

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

ALYSSA MENDEZ *
1108 Dyson Drive *
Winter Springs, Florida 32708 *

Plaintiff, *

v. * Case No. _____

THE NATIONAL FEDERATION OF *
THE BLIND *
1800 Johnson Street *
Baltimore, Maryland 21230 *

Serve On: *
Mark A. Riccobono, Resident Agent *
1800 Johnson Street *
Baltimore, Maryland 21230 *

Defendant. *

* * * * *

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Alyssa Mendez (“Ally” or “Plaintiff”), by and through undersigned counsel, hereby files this Complaint and Demand for Jury Trial against Defendant The National Federation of the Blind (“NFB” or “Defendant”), and states as follows:

INTRODUCTION

1. Ally is a 20-year-old girl who was born legally blind. In 2018, at the age of 16, Ally attended a training program at the Louisiana Center for the Blind (“LCB”).

2. LCB is a center operated by and affiliated with NFB, and its state-level organization, the National Federation of the Blind of Louisiana (“NFBL”). NFB, NFBL, and LCB are highly connected organizations. For instance, Pam Allen (“Allen”) is the Vice President and Chair of the Board of NFB, and also serves as the Director of LCB and Executive Director of

NFBL. NFB exercises strict control over NFBL, with the authority enshrined in NFB's Constitution.

3. Ally's training program was designed to help her and other blind individuals to develop skills for everyday living and to encourage independence. To complete the program, Ally was required to spend two months in Ruston, Louisiana, in housing provided by LCB, working with individuals trained by, acting on behalf of, and affiliated with NFB.

4. As part of the training program and as part of its commitment to its members, NFB promised to keep Ally safe. It failed to do so. On the first day Ally attended the program, Michael Ausbun ("Ausbun"), an NFB member, LCB intern, and vice president of NFB's National Association of Blind Students division, sexually assaulted her. He continued to assault her and make sexual advances toward her throughout her time at LCB. Utilizing his position and contacts, Ausbun befriended Ally's mother, Kimberly Banks ("Ms. Banks"), which allowed him to continue his sexual assaults even after the training program ended and after LCB employees had reported Ausbun's suspicious behavior to NFB leadership.

5. NFB and its members have long known that sexual predators worked within its organizations to take advantage of the blind. In 2020, NFB's President, Mark Riccobono ("Riccobono"), acknowledged that NFB failed to deliver on its obligations to provide a safe environment for vulnerable persons within its care. Following Riccobono's admission as President, NFB created a Special Committee to investigate sexual assault and other abuses within NFB and its affiliated organizations, and which were occurring during NFB events and programs. The Special Committee generated a report confirming that sexual assault of NFB members was widespread, and that NFB had failed to adequately handle complaints of sexual abuse or punish the wrongdoers.

6. Ausbun illustrates NFB's failures. Despite complaints to NFB's leadership, including Allen, that included pictures demonstrating Ausbun's inappropriate behavior towards Ally, neither NFB, NFBL, nor LCB addressed the sexual abuse and allowed it to continue. Later, after Ms. Banks informed NFB's leadership of Ausbun's sexual assaults, NFB still failed to exact any punishment, allowing Ausbun to participate in high-profile NFB events.

7. After Ally came forward on her own to report of Ausbun's sexual assaults, the third such complaint with respect to Ausbun, NFB finally investigated the matter. Based on the investigation, NFB *temporarily suspended* Ausbun for five years and allowed him to return to the organization provided he met undisclosed, confidential guidelines. NFB's so-called punishment for the repeated sexual assault of a minor puts on display its disregard of the legitimate, serious harm Ally and others suffered at NFB and NFB-affiliated events.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this case pursuant to Md. Code., Cts. & Jud. Proc. ("CJP") § 1-501.

9. This Court has personal jurisdiction over NFB pursuant to CJP § 6-102(a) because NFB is organized under the laws of and maintains its principal place of business in Maryland.

10. Venue is proper in this Court pursuant to CJP § 6-201(a) because NFB carries on a regular business and maintains its principal place of business in Baltimore City, Maryland.

