from taking the necessary
3 actions to perform the job function for which she was purportedly hired.

4 159. Defendant USASF has been excruciatingly slow to develop policies and
5 procedures for keeping athletes safe from sexual abuse in an industry rife with it.

6 160. Meanwhile, according to its website: “USASF is the U.S. All Star
7 Federation. It’s about safety standards. It’s about coaches’ education. It’s about
8 providing a safe environment to allow for the continued growth of all-star
9 cheerleading and dance across the country. *It’s about parents knowing their*
10 *children are being taught using safe methods that are in accordance with the*
11 *standard of care*. It’s about standardization of rules from one competition to the next.
12 It’s about time.” (Emphasis added).

13 161. In the years since this public representation, however, Defendant
14 USASF’s gym and coach training has focused almost exclusively on avoiding
15 physical injury to the athletes.

16 162. In fact, as of 2022, Defendant USASF’s “Athletic Performance
17 Standards” dealt only with things like hair accessories, makeup, uniforms,
18 choreography, and music. Despite mounting information about widespread athlete
19 abuse within its system, Defendant USASF concerns itself more with how its athletes
20 look than how its coaches behave.

21 163. In 2012, Defendant USASF reiterated its “image and appearance policy”
22 to address “the increasing criticism about the general appearance of our athletes
23 during competition and the unflattering media stories that have focused on how our
24 sport is presenting its athletes, particularly those in the younger age groups.”

25
26
27
28 ⁸ <https://usatoday.com/in-depth/news/2020/12/23/cheerleading-cheer-sexual-misconduct-complaints-usasf/6484248002/>

1 164. It took until 2015 for Defendant USASF to implement background
2 checks on certified coaches and gym owners. However, Defendant USASF failed to
3 uniformly apply the process.

4 165. Defendant USASF also created the “Triple A” challenge as part of its
5 response to the SafeSport Act that became law in 2018, but in so doing, effectively
6 shifted responsibility for reporting abuse and exploitation away from the corporate
7 entities empowered to oversee the sport onto minors and their families telling athletes
8 they should ask when posting photos to social media: “Is it Athletic? Is it Age
9 Appropriate? What does it Amplify?” The Varsity Defendants asked for “thoughtful”
10 social media posts to be hash-tagged with “#ThisIsAllStar and
11 “#usasfATHLETES1st” as part of their safety plan.

12 166. Meanwhile, Defendant USASF failed to follow its own procedures with
13 respect to rampant reports of child sexual abuse, allowing complaints to stall or
14 delaying action when their policies clearly call for an adult member to be suspended
15 or banned. These failures economically benefitted the Varsity Defendants, and
16 Defendants Bain and Charlesbank.

17 167. As it relates to Defendant Miller, it took months for reports to ultimately
18 result in any action. Meanwhile, the only information about Defendant Miller’s ban
19 from Varsity All-star is a generic statement, with no information about whether
20 Defendant Miller has been reported to law enforcement, or whether Defendant Miller
21 has otherwise been reported to co-extensive regulatory entities, including those in
22 tumbling and gymnastics.

23 168. Jim Lord, Defendant USA Cheer’s director of education and programs,
24 said in 2020 that the organization’s banned list is one of the tools they use to keep
25 athletes safe. The manner in which this oversight was performed, according to Lord,
26 was that he had it on his “weekly checklist” to visit search engines and use terms like
27
28

1 “cheer coach”, “athlete abuse”, and “sexual assault” to find people to ban⁹. Between
2 June and September that year, Lord had identified five (5) names. Investigative
3 reporters with USA Today managed to find 180 people during that same time frame.
4 More than 140 of those had been convicted of a child sex crime and more than half
5 of those were registered sex offenders.

6 169. In 2020, W. Scott Lewis, partner at legal and risk management firm
7 TNG, criticized Defendant USASF’s handling of reports and complaints in that they
8 often sat on their hands and did nothing, assuming law enforcement had been
9 contacted by someone else. He said it was not typical for organizations to wait for
10 law enforcement action before taking their own action unless they’ve explicitly been
11 asked to do so. He said, “You don’t want to be on the sideline saying, ‘Well, we can’t
12 do anything because law enforcement’s doing it,’” Lewis said. “You want them to
13 have the ability to engage in interim measures or your own investigation, or both.”
14 In May of 2021, Defendant USASF hired TNG to consult on its athlete safety
15 practices.

16 170. Well after the very public arrest of Jerry Harris, Defendants USASF and
17 USA Cheer finally began offering risk and safety training to member gyms and
18 personnel.

19 171. However, instead of mandating this risk and safety training for all
20 members, and providing training free of charge, the Varsity Defendants require
21 members to pay an additional fee to access Defendant USASF and Defendant USA
22 Cheer’s safety training.

23 172. Defendant USASF also began “requiring” that all member programs
24 “have clear, written guidelines that prohibit adults who have contact with minors
25 from engaging in conduct that is either inappropriate and/or illegal.”
26

27 ⁹ It is telling of the problem that Lord used words related to sexual abuse when looking for
28 coaches, gym owners, and affiliates who violated USASF policy. This very specific search
criteria demonstrates that USASF understood the risks of harm inherent to the sport.

1 173. Defendant USASF failed however, to provide oversight on reviewing or
2 approving those policies, or even verifying that gyms had, in fact, enacted guidelines.

3 174. Defendant USASF's obligation for a member-program to create policies
4 and procedures also created a gap where choreographers, and other vendors, and
5 affiliates were still allowed to access minor athletes without corresponding
6 guidelines.

7 175. Defendant USASF has stated that it does not have the ability to enforce
8 its policies and procedures, referring to these as "recommendations" rather than
9 requirements.¹⁰

10 176. As it relates to USASF's online reporting system, experts have raised
11 concerns over the burden of the reporting process. When printed, the required forms
12 are over 15 pages long.

13 177. Moreover, the reporter must cite to the alleged rule or regulation their
14 attacker violated, referring to a slew of different sources. By so doing, Defendant
15 USASF shifted its mandatory duty to report child abuse to the victim and their family.

16 178. In addition, the cumbersome nature of the reporting process, coupled
17 with the fear many feel coming forward against adults who would not immediately
18 be ousted, effectively chilled reporting.

19 179. Kelli Hughes, the director of the Center for Child Policy, found
20 Defendant USASF's reporting process to be unnecessarily complicated and
21 burdensome.

22 180. For the 2021 USASF Worlds at Disney World in Florida held in May of
23 2021, the organization sent out an information packet which contained athlete
24 conduct rules but did not address coach conduct. The policy mandated one (1) adult
25

26
27 ¹⁰ See "Varsity Brands Owns Cheerleading and Fights to Keep it From Becoming an Official
28 Sport," Leif Regstad, Houston Press (Jul. 21, 2015) available at:
<https://www.houstonpress.com/news/varsity-brands-owns-cheerleading-and-fights-to-keep-it-from-becoming-an-official-sport-7606297>.

1 chaperone, defined as anyone 21 of years of age or older, for every nine (9) child
2 athletes.

3 181. Webinars on athlete safety listed at the site in November 2021 included
4 topics like “tumbling drills”, “coed stunting”, “building transitions”,
5 “choreography”, “twisting skills theory”, and “flyer stability and flexibility”.
6 Conspicuously absent at this crucial time was any training on preventing or reporting
7 child sexual abuse or molestation.

8 182. In short, Defendant Bain Capital, Defendant Charlesbank, the Varsity
9 Defendants, and Defendants USASF and USA Cheer, have created an elaborate
10 illusion of a safe system in order to draw more members in so they could sell more
11 merchandise and collect more fees for events and camps, knowing their young
12 vulnerable members were at risk and that they were doing nothing about removing
13 the criminal coaches, affiliates, gym owners, and administrators creating that risk.

14 **III. The Abuse of Plaintiff E.M.**

15 183. As stated herein, at all times relevant to this complaint, Defendant
16 Shawn Miller, Defendant Becky Herrera and Defendant Shawn Herrera were
17 certified members of Defendant USASF and were authorized to interact with and
18 provide coaching services to minor member athletes including Plaintiff.

19 184. Plaintiff began participating in All-star cheer when she was around 8
20 years old.

21 185. Beginning in 2005, when she was 15 years old, Plaintiff began cheering
22 at Cheer Force in Simi Valley, California where she was coached by Shawn Miller,
23 an adult male around the age of 24.

24 186. Defendant Miller was a talented, prestigious and well-known coach in
25 the All-star cheerleading community.

26 187. Beginning in 2005, Defendant Miller began paying special attention to
27 Plaintiff, who he knew was only fifteen years old at the time.

28

1 188. Plaintiff grew to trust and admire Defendant Miller. She looked up to
2 him as a coach, valued his opinion of her performance in her sport and strived to win
3 his approval.

4 189. Defendant Miller began implementing unusual stunt spotting
5 techniques, and unconventional catching positions with Plaintiff, resulting in
6 Defendant Miller touching Plaintiff in an unwanted and inappropriate manner.

7 190. Defendant Miller's lingering touches eventually progressed to groping,
8 fondling and other unwanted touching.

9 191. Defendant Miller knew that Plaintiff was a minor under the age of 18,
10 and that Plaintiff was a USASF member athlete.

11 192. Because of her fondness for Defendant Miller, and his position of
12 authority over her, Plaintiff did not feel as though she could speak up about
13 Defendant Miller's abuse to her gym owners, the Herrera Defendants.