PARTIES

11. Plaintiff Alyssa Mendez is a 20-year-old citizen of the United States residing in the state of Iowa. Ally is legally blind and has been since birth.

12. Defendant The National Federation of the Blind is a corporation organized and existing under the laws of the State of Maryland, with its principal place of business located in

Baltimore City, Maryland. NFB is the largest non-profit organization of blind people in the United States, providing information and support to individuals who are blind, their families, and professionals. NFB is the parent organization of NFBL and LCB and directs their operations through its policies, procedures, and otherwise. NFB operates through actual and/or apparent agents, servants and/or employees, including but not limited to Ausbun.

ALLEGATIONS

A. NFB Controls Affiliated, State-Level Organizations.

13. NFB claims it is the “oldest and largest nationwide organization for blind Americans.”¹ It claims to use a “network of blind members” to help “coordinate many programs, services, and resources to defend the rights of blind Americans, provide information and support to blind children and adults, and build a community that creates a future full of opportunity.”²

14. NFB controls and operates a vast network of training centers and state-level affiliates that carry out NFB’s services and programs. The affiliated state-level organizations and training centers are often substantially controlled and overseen by members of NFB’s board of directors and other members of its leadership.

15. For example, the President of NFBL, Allen, who is also First Vice President of NFB, has served on NFB’s board of directors since 2002, and is, in fact, Chair of NFB’s board of directors.³ Allen has also served as Treasurer of NFB and served as the Executive Director of LCB, from 2001 to 2018.⁴

¹ *About Us*, NAT’L FED’N BLIND, <https://nfb.org/about-us> (last visited Oct. 21 2022).

² *Id.*

³ *See Louisiana*, NAT’L FED’N BLIND, <https://nfb.org/about-us/state-affiliates/louisiana> (last visited Oct. 21, 2022); *Board of Directors*, NAT’L FED’N BLIND, <https://nfb.org/about-us/leadership/board-directors> (last visited Oct. 21, 2022).

⁴ *See Pam Allen*, NAT’L FED’N BLIND, <https://nfb.org/about-us/leadership/board-directors/pam-allen> (last visited July 19, 2022); *Board of Directors*, LA. CTR. BLIND, <https://www.louisianacenter.org/lcb-board-of-directors> (last visited Oct. 21, 2022).

16. Ever Lee Hairston is a member of NFB's board of directors and, despite residing in California, also serves on LCB's board of directors.⁵ She has served on NFB's board of directors since 2010. She previously founded and served as the president of the New Jersey chapter of NFB from 1991 to 2005.⁶

17. Chris Danielsen is a spokesperson for both NFB and LCB.

18. Under the direction of, and as subordinate entities of NFB, the non-profit organizations NFBL and LCB carry out the mission of NFB in the state of Louisiana.

19. NFB's control over its subordinate state organizations, including NFBL and LCB, is built into NFB's Constitution. The NFB Constitution states: "The purpose of the National Federation of the Blind is to serve as a vehicle for collective action by the blind of the nation; to function as a mechanism through which the blind and interested sighted persons can come together in local, state, and national meetings to plan and carry out programs to improve the quality of life for the blind."

20. The NFB Constitution states, "[t]he membership of the National Federation of the Blind . . . consists of the members of the state affiliates, the members of divisions, and members at large." NFB grants affiliate level organizations the right to vote at the national conventions and determines whether a state affiliate is recognized as an "organization of the blind controlled by the blind." Further, the NFB Constitution states, "[t]he [NFB] board of directors shall establish procedures for the admission of state affiliates." NFB maintains the authority to "suspend[],

⁵ See *Board of Directors*, NAT'L FED'N BLIND, <https://nfb.org/about-us/leadership/board-directors> (last visited Oct. 21, 2022); *Louisiana Center of the Blind Board of Directors*, LOUISIANA CTR. BLIND, <https://www.louisianacenter.org/lcb-board-of-directors> (last visited Oct. 21, 2022).