14 193. The Herrera Defendants helped to create Defendant Miller's authority,
15 as well as the atmosphere that stifled reporting.

16 194. Plaintiff even believed that her admiration for Defendant Miller
17 somehow invited or justified Defendant Miller's abusive behavior.

18 195. Defendant Miller's abusive behavior continued for years during which
19 time Defendant Miller and others provided Plaintiff with alcohol and illegal drugs,
20 including cocaine and MDMA.

21 196. In or around 2008, Defendant Shawn Miller left his employment with
22 Cheer Force and began coaching at another gym in the area. During this time,
23 Defendant Miller was also a licensed realtor, working in the Simi Valley area
24 showing and selling properties.

25 197. Plaintiff left Cheer Force in or around 2008 and followed Defendant
26 Miller to the new gym.

27 198. Plaintiff's decision to change gyms to continue cheering under the
28 coaching of Defendant Miller was made in large part due to Plaintiff's belief that

1 Defendant Miller's talent and reputation as a premier cheer coach would be beneficial
2 to her in advancing her own cheerleading career.

3 199. During this time, Defendant Miller initiated a sexual relationship with
4 Plaintiff, often taking her to his home or vehicle to engage in sexual intercourse.

5 200. Despite his knowledge of Plaintiff's status as a USASF member athlete,
6 and despite his position as her coach, on numerous occasions Defendant Miller
7 encouraged and facilitated Plaintiff coming to his home, riding in his SUV, and
8 traveling to properties in Calabasas and Simi Valley to engage in sexual intercourse.

9 201. As a licensed realtor, Defendant Miller had unique access to vacant
10 properties that were listed for sale.

11 202. Defendant Miller used his position as a realtor and unique access to
12 upscale, vacant properties listed for sale to lure Plaintiff to secluded locations where
13 he would engage in sexual intercourse with her.

14 203. In addition to using his access to listed properties as an opportunity to
15 engage in sexual activity with Plaintiff, Defendant Miller would also allow Plaintiff
16 and her friends access to these vacant properties.

17 204. Defendant Miller would provide Plaintiff, her friends and other minors
18 with alcohol and drugs.

19 205. Defendant Miller's sexual abuse of Plaintiff continued for another two
20 years.

21 206. Defendant Miller continued to work as a coach in the All-star cheer
22 world for years after abusing Plaintiff.

23 207. Following the abuse, Plaintiff began experiencing severe depression,
24 anxiety and panic attacks. She developed an eating disorder and a substance abuse
25 disorder.

26 208. Plaintiff sought medical attention, including psychotherapy to address
27 her symptoms, but did not fully appreciate the root cause of her issues.
28

1 209. In or around 2021, while Plaintiff was cheering at the same gym where
2 she cheered under the coaching of Defendant Shawn Miller, she began experiencing
3 severe CPTSD symptoms. It was at this time that Plaintiff disclosed to her current
4 coach the details of Defendant Miller’s sexual abuse.

5 210. Plaintiff’s coach reported the abuse and assisted Plaintiff in beginning
6 the USASF reporting process.

7 211. Plaintiff did her best to participate in and cooperate with the USASF
8 investigative and reporting processes, but rather than providing her with a degree of
9 security, the process was deeply traumatizing and unsettling.

10 212. For example, during the investigative interviews with USASF
11 investigators, Plaintiff experienced bullying, skepticism, dismissiveness, and a
12 general lack of belief. She was never made aware of any disposition of her report, or
13 any action taken against Defendant Miller as a result of her report.

14 213. Years after his sexual abuse of Plaintiff, and after many more years of
15 working with minor athletes in various All-star cheer gyms, Defendant Shawn Miller
16 was ultimately added to the USASF Uniform Ineligibility List, cited only for
17 “Member policy violation related to athlete protection.”

18 214. His affiliated state is listed as Florida. Upon information and belief, this
19 indicates that another report and not Plaintiff’s report may have been the impetus
20 behind Defendant Miller’s ban. As such, multiple people had to come forward to
21 elicit appropriate action from Defendant USASF regarding removing Defendant
22 Miller from its list of eligible coaches.

23 215. At all times relevant to this complaint, Defendants USASF, as
24 authorized by the Varsity Defendants was responsible for the oversight and
25 governance of All-star cheer and was further responsible for ensuring the sport was
26 safe and did not unduly expose athletes to the risk of harm, including sexual abuse.

27 216. At all times relevant to this complaint, Defendant Shawn Miller,
28 Defendant Becky Herrera, Defendant Shawn Herrera and Defendant Cheer Force

1 were certified members of Defendant USASF, a designation that represented
2 Defendants met All-star standards with respect to safety.

3 217. As such, at all times relevant to this complaint, the Varsity Defendants
4 warranted to athletes and families that the certification process was put in place to
5 govern and empower All-star with only those adults who could be trusted to be
6 around children.

7 218. At all times relevant to this complaint, Defendants Miller, Herrera and
8 Cheer Force could not have accessed minor USASF athletes without first being
9 members of Defendant USASF.

10 219. Moreover, at all times relevant to this complaint, Defendants USASF
11 and the Varsity Defendants represented that Defendants Miller, Herrera and Cheer
12 Force were credentialed members of USASF or authorized by USASF to conduct
13 business, adhering to Defendant USASF's policies and procedures protecting minors,
14 including Plaintiff, from physical, sexual, and mental abuse.

15 220. At all times relevant to this complaint, and upon information and belief,
16 Defendant USASF and the Varsity Defendants, allowed, and represented that
17 Defendants Miller, Herrera and Cheer Force were qualified to train, mentor, and
18 otherwise interact with minor athletes, including Plaintiff, and so gave Defendants
19 wide access to minor athletes, including Plaintiff.

20 221. Moreover, at all times relevant to this complaint, and upon information
21 and belief, Defendant USASF authorized Defendant Miller, Defendant Becky
22 Herrera and Defendant Shawn Herrera's membership in USASF.

23 222. In addition, at all times relevant to this complaint, Defendant USASF
24 and the Varsity Defendants knew, or had reason to know that Defendant Miller was
25 in contact with minor athletes, such as Plaintiff.

26 223. During the operative timeframe of this complaint, the Herrera
27 Defendants, Defendant Cheerforce, and Defendant Miller were coaches, owners,
28 mentors, and authorized representatives of Defendants USASF, and the Varsity

1 Defendants, responsible for training and interacting with minor children, including
2 Plaintiff.

3 224. At all times relevant to this complaint, Defendants USASF and the
4 Varsity Defendants put the Herrera Defendants, Defendant Cheerforce, and
5 Defendant Miller in positions of particular trust, and represented to the cheer
6 community, including Plaintiff that the community was a safe space for minor
7 athletes.

8 225. Yet, at all times relevant to this complaint, Defendant Miller, and by
9 association, the Herrera Defendants, Defendant Cheerforce, and any other affiliated
10 gym, posed a danger to minor athletes such as Plaintiff, including a danger from
11 sexual harassment, exploitation, and abuse.

12 226. At all times relevant to this complaint, Defendants Miller, Herrera and
13 Cheer Force remained in lock step with the Varsity Defendants, working as
14 authorized vendors or affiliates of the Varsity Defendants, promoting the Varsity
15 Defendants' sanctioned events, and merchandise, participating in the Varsity
16 University training conferences, and annually renewing their USASF memberships
17 in order to continue their Varsity eligibility.

18 227. Meanwhile, the Varsity Defendants, Defendant USASF, Defendant
19 USA Cheer, and, by virtue of their acquisition, ownership, and control, Defendant
20 Bain Capital knew or should have known of the abuse being perpetrated by their
21 members, such as Defendant Shawn Miller.

22 228. At all times relevant to this complaint, Plaintiff was a member of
23 USASF, and paid dues, fees, and other valuable consideration associated with this
24 membership.

25 **The Enterprise**

26 229. Plaintiff realleges the preceding paragraphs as though repeated verbatim
27 herein.

28

1 230. The unlawful acts alleged against the Varsity Defendants, Defendant
2 USASF, and Defendant USA Cheer, as well as against Defendant Charlesbank and
3 Defendant Bain Capital in this Complaint were authorized, ordered, or performed by
4 their officers, agents, employees, representatives, or shareholders while actively
5 engaged in the management, direction or control of their own business or affairs and
6 those of other Defendants.

7 231. The unlawful acts alleged against Defendant Miller, the Herrera
8 Defendants, and Defendant Cheerforce related to perpetuating abuse upon minor
9 athletes were authorized, ordered, or performed by their officers, agents, employees,
10 representatives, or shareholders while actively engaged in the management, direction
11 or control of their own business or affairs and those of other Defendants.

12 232. Defendants' officers, agents, employees, representatives, or
13 shareholders operated under the explicit and apparent authority of their principals.

14 233. Each Defendant, and any respective subsidiaries, affiliates and agents
15 operated as a single unified entity with the common goal of taking billions of dollars
16 from minor athletes who wanted to be a part of the competitive cheer world
17 Defendants oversee, as well as to perpetuate a pipeline of new child-athletes, coaches
18 and gyms. Defendants' Enterprise functioned as a continuing unit throughout the
19 conspiracy and continues its operation through the filing of this Complaint.

20 234. At all times relevant to the complaint, Defendants possessed and
21 continue to possess an ongoing organizational structure with sufficient continuity
22 related to the Enterprise.

23 235. Each Defendant participated in the operation and management of the
24 Enterprise.

25 236. The Enterprise is separate and distinct from the pattern of racketeering
26 activity as set forth below.

27 237. Whenever in this Complaint reference is made to any act, deed, or
28 transaction of any organization, the allegation means that the Defendants and each of

1 them engaged in the act, deed, or transaction by or through their officers, directors,
2 agents, employees, or representatives while they were actively engaged in the
3 management, direction, control, or transaction of the organization's business or
4 affairs.

5 238. Individuals alleged to have engaged in misconduct in violation of the
6 laws pleaded herein are alleged to have done so on behalf of all members of the
7 enterprise between the Varsity Defendants, Defendant USASF, Defendant USA
8 Cheer, Defendant Charlesbank, Defendant Bain Capital, and Defendant Cheer Force.
9 The athletes who paid to enter the All-star cheer world did not know or did not
10 distinguish between the corporate affiliations of different individuals. These
11 organizations all affirmatively and collectively represent themselves as one All-star
12 network and family, rather than separate parents and subsidiaries.

13 239. Defendants' unlawful conduct as alleged herein has taken place in and
14 affected the continuous flow of interstate commerce in the United States through the
15 certification of private gym, coaches, and other members as well as the organizing,
16 promoting, and managing gyms, cheer competitions, camps, and clinics throughout
17 the United States.

18 240. The conduct alleged herein is tied to billions of dollars of interstate
19 commerce, with the Varsity Defendants, their governing bodies, and their parents
20 controlling at least 80% of the competitive cheer market through membership fees,
21 gym and coaching fees, competition fees, insurance, apparel, and travel for training
22 and competition events all over the United States and the world.

23 241. During its ownership period from 2014-2018, Defendant Charlesbank
24 conspired with the Varsity Defendants, Defendant USASF, and Defendant USA
25 Cheer to solicit young athletes throughout the United States into the competitive
26 cheer world with the promise of a safe and superior coaching experience by joining
27 a certified gym. Defendant Charlesbank has provided funding to market these
28 programs for the Varsity Defendants and obtained financial rewards from having

1 done so. When it sold to Defendant Bain Capital in 2018, rather than walk away from
2 the Enterprise, Defendant Charlesbank made the conscious business decision to
3 reinvest and retain an ownership interest in the Varsity Defendants to continue
4 reaping the financial benefits of Varsity's Enterprise.

5 242. Once ownership transferred to Defendant Bain Capital in 2018,
6 Defendant Bain Capital conspired with the Varsity Defendants, Defendant USASF,
7 and Defendant USA Cheer to solicit young athletes throughout the United States into
8 the Varsity universe of competitive cheer with the promise of a safe and superior
9 coaching experience by USASF and USA Cheer certified gyms, coaches, and
10 instructors.

11 243. Defendant Bain Capital has provided funding to promote, enhance, and
12 market these programs for the Varsity Defendants and obtained financial rewards
13 from having done so through Varsity, USASF, and USA Cheer's business Enterprise
14 with Defendants Miller, Herrera and Cheer Force and continues to do so as set forth
15 herein.

16 244. All Defendants were co-conspirators in a scheme to get as many families
17 as possible to entrust their child athletes to this network to generate massive revenue
18 from these athletes all while Defendants were:

- 19 (a) failing to properly vet coaches, and other adult members by investigating
20 backgrounds;
21 (b) failing to provide sufficient oversight and monitoring of members;
22 (b) failing to properly investigate complaints of inappropriate and criminal
23 sexual conduct by the coaches, choreographers, and other members against
24 minors;
25 (c) failing to report complaints of inappropriate and criminal sexual conduct
26 against minors;¹¹

27 _____
28 ¹¹ (see USASF Terms and Conditions of Coach Membership);

1 (d) failing to enforce rules and regulations for chaperoning and supervision of
2 minors;¹²

3 (e) failing to enforce ineligibility due to complaints regarding athlete safety;¹³

4 (f) facilitating the transfer of minor athletes across state lines for the purpose
5 or with a reckless disregard for whether the athletes would be subjected to
6 sexual and/or physical abuse;¹⁴

7 (g) facilitating the transfer of minor athletes across state lines for the purpose
8 of or with a reckless disregard for whether the minors would be served drugs
9 and alcohol by other affiliated adults;

10 (h) gathering at predetermined locations to discuss and exchange notes and
11 information related to the Enterprise including how to lure additional minor
12 athletes and how to maximize profits;

13 (i) sending and collecting bills and invoices across the mails and wires despite
14 the fraud perpetrated by Defendants;

15 (j) using member platforms to obtain access to significant financial resources
16 of Plaintiff and other member-athletes both for annual invoices and fees, as
17 well as for merchandise, both mandatory and otherwise;

18 (k) disseminating fraudulent misrepresentations through mail and wire as to
19 the safety Defendants guaranteed through a sham certification process;

20 (l) collecting money from minor athletes related to the above referenced
21

22 ¹² See “Sex Offender allegedly skirted ban to continue coaching cheerleaders,” Jesse O’Neil,
23 January 11, 2021, NY Post, available at: [https://nypost.com/2021/01/11/sex-offender-allegedly-skirted-ban-
24 to-continue-coaching-cheerleaders/](https://nypost.com/2021/01/11/sex-offender-allegedly-skirted-ban-to-continue-coaching-cheerleaders/); see also “Accused Cheer Monopolist Varsity Squares Off Against
25 Ex-Employees,” Daniel Libit, Sportico (Oct. 13, 2021) (Commenting before the Federal Trade
26 Commission during an open meeting, David Owens, the director of events for the Open
27 Championship Series told regulators Varsity’s hold over USASF and USA Cheer presented “an
28 immediate threat to the health, well-being, and safety of the children and the sport”), available at:
<https://www.sportico.com/leagues/other-sports/2021/accused-monopolist-varsity-spirit-1234643664/>.

¹³ See “Cheerleading’s Ban List Skips 74 Sex Offenders,” Marisa Kwiatkowski & Tricia L. Nadolny, Sep. 22, 2020 USAToday.

¹⁴ See *United States v. Jeremiah Harris*, C/A No. 20-CR-637, Plea Agreement available at: https://www.justice.gov/d9/press-releases/attachments/2022/02/10/harris_plea_agreement_0.pdf

- 1 scheme;
- 2 (m) requiring memberships of all minor athletes competing on behalf of
- 3 member gyms, which, in part, allowed Defendants to track and monitor the
- 4 number of minor athletes under their care;
- 5 (n) creating “stay-to-play” whereby Defendants mandated member gyms bring
- 6 their minor athletes across state lines to competitions and stay at pre-selected
- 7 hotels allowing Defendants to track these athletes and exercise control over
- 8 athletes’ physical locations;
- 9 (o) disseminating fraudulent misrepresentations about Defendants’ member
- 10 certification process through the mails and wires so as to perpetuate the image
- 11 of a safe environment for minor athletes;
- 12 (p) promoting certain coaches, athletes, and members, including promotion on
- 13 social media, when Defendants knew or should have known the coaches,
- 14 athletes and members had engaged in illicit, predatory behavior and sexual
- 15 misconduct with minors all while authorizing these same individuals to sell
- 16 goods for Defendants on Defendants’ platforms, or with Defendants’
- 17 endorsements;
- 18 (q) mandating annual membership in Defendant USASF by athletes, member
- 19 coaches, clubs, and other affiliates creating a conflict wherein the USASF
- 20 received monetary benefits from certification, but was simultaneously
- 21 responsible for investigating misconduct of these same members;
- 22 (r) prohibiting athletes from transferring out of certain gyms so as to chill
- 23 reporting and control competition;
- 24 (s) chilling athletes from coming forward with allegations;
- 25 (t) creating marketing materials and personas specifically intended to target
- 26 and attract young children and vulnerable people to the sport, including by
- 27 using certain color schemes, wording, and imagery (*e.g.* Varsity AllStar
- 28 Instagram page, Varsity Spirit Instagram Page);

1 (u) failing to employ reasonable policies, procedures, guidelines and
2 safeguards consistent with the purported “standard of care” Defendants have
3 represented in their materials;¹⁵

4 (v) failing to properly staff, fund, resource, train, and otherwise enable the
5 implementation of the instruments by which Defendants promised to police
6 and govern the sport;¹⁶ and

7 (w) as to the Varsity Defendants, interfering with the safety and regulatory
8 operations of Defendants USA Cheer and USASF.¹⁷

9 **JOINT AND SEVERAL LIABILITY**

10 245. Defendants are jointly and severally liable for the damages and injuries
11 sustained by Plaintiff, as Defendants’ individual and collective actions and omissions
12 actually and proximately caused Plaintiff’s past, present, and ongoing injuries.
13 Plaintiff is entitled to damages pursuant to the laws of the State of California and the
14 United States of America, including but not limited to the following:

- 15 a. Compensatory, actual, and consequential damages;
16 b. Statutory damages;
17 c. Punitive damages;
18 d. Reasonable attorneys’ fees and costs;

19
20
21 ¹⁵ See September 18, 2020 article in the USA Today and commenting on the arrangement between
22 Defendants USASF and Varsity Spirit. In the article, former Risk Management Center staffer
23 John Patterson says that “Whatever Varsity wants, Varsity gets [from USASF].”