⁶ *Ever Lee Hairston*, NAT'L FED. BLIND, <https://nfb.org/about-us/leadership/board-directors/ever-lee-hairston> (last visited Oct. 21, 2022).

expel[], or otherwise discipline[]” state-level affiliates “for misconduct or for activity unbecoming to a member or affiliate of this organization”

21. NFB also requires affiliate organizations to “formulate programs and actively work to promote the economic and social betterment of the blind.” The state-level affiliates must also “comply with the provisions of the constitution of the Federation” and all “[p]olicy decisions of the Federation are binding upon all affiliates and local chapters, and the affiliate and its local chapters must participate affirmatively in carrying out such policy decisions.”

22. As the NFB website states, “state affiliates must follow the policies and practices of the national organization[.]”⁷

23. Part of the policies NFB requires state affiliates to follow is NFB’s Code of Conduct, which the NFB board of directors instituted on January 26, 2018 and updated December 29, 2021.⁸ The Code of Conduct states that “[t]he standards set forth in this Code apply to all members, employees, program participants, event attendees, and volunteers” and “[a]s a national policy, it applies to any national division, group, or committee; all state affiliates; all local chapters or divisions; and other affiliated programs of the organization (e.g., NFB training centers).”⁹

24. The Code of Conduct recognizes that “a minor” who is “under the age of eighteen,” “cannot legally give consent for any purpose even if said minor is verbally or otherwise expressing consent.”¹⁰ The Code states that even if a minor “say[s] that they consent to physical interaction . . . such consent is not valid or legal and should not be accepted.” Anyone subject to the Code of

⁷ *History and Governance*, NAT’L FED’N BLIND, <https://nfb.org/about-us/history-and-governance> (last visited July 19, 2022).

⁸ *NFB Board of Directors Statement Regarding NFB’s Constitution and Code of Conduct*, NAT’L FED’N BLIND (July 24, 2021), <https://nfb.org/blog/nfb-board-directors-statement-regarding-nfbs-constitution-and-code-conduct>.

⁹ *National Federal of the Blind Code of Conduct*, NAT’L FED’N BLIND, <https://nfb.org/about-us/history-and-governance/code-conduct/code#2> (last visited July 19, 2022).

¹⁰ *Id.*

Conduct is required to “report any inappropriate interactions between adults and minors to the minor’s parents and law enforcement when appropriate.” The Code notes that the NFB Board of Directors “maintains a Youth Participant Protection Policy to facilitate a high standard of oversight related to the organization’s youth programming” including “regarding sexual misconduct of minors[.]”¹¹

25. The 2018 version of the Code included a “Non-Discrimination and Anti-Harassment Policy.” That policy states: “Sexual harassment is prohibited by state and federal law and also will not be tolerated by the National Federation of the Blind.”¹² The policy defines “sexual harassment” to include “unwelcome sexual advances, request for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature.”¹³

26. The Policy prohibits sexual harassment, including, specifically, the following: (1) “unwelcome inappropriate physical contact or touching”; (2) “repeating of sexually suggestive jokes/references/innuendoes and comments about an individual’s body/sexual prowess/physical attributes/dress”; (3) “the use of sexually derogatory language/ pictures/ videos toward/ about another person”; (4) “the use of inappropriate sexual gestures”; (5) sexually suggestive

¹¹ *Id.*

¹² Rex Schuttler, *Code of Conduct*, NAT’L FED. BLIND NET (Apr. 22, 2018), http://nfbnet.org/pipermail/nabs-1_nfbnet.org/2018-April/047222.html. Rex Schuttler was listed as the Second Vice President of NFB of Oklahoma as of April 22, 2018. *Id.* He also worked at LCB, where another blind student accused Rex of sexually assaulting her in 2017 just days after she began training at LCB. Kaylee Poche, *Former Student Allege ‘Toxic Culture’ of Racism, Abuse and Assault at Louisiana Center for the Blind*, GAMBIT (Apr. 4, 2021), https://www.nola.com/gambit/news/the_latest/article_305_d8600-9262-11eb-935c-5340921ca533.html. NFB, and its President, Mark Riccobono, oversaw the disciplinary investigation into Schuttler and an independent investigation found he had “a longstanding and persistent pattern of engaging in inappropriate nonconsensual physical and verbal conduct and communications of a sexual nature with women at Federation training centers.” *Id.*

¹³ *Id.*

propositions; and (6) explicit or implicit threats that failure to submit will have negative consequences.¹⁴

27. The updated Code of Conduct contains a “Sexual Misconduct Policy.”¹⁵ The Policy prohibits “sexual misconduct of any kind” that may include “a broad range of sexually inappropriate behavior” like “inappropriate jokes, inappropriate touches, sexual harassment, sexual assault, and rape[.]”¹⁶ Under the Policy, any report of sexual misconduct “will be reviewed immediately” and “will activate specific response procedures from the organization.”¹⁷

28. In a statement issued on July 22, 2021 (“Statement”), NFB made clear that its Code of Conduct applied to state and local affiliates, and that under the Code, NFB had the authority to discipline, suspend, or expel affiliate members or NFB members.¹⁸ In the Statement, the NFB board of directors stated, “[t]he board believes that it and [the NFB President] . . . have acted within their Constitutional authority by adopting the Code of Conduct and its related processes to carry out their authority to suspend, expel, or otherwise discipline members. The board has expressly not relinquished its right to suspend, expel or otherwise discipline members”¹⁹ Further, while the board acknowledged that, under the Code, an external investigator may conduct independent investigations into reports of sexual harassment, it noted that any recommendation of an investigator is reviewed by two members of the board who make recommendations to the

¹⁴ *Id.*

¹⁵ *Code of Conduct*, *supra* note 9.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *NFB Board of Directors Statement Regarding NFB’s Constitution and Code of Conduct*, NAT’L FED’N BLIND (July 24, 2021), <https://nfb.org/blog/nfb-board-directors-statement-regarding-nfbs-constitution-and-code-conduct>.

¹⁹ *Id.*

President, who makes a final ruling.²⁰ Those final rulings, however, may be appealed to a three member panel of NFB board members.²¹

29. The Statement concludes that “the board’s broad authority as the governing body of the Federation between the Conventions gives it the power to adopt policies such as the Code of Conduct.”²²

30. Thus, it is clear from the NFB Constitution, the Code of Conduct, and the Statement that the NFB board of directors retains strict control over the state and local affiliates and their members, including with respect to policies that govern appropriate conduct and prohibit sexual assault.

B. Ally Suffered Sexual Assault at the Hands of NFB’s Agent and/or Employee, Michael Ausbun.

31. Ally is a 20-year old girl who has been legally blind her entire life.

32. Around June 2018, when Ally was just 16 years old, she attended a training program at LCB. Specifically, Ms. Banks paid NFB and/or its affiliates to allow Ally to attend a two-month skills training program provided by NFB at LCB in Ruston, Louisiana. LCB is one of the NFB-run centers and offers residential orientation and adjustment training to legally blind individuals. It purportedly emphasizes “self-confidence and a positive attitude toward blindness” and “is committed to a strong, positive, constructive philosophy concerning blindness.”²³ LCB’s Code of Conduct is the same as the NFB, and in fact, LCB’s webpage contains a link to the NFB’s Code of Conduct.²⁴

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Description of Service Delivery and Program Operations*, LA. CTR. BLIND, <https://www.louisianacenter.org/program-information> (last visited July 19, 2022).

²⁴ *Changing What it Means to be Blind*, LOUISIANA CTR. BLIND (last visited Oct. 21, 2022), <https://www.louisianacenter.org/commitment-to-change>.

33. In June 2018, Ally traveled from her home in Florida to LCB in Ruston, Louisiana to attend the training program. While at the training program, LCB provided Ally with an apartment and utilities at no additional charge. The apartment housing also served as a common area where students and staff would gather for group dinners.