24 ¹⁶ See Commentary from Ginger Wilczak, former USASF Safesport Manager and part-time
25 contract employee on the perpetual understaffing and lack of resources in USASF’s office tasked
26 with investigating reports of misconduct, “A huge slap in the face’: Frustrations Grow Over
27 Cheerleading’s mishandled sexual misconduct cases,” Tricia L. Nadolny, Marisa Kwiatkowski,
28 USA Today (Dec. 23, 2020), available at: <https://www.usatoday.com/in-depth/news/2020/12/23/cheerleading-cheer-sexual-misconduct-complaints-usaf/6484248002/>

29 ¹⁷ See “Cheerleading Antitrust suit spurs brawl over ex exec’s documents,” Daniel Libit, Sportico
(Jan. 12, 2022) (available at: <https://www.sportico.com/law/news/2022/varsity-spirits-antitrust-accusers-1234658119/>). In the article, ex-Varsity executive Marlene Cota bluntly states her impression that
Varsity placed its brand over the safety of athletes. Cota was also featured in an episode of
HBO’s Real Sports.

1 e. Any and all other and further relief as this Court may deem appropriate
2 including pre and post judgment interest.

3 **COUNT I**

4 **VIOLATION OF THE PROTECTING YOUNG VICTIMS**
5 **FROM SEXUAL ABUSE ACT, 18 U.S.C. §2255**
6 **(ALL DEFENDANTS)**

7 246. Plaintiff hereby realleges the preceding paragraphs as if repeated
8 verbatim herein.

9 247. This claim is brought against all Defendants, with the specific acts
10 complained of performed by Defendants Miller, Herrera and Cheer Force against
11 Plaintiff and enabled by the ongoing certification and ratification of the Varsity
12 Defendants, Defendant USASF, Defendant USA Cheer, Defendant Charlesbank, and
13 Defendant Bain Capital.

14 248. Under the statute, a covered individual means an adult who is authorized
15 by a national governing body, a member of a national governing body, or an amateur
16 sports organization that participates in interstate or international amateur athletic
17 competition, to interact with a minor or amateur athlete at an amateur sports
18 organization facility or at any event sanctioned by a national governing body, a
19 member of a national governing body, or such an amateur sports organization.

20 249. Under the statute, the term “event” includes travel, lodging, practice,
21 competition, and medical treatment.

22 250. Defendants Miller, Herrera and Cheer Force qualify as covered
23 individuals and the facts of this case bear out that abuse occurred at events defined
24 and encompassed by the statute.

25 251. Defendants Miller, Herrera and Cheer Force were held out by the
26 Varsity Defendants, Defendant USASF, Defendant USA Cheer, Defendant
27 Charlesbank, and Defendant Bain Capital as being members and part of a safe
28 network of coaches, choreographers, vendors, and other affiliates.

1 252. Plaintiff was a minor at the time she was sexually abused and assaulted
2 in contravention of 18 U.S.C. § 2422, thus constituting violations of 18 U.S.C. §2255.

3 253. Plaintiff has suffered personal injuries as a result of these violations of
4 law.

5 254. Plaintiff is entitled to damages pursuant to the laws of United States of
6 America, including but not limited to the following:

- 7 a. Compensatory, actual, and consequential damages, or, in the alternative,
8 liquidated damages in the amount of \$150,000;
- 9 b. Reasonable attorneys’ fees and costs;
- 10 c. Punitive damages; and
- 11 d. Any and all other and further relief as this Court may deem appropriate
12 including pre and post judgment interest.

13 **COUNT II**

14 **FOR CIVIL CONSPIRACY IN VIOLATION OF THE RICO ACT**

15 **PURSUANT TO 18 U.S.C. §1962(c) and §1962(d)**

16 **(ALL DEFENDANTS)**

17 255. Plaintiff hereby realleges the preceding paragraphs as if repeated
18 verbatim herein.

19 256. This count is brought against all Defendants.

20 257. United States law makes it “unlawful for any person employed by or
21 associated with any enterprise engaged in, or the activities of which affect, interstate
22 or foreign commerce, to conduct or participate, directly or indirectly, in the conduct
23 of such enterprise’s affairs through a pattern of racketeering activity...” 18 U.S.C.
24 §1962(c).

25 258. Each Defendant, at all relevant times, is and has been a “person” within
26 the meaning of 18 U.S.C. § 1961(3) because each of them is capable of holding, and
27 does hold, “a legal or beneficial interest in property.”
28

1 259. Defendants’ activities include at least two (2) acts of racketeering
2 activity since at least 2003. Accordingly, Defendants’ conduct constitutes a pattern
3 of racketeering activity. 18 U.S.C. § 1961(5).

4 260. The racketeering activity is set forth in paragraphs 2-244 and includes
5 violations of 18 U.S.C. §§ 1341 (mail fraud), 1343 (wire fraud)¹⁸ and 18 U.S.C. §
6 and 2422, (sexual exploitation of minors).

7 261. In or around 2002, the Varsity Defendants, Defendant USASF, and
8 Defendant USA Cheer formed an association-in-fact Enterprise within the meaning
9 of 18 U.S.C. § 1961(4).

10 262. Thereafter, at all times relevant to this complaint, the Herrera
11 Defendants, Defendant Miller, and Defendant Cheer Force joined the enterprise.

12 263. Defendant Charlesbank and Defendant Bain Capital agreed to facilitate
13 this Enterprise by funding its ongoing operation to obtain significant financial
14 benefits worth billions of dollars.

15 264. This Enterprise as previously described in this Complaint, consists of a
16 group of persons associated together for the common purpose of recklessly,
17 intentionally, and willfully endangering the Plaintiff as a minor athlete by exposing
18 her to illegal sexual abuse and exploitation, and drugs and alcohol, while
19 continuously and repeatedly taking money from Plaintiff, and also assuring her
20 parents and/or guardians she was particularly safe in order to take this money.

21 265. The Defendants, and all of them in concert with the Enterprise, were
22 engaging in misleading and fraudulent messaging to children and their families which
23 they knew or should have known endangered children who were not in a position to
24

25 ¹⁸ As referred to herein, the following paragraphs set forth factual allegations that constitute mail
26 fraud and/or wire fraud: 3, 4, 5, 6, 8, 9, 11, 39, 41, 48, 49, 50, 51, 52, 56, 58, 59, 60, 61, 63, 64,
27 65, 66, 68, 69, 70, 72, 73, 74, 75, 76, 77, 80, 81, 82, 83, 85, 86, 87, 88, 91, 92, 93, 97, 98, 100,
28 102, 109, 112, 117, 119, 120, 121, 125, 127, 134, 135, 138, 140, 141, 142, 143, 144, 145, 146,
147, 149, 154, 155, 156, 187, 160, 166, 167, 168, 171, 183-221, 241, 242, 243, 244.

1 discover the danger since Defendants were concealing the danger and failing to report
2 it, acting in reckless indifference to the safety of the children in the name of growing
3 profits.

4 266. In 2014, Defendant Charlesbank funded the purpose of this Enterprise.⁸

5 267. In 2018, Defendants Bain Capital took over a role in funding the purpose
6 of this Enterprise in place of Defendant Charlesbank.

7 268. The Varsity Defendants, Defendant USASF, Defendant USA Cheer,
8 and Defendants Miller, Herrera and Cheer Force acted in concert to commit the
9 predicate acts of mail fraud and wire fraud as set forth in the preceding paragraphs.

10 269. The funding, materials, and premises provided by the Varsity
11 Defendants, Defendant Charlesbank, and Defendant Bain Capital and the
12 communication of particular trust and safety carried out by Defendant USASF
13 facilitated the commission of these predicate acts by Defendants Miller, Herrera and
14 Cheer Force, which allowed for the sexual crimes perpetrated against Plaintiff, set
15 forth more fully herein.

16 270. The Defendants knew or should have known that illegal sexual contact
17 was occurring between credentialed coaches and minor athletes based on seeing the
18 inappropriate contact, as well as through the one-on-one coaching Defendants
19 marketed, promoted and condoned, and the system to bring children across state lines
20 with adult coaches, as well as rumors of misconduct, and inappropriate sexual contact
21 between adult coaches and minor athletes.

22 271. The Defendants owed a duty to Plaintiff, and her family, to disclose
23 reports of inappropriate behavior and sexual relationships with children, to report
24 crimes alleged against them, as well as to properly investigate and to mitigate
25 allegations related to sexual assault against children such as Plaintiff.

26 272. The Defendants collectively allowed, endorsed, and financially
27 supported the continuation of these acts against minor athletes.

28

1 273. The Defendants engaged in a scheme to defraud these athletes and their
2 families out of money and property with their artifice and deceit regarding the safety
3 of their programs.

4 274. The fraudulent mail and/or wire messages include, for specificity, but
5 are not limited to the following:

- 6 a. The 2003 creation of USASF as a governing body to provide uniform
7 and consistent regulation over Varsity affiliated All-star, which was
8 marketed to athletes such as Plaintiff as an enhanced feature of the
9 Varsity network;
- 10 b. The 2006 creation of USA Cheer, another governing body, which was
11 again marketed as providing particular safety parameters around Varsity
12 affiliated All-star cheer;
- 13 c. USASF 2009 Professional Responsibility Code and annual updates;
- 14 d. USASF Athlete Protection Messaging at the website and via email on
15 November 16, 2017;
- 16 e. The 2020 Uniform Ineligible List, which Defendants falsely represented
17 was a mechanism by which Defendants were properly patrolling and
18 purging the sport of potentially dangerous adults;
- 19 f. Social media posts and images either promoted by or shared by
20 Defendants, where Defendants supported the proliferation of
21 Defendants Champion Elite and Jones, and individual coaches;
- 22 g. Marketing targeted toward minors and child athletes and specifically
23 recruiting these athletes to travel over state lines to member gyms, and
24 for camps, and competitions;
- 25 h. The creation of “Cheerlebrity,” as a means to attract new minor athletes;
- 26 i. Annual membership renewal for Defendant Miller;
- 27 j. Annual membership renewal for Defendant Becky Herrera;
- 28 k. Annual membership renewal for Defendant Shawn Herrera

- 1 l. Annual credentialing and/or authorization for Defendant Cheer Force;
- 2 m. Fees accepted by Defendants USASF and/or Varsity from Defendants
- 3 Miller, Herrera and Cheer Force related to membership;
- 4 n. Investigations, reports, correspondence, communications related to
- 5 Plaintiff's incident report against Defendants;
- 6 o. Defendants' failure to immediately bank Defendant Miller following
- 7 Plaintiff's report;
- 8 p. Defendants' failures related to mandatory reporting requirements,
- 9 including reports to law enforcement and co-extensive regulatory
- 10 entities engaged in sport governance;
- 11 q. Fees accepted by USASF and/or the Varsity Defendants from Plaintiff
- 12 during the interim of time of the abuse, and thereafter;
- 13 r. Annual billing and/or invoices to Plaintiff for her USASF membership
- 14 renewal;
- 15 s. Billing and/or continuing to receive payment from Plaintiff for
- 16 uniforms, and other requisites of competition;
- 17 t. Billing, invoicing, and/or fees for music, choreography, travel, and
- 18 hotels;
- 19 u. Solicitation of Plaintiff sent via wire;
- 20 v. Communications by and between representatives of Defendant USASF
- 21 and Plaintiff related to Defendant USASF's investigation into the
- 22 underlying incident that is the subject of this case;
- 23 w. In 2021, USASF's website falsely claimed that they were requiring
- 24 background checks in 2015 of "all coaches and adult members".
- 25 However, this was untrue. Background checks were only required for
- 26 entry into the "warm up room" at competitions. It was never
- 27 implemented with respect to coaching children or being around them in
- 28 any capacity outside their competition routine;

- 1 x. In 2021, USASF indicated that it was partnering with the U.S. Center
2 for SafeSport (“SafeSport”) as part of its responsibility to athletes to
3 prevent sexual abuse – however, and upon information and belief, the
4 USASF has yet to implement the requisites of SafeSport for its coaches,
5 vendors, and volunteers;
- 6 y. Consecutively, on May 10, 2018, and May 16, 2019, the period just
7 before Worlds at Disney, USASF disseminated the following
8 messaging: “Athlete Safety is our #1 Priority! Our mission includes
9 ‘strive for a safe environment for our athletes.’ To the USASF, safety
10 extends beyond our Cheer or Dance safety rules for performance. We’re
11 committed to helping our members create the safest overall environment
12 for every all-star athlete, so we’ve made resources available for use in
13 gyms and studios;”
- 14 z. Defendants’ concerted efforts to prevent All-star cheer from being
15 designated a “sport,” which would have interrupted the Varsity
16 Defendants’ profits through regulation;
- 17 aa. The Varsity Defendants’ representations related to USASF and adoption
18 of SafeSport;
- 19 bb. USASF’s representations related to the benefits of competing at
20 “sanctioned events,” which was a proxy for Varsity events;
- 21 cc. Continued messaging by USASF that child sexual abuse and
22 exploitation by predators was an outside problem that could be
23 prevented by paying more attention to how cheerleaders were presenting
24 themselves on social media.
- 25 dd. In July of 2019, USASF shifted the blame to child athletes warning them
26 the “risk and responsibility” of sexual exploitation and objectification
27 required them to “make better choices” about their appearance to
28 “minimize the risk[.]” It did this with full knowledge of repeated reports

1 that the industry was rife with abuse among its own coaching and gym
2 owner ranks and that they were actively concealing these predators so
3 that they could continue to feed the revenue stream.

4 ee. USASF’s athlete protection messaging continued at this time to
5 primarily address athlete safety from sexual exploitation and abuse from
6 the perspective of how athletes were presenting themselves through
7 appearance and how that might affect the brand’s image through an
8 “image and appearance policy”.

9 ff. USASF and USA Cheer codes of conduct and other policy statements,
10 which were purportedly administered to all USASF members, and
11 which touted that athlete safety was a priority, when, in fact, neither
12 entity had uniform methods by which to ensure athlete safety;

13 gg. Materials associated with Varsity University, a gym and coaching
14 conference;

15 hh. Such additional statements, messages, and/or materials as may be
16 revealed during discovery in this matter.

17 275. Plaintiff had a property interest in her membership dues paid as set forth
18 above and other fees and costs, and in the continued ability to cheer competitively,
19 and Defendants induced Plaintiff through promises of social media notoriety,
20 “Cheerlebrity” status, scholarship opportunities, and, to become a cheer coach
21 herself, to achieve “legend status”, to become a gym owner, or to become an event
22 promoter.

23 276. The actions of the Enterprise and its conspirators were the direct and
24 proximate cause of these injuries to the Plaintiff.

25 277. But for the fraudulent assurances to Plaintiff and her parents that the
26 gyms, coaches and affiliates were certified as safe, the abuse would not have occurred
27 causing the injuries described above.

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1 278. Plaintiff is entitled to damages pursuant to the laws of the United States
2 of America, including but not limited to the following:

- 3 e. Compensatory, actual, and consequential damages, trebled in
4 accordance with the statute;
5 f. Reasonable attorneys' fees and costs;
6 g. Punitive damages; and
7 h. Any and all other and further relief as this Court may deem appropriate
8 including pre- and post-judgment interest.

9 **COUNT III**

10 **GROSS NEGLIGENCE**

11 **(ALL DEFENDANTS)**

12 279. Plaintiff hereby realleges the preceding paragraphs as though repeated
13 verbatim herein.

14 280. Plaintiff brings this claim for gross negligence against all Defendants.

15 281. At all times relevant to this Complaint, Defendants have been
16 responsible for the safety, health, and welfare of minor athletes, such as Plaintiff,
17 who was a member of Defendants USASF, and USA Cheer, and a participant in
18 Defendant Varsity events, competing for Varsity-affiliated gyms, and under the care,
19 custody, and control of each of the Defendants, respectively.

20 282. At all times relevant to this complaint, Defendant USASF, Defendant
21 USA Cheer, the Varsity Defendants, and Defendants Miller, Herrera and Cheer Force
22 have represented that credentialing generally, and specifically, provided superior
23 safety for athletes such as Plaintiff, and have promulgated policies, procedures,
24 guidelines, and information about safety in All-star cheer.

25 283. At all times relevant to this complaint, Defendants have been aware that
26 there are dangers associated with coaches training minor athletes, including risks
27 associated with inappropriate, and non-consensual sexual touching, emotional, and
28 physical abuse.

1 284. At all times relevant to this Complaint, Defendants represented that they
2 had rules, policies and/or procedures specifically intended to address the risks of
3 sexual, physical, and mental exploitation of minor athletes by coaches, and adults
4 who interact with these athletes by virtue of the adults' positions of power. These
5 policies, procedures, rules, and/or guidelines included representations related to
6 SafeSport, and that Defendants USASF and USA Cheer were uniquely situated to
7 help govern and regulate All-star cheer.

8 285. At all times relevant to this complaint, Defendants have represented that
9 competing in the Varsity system, which is governed by Defendant USASF and USA
10 Cheer, is the means to maximize athlete protection for minor athletes such as
11 Plaintiff.

12 286. At all times relevant to this complaint, Defendants owed special duties
13 to protect minor children, such as Plaintiff, who was an athlete competing on behalf
14 of a credentialed member club. Plaintiff entrusted Defendants with Plaintiff's
15 physical, mental, and emotional care and well-being, and Defendants held themselves
16 out as being uniquely able to protect minors such as Plaintiff from harm caused by
17 physical or other abuse.

18 287. Despite this, at all times relevant to this Complaint, Defendants have
19 been aware that violations to their internal policies, processes, procedures, and
20 guidelines related to athlete safety, and, in particular, safety against harm from
21 sexual, physical, and emotional abuse and exploitation has happened on a regular and
22 continuous basis by and through USASF and USA Cheer certified adult members,
23 including Defendant Miller.

24 288. Defendants violated their responsibilities and duties to Plaintiff in one
25 or more of the following particulars:

- 26 f. Allowing Defendants Miller, Herrera and Cheer Force access to Plaintiff
27 when Defendants knew or reasonably should have known that
28 Defendant Miller posed a threat of harm to Plaintiff;

- 1 g. Permitting Defendants Miller and Herrera to remain in positions of
- 2 power and particular trust over minor athletes, such as Plaintiff;
- 3 h. Allowing Defendant Miller to isolate Plaintiff despite the known
- 4 dangers associated with one-on-one coaching and interactions;
- 5 i. Failing to enforce social media and other communications policies and
- 6 procedures related to inappropriate conduct between minor athletes and
- 7 adult members;
- 8 j. Failing to report known instances of abuse or misconduct;
- 9 k. Failing to adhere to SafeSport policy or procedure;
- 10 l. Failing to investigate potential misconduct, including among and
- 11 between Defendant Miller and Plaintiff, despite knowledge that such
- 12 inappropriate contact had occurred;
- 13 m. In the event such investigation was conducted, failing to reasonably
- 14 conduct the investigation for the protection of a minor;
- 15 n. Failing to train, supervise, monitor, or implement policies and
- 16 procedures related to Defendants' employees and/or authorized
- 17 representatives and their interactions with minors such as Plaintiff;
- 18 o. Failing to provide safe premises;
- 19 p. Failing to protect Plaintiff from the foreseeable harm inflicted on her by
- 20 a third party;
- 21 q. Continuing to hold Defendants Miller and Herrera out as trustworthy
- 22 adults capable of providing safe services in the sport; and
- 23 r. Such other conduct as may be revealed.