34. As part of the training program, NFB assumed the responsibility to keep Ally safe while she attended the program.²⁵ It failed to do so and instead, hired Ausbun, a then 23-year-old student at Louisiana Tech University and sexual predator.

35. Ausbun was employed by and completing his internship at LCB as a travel teacher, which was part of his training to obtain a National Orientation and Mobility Certification (“NOMC”). NOMC is a five-year renewable certification that is governed by the National Blindness Professional Certification Board (“NBPCB”). NOMC enables individuals to teach the Structured Discovery Cane Travel methods and principles. To attain NOMC, prospective teachers must complete a 400-hour internship at an NBPCB-approved center, experience that Ausbun was obtaining while at LCB. Ausbun also served as Vice President of NFB’s National Association of Blind Students Board.²⁶

36. Ally met Ausbun on her first day at LCB. Throughout her time there, Ausbun served as her orientation and mobility instructor.

37. On the first day they met, Ausbun lured Ally into a stairwell landing at the LCB-owned apartment housing. There, he sexually assaulted her for the first time.

²⁵ See, e.g., *Code of Conduct*, *supra* note 9 (stating that “[t]he National Federation of the Blind’s Board of Directors . . . facilitate[s] a high standard of oversight related to youth programming.”).

²⁶ Kaylee Poche, *Michael Ausbun arrested in connection with Louisiana Center for the Blind assault allegation*, GAMBIT (June 2, 2021, 8:21 PM), https://www.nola.com/gambit/news/the_latest/article_1742fee6-c40a-11eb-a1cc-07ad927225cb.html.

38. In the first few weeks of the training program, Ausbun shared personal details about his life with Ally in an effort to groom her and started hugging her and touching her shoulders and hair — sometimes in front of others and other times when they were alone.

39. Ausbun became increasingly overt with his inappropriate conduct towards Ally while in a class setting, always attempting to sit next to Ally and becoming upset when he could not do so. When he was sitting next to Ally, he would place his head in her lap without her consent.

40. These unrequested interactions made Ally uncomfortable and caught the attention of various people. Still early in the training program, these employees notified Eric Guillory, the former Vice President of NFBL and the Director of Youth Services at LCB, and Allen, a member of NFB's Board of Directors, of Ausbun's inappropriate behavior towards Ally on multiple occasions. One individual in particular also provided a picture of Ausbun touching Ally as evidence.²⁷

41. The LCB revoked Ausbun's National Orientation and Mobility Certification ("NOMC), but LCB, and thereby NFB, failed to issue or enforce any further discipline concerning Ausbun's behavior towards Ally. Instead, Ausbun continued to sexually assault Ally during June and July 2018 at the LCB apartment housing. In 2019, Ashburn's NOMC certification was revoked but, he was still permitted to be heavily involved in NFB activities and events. Due to the frequency of the sexual assaults, Ally cannot recall the number of times Ausbun assaulted her.

42. After the training program, Ausbun used his LCB credentials to continue his sexual assaults on Ally. Specifically, Ausbun befriended Ms. Banks, who was unaware that Ausbun was sexually assaulting Ally. While Ausbun was in Florida, Ms. Banks invited Ausbun to stay with

²⁷ Kaylee Poche, *Months after National Federation of the Blind's abuse scandal, survivors want accountability*, GAMBIT (July 5, 2021, 7:00 AM), https://www.nola.com/gambit/news/the_latest/article_76dc57ac-d9cd-11eb-9774-170c894da208.html.

them and to help Ally practice cane travel. When Ausbun arrived, he continued to sexually assault Ally.

43. While there, Ally's brother witnessed Ausbun try to kiss Ally, and Ally's brother informed Ms. Banks, who subsequently learned that Ausbun had been sexually abusing Ally. When Ms. Banks, who had been active in NFB's parents' division, finally learned of the abuse, she immediately reported it to NFB leadership. NFB leadership did nothing in response. Instead, Ausbun went unpunished and was allowed to attend a national convention in Las Vegas the following year, where he stalked Ally and her friends.

44. Because NFB continued to employ Ausbun and actively involved him in their events, in October 2019, Ally reported the abuse to NFB leadership again, who then commenced an investigation.

45. In June 2020, eight months later, NFB concluded its investigation, and President Riccobono told Ally and Ms. Banks that Ausbun would only be suspended from NFB for five years – a slap on the wrist for the sexual assaults he inflicted on Ally. Riccobono told Ally that NFB decided that a light punishment was best because of Ausbun's "marital status." NFB, thus, left the door open for Ausbun, a sexual predator, to return to the organization should he meet certain, confidential guidelines.

46. Following that decision, Ally contacted Allen to express her frustration with the short suspension. In response, Allen told Ally to be satisfied with the result because it was possible that Ausbun could have received no suspension at all.

47. In part because of NFB's inaction and her frustration with Ausbun's short suspension, Ally posted her experience and sexual abuse at the hands of Ausbun and NFB on Facebook. Ally's Facebook post was shared, commented on, and reacted to hundreds of times,

and many other blind individuals reported similar experiences. Her Facebook post prompted an open letter from NFB leadership acknowledging the organization's role in causing survivors' pain and abuse, and later, an investigation into sexual assault within NFB.

48. Empowered by the feedback she received from others and disappointed by NFB's treatment of Ausbun, Ally reported Ausbun's conduct to the Ruston Police Department. In April 2021, the police began a criminal investigation, and on June 2, 2021, Ausbun was arrested on the charge of molestation of a minor.

49. On June 17, 2021, Ally provided testimony to a grand jury regarding Ausbun's sexual assaults upon her, which led to Ausbun's indictment for 18 counts of Molestation of a Juvenile.

C. NFB's History of Sweeping Sexual Assault Allegations Under the Rug.

50. Since NFB's unacceptable handling of Ally's numerous sexual assaults, more sexual assault victims have come forward to report incidents of abuse and misconduct. The stories of these incidents yield very little in the way of accountability or systemic change to address the abuse, either at NFB or at the organizations it oversees, such as LCB.

51. Unable to keep NFB's history of shielding sexual abuse secret, Riccobono had no choice but to release an open letter of apology on December 16, 2020, acknowledging the long history of abuse and assault of children and adults within NFB ranks:

We are deeply sorry that this is true and apologize for where we have failed. As the elected President of this movement, I carry the responsibility of this pain. I am profoundly sorry that anyone has been harmed by experiences in our movement. As a husband, father of three children, and leader who tries to live by a strong set of ethical values, I hurt for the survivors, and I deeply regret that I have made mistakes along the way.... I live with the regret and sorrow for the mistakes I personally made in dealing with inappropriate behavior in the past.... We have no intention of debating the circumstances of any instance. Instead, we acknowledge that if a survivor was left feeling the situation went unaddressed, then we have

failed. The membership demands we do better. I, as President, demand this of myself and expect it from our movement.

52. On that same day, hundreds of individuals signed an “Open Letter on Sexual Misconduct and Abuse Experienced through Programs of the National Federation of the Blind and National Blindness Professionals Certification Board” (“Open Letter”).²⁸ The original signatories of the letter purported to be “victims, survivors, and witnesses of sexual and psychological abuse at programs, conventions, and blindness rehabilitation centers affiliated with the National Federation of the Blind”²⁹ The letter notes that NFLB has a “code[] of conduct and official mechanisms for handling such abuses” but that “they are inadequately and not equitably implemented” causing “[t]hose who have come forward” to have “faced retaliation for their efforts” including “alienation from involvement, being excluded from communication, and serious damage to personal and professional relationships and reputations.”³⁰

53. The Open Letter sought to bring “into focus the prevalence of the following issues with NFB . . . and their affiliated training centers, youth programs, chapter meetings, state conventions, and national conventions” including, among others: (1) “sexual abuse – [i]nappropriate verbal remarks; non-consensual touching; sexual harassment; and rape;” (2) “Mishandling of reports by leadership – Unwillingness to take reports of abuse seriously, gaslighting, belittling, or threatening people who attempt to come forward; encouraging people not to talk about these issues openly in order to protect the reputation of the organizations;” and (3) “Failure to comply with mandatory reporting requirements for youth and vulnerable adults.”³¹