24 289. At all times relevant to this complaint, Defendants have known that one-
25 on-one coaching, and intimate coach contact is an enhanced feature of All-star
26 coaching that generates a great deal of money for all Defendants in the enterprise.

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1 290. Defendants are also aware of the close personal relationships many of
2 these coaches form with minor athletes who adult members gain access to by virtue
3 of their USASF and USA Cheer credentials.

4 291. Defendants are further aware that, despite the known dangers of one-on-
5 one contact, adult members routinely engage in intimate and exclusive contact with
6 minor athletes, as well as travel with minors across state lines, even staying in the
7 same hotel rooms with no other chaperone, while participating in competitions,
8 camps, and clinics.

9 292. And when complaints or reports have surfaced, or social media images
10 and videos circulate depicting illegal activity with minors, the Defendants disregard
11 or ignore same, do not report to any agencies, do not permanently strip coaches of
12 their eligibility, and often rally around coaches who have been accused of illegal
13 conduct with minors, even ostracizing families who have complained or reported.

14 293. Defendants' actions and omissions, by and through their authorized
15 agents, were unreasonable, constituted the total absence of care, and breached duties
16 owed to Plaintiff, and actually and proximately contributed to and/or caused
17 damages.

18 294. Defendants' actions and omissions as described above, by and through
19 authorized agents, were in violation of Defendants' own policies, procedures, and
20 what would be reasonable under the circumstances.

21 295. Each incident of abuse and exploitation detailed in this matter
22 constitutes a separate occurrence.

23 296. Plaintiff is entitled to damages pursuant to the laws of California,
24 including but not limiting to the following:

- 25 a. Compensatory, actual, and consequential damages;
- 26 b. Punitive damages; and
- 27 c. Any and all other and further relief as this Court may deem appropriate
28 including pre and post judgment interest.

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COUNT IV
NEGLIGENT SUPERVISION
(VARSITY DEFENDANTS, DEFENDANT USASF, DEFENDANT USA
CHEER, THE HERRERA DEFENDANTS, AND DEFENDANT CHEER
FORCE)

297. Plaintiff hereby realleges the foregoing paragraphs as though repeated verbatim herein.

298. Throughout the relevant timeframe of this complaint, Defendant USASF, the Varsity Defendants, the Herrera Defendants, and Defendant Cheer Force continued to employ, credential, and place Defendant Miller in particular and unique positions of trust by allowing access to minor athletes, including Plaintiff.

299. Despite claiming to conduct background checks and remove eligibility certification from coaches, gyms, or adult members where complaints or reports of misconduct have been made, Defendants continued to allow Defendant Miller to operate, manage, and coach for Defendant Cheer Force in order to generate income for the enterprise.

300. Defendants' business model relies upon certifying private gyms, coaches, and adult members pursuant to the USASF standard, which purports to place athlete health and safety above all else.

301. A conflict exists however, in that if a gym, owner, or coach is not certified, they are ineligible to compete in the Varsity network, thus depriving the Varsity Defendants of revenue from that gym and All-star program.

302. Defendant Cheer Force's business model relies upon being an authorized USASF member gym, allowed to contract with and provide services for Defendant USASF's minor athletes.

303. In perpetuating a business model built on trust and athlete safety, Defendants specifically undertook a duty to ensure that reputation for trust and safety

1 was earned and that dangerous individuals committing atrocious illegal acts were
2 removed from the competitive cheer network Defendants oversaw.

3 304. Defendants breached this duty in a number of particulars including by
4 credentialing Defendant Miller and allowing him to remain in settings with regular
5 access to minor athletes, when Defendants knew or should have known he posed a
6 significant threat of harm, failing to act or otherwise disregarding reports of abuse,
7 discounting or otherwise ignoring specific information about Defendant Miller and
8 his inappropriate interaction with Plaintiff, among other particulars.

9 305. Defendants' grossly negligent, willful and wanton conduct, set forth
10 more fully herein, directly and proximately caused Plaintiff's injuries.

11 306. As a direct and proximate result of Defendants' conduct, the Plaintiff
12 has sustained physical, mental, and emotional damages, among others.

13 307. Plaintiff is therefore entitled to a judgment against Defendants, and for
14 such actual and consequential damages in an amount to be determined by a jury trial.

15 **COUNT V**

16 **ASSAULT/BATTERY**

17 **(DEFENDANT CHEER FORCE, DEFENDANT MILLER)**

18 308. Plaintiff hereby realleges the foregoing paragraphs as though repeated
19 verbatim herein.

20 309. At all times relevant to this complaint, the assault, battery, and abuse set
21 forth herein, occurred while Plaintiff was a minor under eighteen years of age, and
22 while she was a citizen and resident of Ventura County, California.

23 310. At all times relevant to this complaint Defendant Cheer Force, as the
24 employer and/or entity responsible for Defendant Miller, allowed an adult coach to
25 access minor athletes including Plaintiff and to illegally commit unwanted and
26 nonconsensual sexual touching of the Plaintiff.

27 311. Said touching Defendant Miller constituted sexual assault and sexual
28 battery on this named Plaintiff and others.

1 312. As a direct and proximate result of these Defendants' conduct, set forth
2 more expressly above, Plaintiff experienced bodily injury, physical pain and
3 suffering, and mental anguish and is entitled to an award of actual damages in an
4 amount to be determined through a trial of this matter.

5 **COUNT VI**

6 **BREACH OF CONTRACT**

7 **(AS TO THE VARSITY DEFENDANTS, DEFENDANT CHEERFORCE,**
8 **AND DEFENDANT USASF)**

9 313. Plaintiff realleges the preceding paragraphs as though repeated verbatim
10 herein.

11 314. At all times relevant to this complaint, Plaintiff had duly executed
12 contracts with the Varsity Defendants and Defendant USASF or was the intended
13 third-party beneficiary of contracts between Defendant Cheerforce, and the Varsity
14 Defendants, and Defendant USASF, where, in exchange for valuable consideration
15 from Plaintiff, Defendants agreed to provide a competitive and gym environment that
16 was safe, secure, and free from harm, specifically physical and sexual abuse.

17 315. As set forth herein, during the course of these contractual agreements,
18 Plaintiff was subjected to severe and oppressive abuse, physically and mentally by
19 adults who were credentialed and supported by Defendants, and who Plaintiff would
20 not have come into contact with but for Defendants' network.

21 316. During the term of these agreements, the Varsity Defendants, Defendant
22 Cheerforce, and Defendant USASF failed to provide Plaintiff with a safe and secure
23 environment, including by failing to enforce the policies, procedures, and standards
24 expressly adopted by Defendant USASF, and Defendant USA Cheer related to
25 credentialed coaches and adult members.

26 317. These failures on the parts of the Varsity Defendants and Defendant
27 USASF constitute violations of the fundamental and material terms of the agreements
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1 between Plaintiff, Defendant Cheerforce, and the Varsity Defendants and Defendant
2 USASF.

3 318. Defendant Cheerforce, the Varsity Defendants' and Defendant
4 USASF's failures were so egregious and unconscionable as to render the agreements
5 null and void.

6 319. As such, Plaintiff seeks an order from this court finding that Defendants'
7 conduct constitutes a breach of the contractual arrangement between Defendants and
8 Plaintiff, rescinding said contracts, and remitting the valuable consideration Plaintiff
9 paid to Defendants during the relevant timeframe, as well as for all such attorneys'
10 fees, costs, and interest to which Plaintiff may be entitled.

11 **COUNT VII**

12 **UNJUST ENRICHMENT**

13 **(AS TO DEFENDANT CHEER FORCE, THE VARSITY DEFENDANTS,**
14 **DEFENDANT BAIN CAPITAL, AND DEFENDANT CHARLESBANK)**

15 320. Plaintiff realleges the preceding paragraphs as though repeated verbatim
16 herein.

17 321. As set forth herein, the cheer industry represents a multi-billion-dollar
18 enterprise where each young athlete annually spends thousands of dollars toward
19 gym memberships, private lessons, uniforms, accessories, competition fees, music,
20 choreography, and membership with USASF.

21 322. At all times relevant to this complaint, Plaintiff conferred non-gratuitous
22 benefits upon Defendants including annual competition and membership fees, as well
23 as continuous revenue toward uniforms, accessories, private training, and other
24 monetary benefits.

25 323. Defendants realized the value of these benefits, including steady annual
26 revenue per athlete.

27 324. To date, none of the benefits Defendants realized have been returned or
28 otherwise disgorged.

1 325. Under the circumstances set forth herein and above, it would be
2 inequitable for Defendants to retain the benefits conferred by Plaintiff including
3 through Plaintiff's annual membership fees and competition fees.