²⁸ *Open Letter on Sexual Misconduct and Abuse Experienced through Programs of the National Federation of the Blind and National Blindness Professionals Certification Board*, GOOGLE, https://docs.google.com/forms/d/e/1FAIpQLSdhi5MUB_4Vqz7Kzy6vGyN20S6pmuSJqn3IeK4zMfHdhhko4A/viewform (last visited July 19, 2022).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

54. On January 6, 2021, NFB organized a Special Committee to “oversee and direct an internal investigation of allegations of sexual misconduct by NFB members, participants, or staff at NFB or NFB-affiliated events or facilities, including its affiliated training centers and its state affiliates[.]”³²

55. Around June 2021, the Special Committee issued an Interim Report (“Interim Report”) on its findings. According to the Interim Report, between December 2020 and July 2021, NFB received 69 complaints, alleging a total of 55 incidents.

56. On November 11, 2021, the Special Committee issued a Final Report on Sexual Misconduct (“Final Report”) and NFB’s response.³³ The Interim and Final Reports (collectively, “Reports”) document NFB’s failure to properly handle allegations and incidents of misconduct.

57. In the Reports, NFB acknowledged a longstanding network of former NFBL members that received warnings about staff within the group and other men associated with it who purportedly were unsafe to be around. The Reports, however, also attempted to deflect blame from NFB on the accusers and others, claiming that many of the assaults occurred due to “party-like” environments at events.

58. Since the Reports, high-ranking leaders of NFB have been exposed for their own sexual misconduct, including former Vice President Fred Schroeder (“Schroeder”), who was suspended from the organization for five years due to a complaint and the subsequent findings of an independent investigation.

³² *Special Committee*, NAT’L FED’N BLIND, <https://nfb.org/programs-services/safety-support/letter-nfb-community-special-committee> (last visited July 19, 2022).

³³ Denise Avant, et al., *Special Committee Final Report on Sexual Misconduct and the NFB’s Response* (Nov. 11, 2021), <https://nfb.org/sites/nfb.org/files/2021-12/NFB-Special-Committee-Final-Report-2021.PDF>.

59. NFB, however, had long been aware of complaints of Schroeder's behavior. According to a special NFB committee's internal report, NFB leadership knew about allegations against Schroeder since at least 2002. This further illustrates NFB's history of failing to protect its members from known sexual predators.

60. The special committee's report stated that "[t]he Schroeder matter has been described, figuratively, as the elephant in the room" and "[i]n the Committee's estimation, it has simmered within the organization for decades, and the Committee believes it is healthy and necessary for the organization to address it in a formal way in this Report."

61. NFB leadership was again made aware of Schroeder's misconduct in fall 2014, when then-newly elected President Riccobono and Allen were made aware of at least one allegation against Schroeder. After meeting with Riccobono, Schroeder resigned from the NFB board of directors and as President of NFB's Virginia affiliate. However, Schroeder continued to hold positions on the board of directors of the World Blind Union and NBPCB, and continued to speak at NFB events. He also became President of the World Blind Union with support from NFB.

62. In 2019, during a national convention in Las Vegas—coincidentally, the same conference that NFB allowed Ausburn to attend after Ally's complaints—NFB allowed Schroeder to speak, during which dozens of attendees left because many had heard of allegations of sexual misconduct against Schroeder spanning decades, according to the Interim Report.

63. Like Schroeder, another high-ranking NFB member has been accused, and found guilty of, sexual assault. Dan Wenzel ("Wenzel") was a "long-time Federationist" and "served for several years as the state president in Wisconsin and as a member of the NFB national board."³⁴

³⁴ Jennifer Dunnam, *President's Column*, NAT'L FED'N BLIND MINN., <http://nfbmn.org/minnesota-bulletin/winter-2014/presidents-column-13> (last visited July 19, 2022).