4 326. Plaintiff is therefore entitled as a matter of equity to recover these
5 benefits from Defendants and for all such additional relief as this Court deems proper.

6 **COUNT VIII**

7 **FRAUD**

8 **(AS TO THE VARSITY DEFENDANTS, AND DEFENDANT USASF)**

9 327. Plaintiff realleges the preceding paragraphs as though repeated
10 verbatim.

11 328. At all times relevant to this complaint, Plaintiff was a party to numerous
12 annual contracts whereby Plaintiff agreed to pay Defendants annual and recurring
13 fees in exchange for a safe competitive environment and training facility, and further
14 agreed to pay substantial additional consideration and fees to Defendants.

15 329. As part of these agreements, Defendants represented to Plaintiff that
16 Defendants would be responsible for ensuring a safe environment and access to safe
17 adults for Plaintiff including an environment free from sexual, physical, and mental
18 harm and exploitation.

19 330. Defendants' promises were material to Plaintiff's agreements, without
20 which no agreements would have existed.

21 331. Plaintiff had a right to rely upon Defendants' promises.

22 332. As set forth herein, even at the time they entered into the agreements
23 with Plaintiff, Defendants knew or had a reckless disregard for whether the
24 environment they provided at competitions, in the gym environment, at clinics, and
25 camps, and through certified coaches, was safe and free from harm and sexual,
26 physical and mental abuse.

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1 333. In fact, at all times relevant to this complaint, Defendants knew that the
2 environment they provided actually facilitated access by predators to underage
3 athletes.

4 334. Yet, with knowledge or a reckless disregard for whether Defendants
5 were providing safe environments for child athletes, Defendants nevertheless entered
6 into the agreements and began collecting fees from Plaintiff.

7 335. Upon information and belief, Defendants' misrepresentations included,
8 without limitation:

- 9 a. Certifying to Plaintiff that Defendants were responsible for providing
10 safe competitive and training environments;
- 11 b. Certifying to Plaintiff and her family that the adults involved in the
12 gyms, and competitions, including choreographers, had been duly
13 vetted;
- 14 c. Allowing coaches to continue participating and accessing child-athletes
15 even after Defendants knew the coaches had exhibited disturbing
16 behavior;
- 17 d. Facilitating an unchaperoned environment for child-athletes;
- 18 e. Encouraging coaches to create a steady stream of new child athletes for
19 the time that the current athletes aged out;
- 20 f. Failing to provide appropriate security to ensure a safe environment for
21 child athletes free from harm;
- 22 g. Failing to enforce, implement, or abide by policies and procedures
23 related to vetting, security, and screening;
- 24 h. Such additional conduct as may be revealed during discovery and the
25 trial of this case.

26 336. As a direct and proximate result of Defendants' conduct, Plaintiff has
27 sustained and will continue to sustain significant mental, physical, and emotional
28 injuries and damages.

1 337. Plaintiff now seeks an order from this court setting aside the referenced
2 agreements and declaring them null and void, as well as for damages in an amount
3 to compensate Plaintiff for the physical, psychological and emotional harm caused
4 by Defendants' conduct, as well as punitive damages, and such additional damages
5 in law or equity as this court deems proper.

6 **COUNT IX**

7 **NEGLIGENT SECURITY**

8 **(AS TO DEFENDANTS USASF, DEFENDANT USA CHEER, THE**
9 **VARSITY DEFENDANTS, DEFENDANT CHEER FORCE, DEFENDANT**
10 **BAIN CAPITAL & DEFENDANT CHARLESBANK)**

11 338. Plaintiff realleges the preceding paragraphs as though repeated verbatim
12 herein.

13 339. At all times relevant to this complaint, the Varsity Defendants,
14 Defendant Bain Capital, Defendant USASF, Defendant USA Cheer, Defendant
15 Cheer Force, and Defendant Charlesbank sponsored, created, hosted, attended and
16 oversaw private all-star gyms, camps, clinics, coaches, choreographers and
17 competitions, all established and governed by Defendants, and under the supervision
18 of Defendants.

19 340. At all times relevant to this complaint, if athletes competed at the private
20 all-star gyms, camps, clinics and competitions hosted by the Varsity Defendants, and
21 Defendants Bain Capital and Charlesbank, the athletes had no meaningful choice but
22 to attend at the locations, and under conditions, established by Defendants.

23 341. At all times relevant to this complaint, these preselected conditions and
24 locations included gym locations.

25 342. The Varsity Defendants, Defendant Cheer Force and Defendants Bain
26 Capital and Charlesbank received substantial revenue from these events and
27 relationships.

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1 343. At all times relevant to this complaint, the Varsity Defendants,
2 Defendant Cheer Force, Defendant USASF, Defendant USA Cheer, and Defendants
3 Bain Capital and Charlesbank undertook a responsibility to ensure that the locations
4 and events were safe for minor athletes who were likely to encounter adult coaches,
5 choreographers, videographers, and attendees.

6 344. The Varsity Defendants, Defendant USASF, Defendant USA Cheer,
7 Defendant Cheer Force, and Defendants Bain Capital and Charlesbank violated their
8 responsibility to provide safe premises free from harm from third parties in one or
9 more of the following particulars:

10 a. Disparate enforcement of policies, procedures, and guidelines
11 related to suspensions, with the result that coaches were still allowed to
12 attend Varsity Competitions and represent Varsity-affiliated private all-
13 star gyms;

14 b. Failure to provide adequate monitoring;

15 c. Failure to provide sufficient background checks, with the result
16 that hundreds of potential threats were allowed to gain access to
17 underage athletes;

18 d. Failing to monitor, enforce, or otherwise implement policies and
19 procedures to ensure that minor athletes were not exposed to drugs and
20 alcohol, and sexual solicitation and exploitation within the sport;

21 e. Failing to monitor, enforce, or otherwise implement policies and
22 procedures to ensure that minor athletes were not exposed to
23 pornographic images, or were not solicited to provide pornographic
24 images while in the course and scope of the sport;

25 f. Failing to ensure that Varsity member coaches and adults were
26 not forcing themselves upon minor athletes, including at Varsity
27 member gyms and Varsity events;

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1 g. Failing to ensure that underage athletes were not being forced into
2 non-consensual sexual encounters with adults affiliated with
3 Defendants;

4 h. Such additional conduct as may be revealed during discovery.

5 345. As a direct and proximate result of Defendants' conduct, Plaintiff has
6 sustained and will continue to sustain significant mental, physical, and emotional
7 injuries and damages.

8 346. Plaintiff now seeks an order from this court setting aside the agreements
9 and declaring them null and void, as well as for damages in an amount to compensate
10 Plaintiff for the physical, psychological and emotional harm caused by Defendants'
11 conduct, as well as punitive damages, and such additional damages in law or equity
12 as this court deems proper.

13 **COUNT X**

14 **CIVIL CONSPIRACY**

15 **(AS TO ALL DEFENDANTS)**

16 347. Plaintiff realleges the preceding paragraphs as though repeated verbatim
17 herein.

18 348. At all times relevant to this complaint, Defendants were a collective
19 group of individuals working in concert and individually toward a common plan.

20 349. As described more fully herein, Defendants, acting as a collective group
21 and individually, and at all times relevant to this complaint, were engaged in the
22 process of recklessly, intentionally, and willfully endangering the Plaintiff, a minor
23 athlete, by exposing her to sexual abuse and exploitation while assuring her and her
24 family that Defendants were providing safe conditions and premises for the athletes
25 to compete.

26 350. As described more fully herein, Defendants' conduct included
27 misleading and fraudulent messaging to children and their families which Defendants
28 knew or should have known would endanger children who were not in a position to

1 discover the danger since Defendants were concealing the danger and failing to report
2 it, acting in reckless indifference to the safety of the children in the name of growing
3 profits.

4 351. At all times relevant to this complaint, Defendants were motivated by
5 the substantial revenue, profits, and funding paid by the athletes and their families in
6 exchange for the fraudulent messages and misrepresentations made by Defendants.

7 352. In 2014, Defendant Charlesbank funded this scheme, providing
8 additional capital for Defendants to perpetuate their misrepresentations.

9 353. In 2018, Defendants Bain Capital took over the primary role in funding
10 the purpose this scheme. Defendant Charlesbank retained an interest however in the
11 misrepresentations and resultant monetary benefits.

12 354. Defendants acted in concert to perpetuate this scheme.

13 355. In addition, Defendants knew or should have known that the funding,
14 materials, and premises provided by Defendants were material to the abuses and harm
15 suffered by the minor athletes, as well as the continued perpetuation of revenue from
16 these athletes.

17 356. The Defendants knew or should have known that inappropriate contact
18 was occurring between coaches and other adults and minor athletes, some of which
19 was even captured on camera, or via messaging, engaging in illegal and inappropriate
20 acts with the minors.

21 357. The Defendants owed a duty to minors including Plaintiff, and her
22 family, to make reports, disclose reports, and adequately address reports of
23 inappropriate behavior and sexual relationships with children and to report crimes
24 alleged against them.

25 358. The Defendants collectively allowed, endorsed, and financially
26 supported the continuation of these acts against minor athletes.

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1 359. The Defendants engaged in a scheme to defraud these athletes and their
2 families out of money and property with their artifice and deceit regarding the safety
3 of their programs.

4 360. But for the fraudulent assurances to her parents that the gyms, coaches,
5 and member adults were certified safe, the abuse would not have occurred, and
6 Plaintiff would not have suffered continued economic harm derived from paying
7 substantial dues and fees predicated in large part on promises of a safe environment
8 for minor athletes.

9 361. As a direct and proximate result of Defendants' conduct, Plaintiff is
10 entitled to damages including but not limited to the following:

- 11 a. Compensatory, actual, and consequential damages, trebled in
12 accordance with the statute;
- 13 b. Punitive damages; and
- 14 c. Any and all other and further relief as this Court may deem appropriate
15 including pre- and post-judgment interest.

16 **COUNT XI**

17 ***RESPONDEAT SUPERIOR***

18 **(AS TO DEFENDANTS USASF AND CHEER FORCE)**

19 362. Plaintiff hereby realleges the foregoing paragraphs as though repeated
20 verbatim herein.

21 363. At all times relevant to this complaint, Defendant USASF employed and
22 retained certain individuals, including Amy Clark and Ginger Wiczak to provide
23 safety and regulatory services, including, without limitation, conducting
24 investigations intended to prevent and mitigate athlete harm in USASF cheer.

25 364. At all times relevant to this complaint, agents, employees, and/or
26 authorized representatives of Defendant USASF were acting in the course and scope
27 of their employment.

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1 365. At all times relevant to this complaint, Defendant Cheer Force employed
2 and retained Defendant Miller as a coach and authorized Defendant's access to minor
3 athletes including Plaintiff.

4 366. At all times relevant to this complaint, Defendant Miller was acting in
5 the course and scope of his employment with Defendant Cheer Force, and as an
6 authorized member of Defendant USASF.

7 367. As such, at all times relevant to this complaint, Defendants USASF and
8 Cheer Force were as responsible for the actions, inactions, omissions and failures of
9 their employees, agents, and/or representatives as though they undertook the actions
10 themselves.

11 368. As set forth herein, Defendants failed to properly train, supervise,
12 provide monitoring, and/or to implement the policies, procedures, and guidelines,
13 greatly increasing the likelihood of bodily injury and harm to athletes such as
14 Plaintiff.

15 369. As set forth herein, Defendant Miller committed sexual battery, non-
16 consensual touching, and inappropriate acts against Plaintiff.

17 370. As set forth herein, Defendant USASF, by and through its employees,
18 representatives, and/or agents failed to appropriately monitor, report, and implement
19 policies or procedures in All-star cheer, increasing the likelihood of harm against
20 minor athletes, such as Plaintiff.

21 371. This conduct directly and proximately caused Plaintiff to sustain
22 continuing and ongoing injuries, including physical and emotional damages.

23 372. Plaintiff therefore seeks an order from this court against Defendants, and
24 is further entitled to actual, consequential, and such additional damages, including
25 punitive damages as this court deems just and proper.

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COUNT XII

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(AS TO ALL DEFENDANTS)

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4 373. Plaintiff realleges the preceding paragraphs as though repeated verbatim
5 herein.

6 374. As set forth herein and above, at all times relevant to this complaint,
7 Defendants had a duty or duties to Plaintiff to use due and reasonable care to protect
8 Plaintiff from foreseeable harm in a number of particulars, and not to inflict physical,
9 emotional, or psychological injury upon the Plaintiff.

10 375. As set forth herein and above, Defendants violated their responsibilities
11 to Plaintiff in one or more particulars, including:

- 12 a. Certifying to Plaintiff that Defendants were responsible for
13 providing safe gyms and competitive environments;
- 14 b. Certifying to Plaintiff and her family that the adults involved in
15 the competitions and training, including choreographers, had
16 been duly vetted;
- 17 c. Allowing coaches to continue participating and accessing child-
18 athletes even after Defendants knew the coaches had exhibited
19 disturbing behavior;
- 20 d. Facilitating an unchaperoned environment for child-athletes;
- 21 e. Fostering a party culture for child athletes, including an
22 environment where alcohol and drugs were readily available;
- 23 f. Encouraging coaches to create a steady stream of new child
24 athletes for the time that the current athletes aged out;
- 25 g. Failing to provide appropriate security to ensure a safe
26 environment for child athletes free from harm;
- 27 h. Failing to enforce, implement, or abide by policies and
28 procedures related to vetting, security, and screening;

- 1 i. Disparate enforcement of policies, procedures, and guidelines
- 2 related to coaching suspensions, with the result that coaches and
- 3 choreographers were still not permanently banned from
- 4 interacting with minor athletes;
- 5 j. Failure to provide adequate monitoring at the gyms, camps,
- 6 events and competitions;
- 7 k. Failure to undertake sufficient background checks;
- 8 l. Failing to monitor, enforce, or otherwise implement policies and
- 9 procedures to ensure that minor athletes were not exposed to
- 10 drugs and alcohol;
- 11 m. Failing to monitor, enforce, or otherwise implement policies and
- 12 procedures to ensure that minor athletes were not exposed to
- 13 pornographic images, or were not solicited to provide
- 14 pornographic images while attending Varsity events or cheering
- 15 for or on the premises of USASF member-gyms;
- 16 n. Exposing minor athletes to potential harmful adults with
- 17 knowledge or a reckless disregard for the safety of the minor
- 18 athletes;
- 19 o. Failing to ensure that adult coaches and athletes were not forcing
- 20 themselves upon minor athletes;
- 21 p. Failing to ensure that underage athletes were not being forced into
- 22 non-consensual sexual encounters with adults;
- 23 q. Such additional conduct as may be revealed during discovery.

24 376. Defendants' conduct set forth above is so outrageous and extreme as to
25 exceed all bounds of that usually tolerated in a civilized community.

26 377. Moreover, Defendants' conduct has directly and proximately caused
27 serious, severe, and pervasive emotional and mental injury to Plaintiff and will
28 require reasonably certain future care.

1 378. Plaintiff now seeks judgment against Defendants and for damages in an
2 amount to compensate him for the physical, psychological and emotional harm
3 caused by Defendants' conduct, as well as punitive damages, and such additional
4 damages in law or equity as this court deems proper.

5 **COUNT XIII**

6 **VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**

7 **CA CIV CODE §1770**

8 **(AS TO THE VARSITY DEFENDANTS, DEFENDANT USASF, AND**
9 **DEFENDANT CHEER FORCE)**

10 379. Plaintiff realleges the preceding paragraphs as though repeated verbatim
11 herein.

12 380. At all times relevant to this complaint, the above-named Defendants
13 entered into contractual relationships with the Plaintiff and her family, taking fees for
14 membership, training, choreography, competition, and travel, while promising safe
15 environments overseen by vetted adult members of USASF.

16 381. The safety and trust touted by these Defendants was material to
17 Defendants' business model, and with the contractual arrangements and relationships
18 entered into between Plaintiff and her family and the Defendants.

19 382. The safety and trust referred to herein, which was a material
20 representation by Defendants, caused Plaintiff and her family to pay copious annual
21 fees and dues, as well as fees associated with competition, travel, music,
22 choreography, uniforms, and other monetary assessments, all while Defendants knew
23 or had reason to know that Plaintiff was being subjected to sexual and financial abuse
24 and exploitation.

25 383. Defendants failed to implement proper protocols, policies, and/or
26 procedures, or failed to abide by same to ensure the ability of minor children, such
27 as Plaintiff, to be free from sexual and/or physical and emotional harm.

28

1 384. California Civil Code, §1770 prohibits suppliers from committing
2 unfair, deceptive, or unconscionable acts or practices in connection with consumer
3 transactions.

4 385. Defendants are “suppliers” as they are engaged in the business of
5 effecting or soliciting consumer transactions, whether or not the person deals directly
6 with the consumer.

7 386. Defendants’ conduct constitutes deceptive practices in connection with
8 consumer transactions, as evidence by the fact that numerous Plaintiffs, who were
9 minors at the time of the alleged misconduct, have come forward with similar
10 information related to Defendants’ conduct, failures, act, and/or omissions in
11 overseeing, enforcing, and providing a secure and safe environment for Plaintiff and
12 other child athletes.

13 387. Defendants’ unfair and deceptive methods and practices have directly
14 and proximately resulted in harm to Plaintiff, including physical harm, as well as
15 harm related to contractual duties and responsibilities Defendants held themselves
16 out as providing to Plaintiff, and which Defendants neither executed upon nor
17 delivered.

18 388. Plaintiff is entitled to damages pursuant to the laws of the State of
19 California, including but not limited to:

- 20 a. Compensatory, actual, and consequential damages;
21 b. Reasonable attorney’s fees and costs;
22 c. Punitive damages where available; and
23 d. Such additional and further relief as this Court may deem appropriate
24 including pre- and post-judgment interest.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff respectfully requests that this Court award the
27 following damages, jointly and severally against Defendants, as provided by the laws
28 of the United States and California, including but not limited to the following:

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- a. Compensatory, actual, and consequential damages to Plaintiff, trebled where permitted by statute;
- b. Alternatively, liquidated damages as to Count I;
- c. Costs of this action and attorneys’ fees to Plaintiff;
- d. Punitive damages where permitted; and,
- e. Any and all other and further relief as this Court may deem appropriate.

TRIAL BY JURY

WHEREFORE, Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully Submitted,

Dated: December 29, 2022

THE PRIDE LAW FIRM

/s/ Jessica K. Pride

Jessica K. Pride

Email: jpride@pridelawfirm.com

Attorneys for Plaintiff