In 2014, Wenzel was named the executive director of Blind, Inc.,³⁵ an NFB affiliated organization that operates as one of NFB's training centers.³⁶ Indeed, NFB states that it "is proudly affiliated with" Blind, Inc.³⁷

64. On June 16, 2021, Ron Brown ("Brown"), then-Second Vice President of NFB, adopted the findings of a private investigator, Tonya Bana ("Bana"), who investigated a "complaint . . . reporting that Mr. Wenzel had engaged in the sexual misconduct[.]"³⁸ For unexplained reasons, Brown issued the letter rather than the NFB President due to a "conflict that he would have on this matter."³⁹ In fact, the letter made clear the NFB President had "not played any role in the investigation or the decision relat[ed] to this matter."⁴⁰

65. Bana concluded that: (1) "Mr. Wenzel engaged in inappropriate sexual conduct in the performance of his duties for the federation[;]" (2) "Mr. Wenzel abused his position as an NFB leader by exploiting his relationship with the Federation for his own sexual gratification[;]" and (3) "Mr. Wenzel's conduct violates the NFB Code of Conduct."⁴¹

66. Specifically, Bana concluded that the "evidence establishes that Mr. Wenzel engaged in inappropriate sexual conduct with another member in the course of performing his duties for the Federation."⁴² Further, "Mr. Wenzel's' relationship with the Federation placed him in a position of power that the member may reasonably have believed that rejecting his sexual advances would negatively affect her participation in the organization" and that "the sexual

³⁵ *Id.*

³⁶ *Training Centers*, NAT'L FED'N BLIND, <https://nfb.org/about-us/training-centers> (last visited July 19, 2022).

³⁷ *Id.*

³⁸ Ron Brown, NAT'L FED'N BLIND (June 16, 2021), <https://lede-admin.coloradosun.com/wp-content/uploads/sites/15/2021/11/Wenzel-report-redacted.pdf>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

encounter with Mr. Wenzel left the member feeling ‘ashamed’” causing her to “walk[] away from the NFB.”⁴³

67. Remarkably, despite committing sexual assault in gross violation of NFB’s own Code of Conduct, NFB’s disciplinary action included only a five-year prohibition from holding elected NFB positions or committee roles. NFB also “strongly advised” Wenzel against “conduct that may cause a similar complaint in the future” which “may lead to his expulsion from the organization.” In other words, Wenzel *remained an NFB member*. NFB’s meager “don’t do it again” disciplinary recommendation underscores the insincerity of NFB’s Code of Conduct and its treatment of sexual assault victims.

68. Serial sexual predators have also infiltrated LCB. Rex Schuttler, previously an LCB instructor and Second Vice President of NCB Oklahoma, sexually assaulted a blind student in 2017 during Schuttler’s cane training classes at LCB.⁴⁴ According to others, LCB had a long-standing history of chronic racism, sexual assault, homophobia and transphobia, and harsh teaching tactics capable of producing long-term psychological damage.⁴⁵ Others claimed “there’s this type of everyone-knows-everyone vibe there” and “if you say something to the wrong person, or try to report something to the wrong person, not only is it probably not going to get reported, but it’s going [around] who said something.”⁴⁶ The problem was large enough that at least one former student claimed she “[didn’t] feel like there was a person [working] there” that would have “kept secret” any allegation or report of misconduct.⁴⁷ The culture, thus, at LCB as it was

⁴³ *Id.*

⁴⁴ Poche, *supra* note 12.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

elsewhere in NFB-controlled organizations, was ripe to protect predators and ostracize victims who spoke out—which is the same experience Ally had.

69. Instead of properly dealing with abusers within NFB ranks, the offenders were moved around in the organization and sometimes moved up in the organization. Indeed, although Allen and Riccobono were aware of misconduct within NFB ranks for years, they both remain in their leadership positions.

Count I
Battery/Respondeat Superior

Plaintiff Alyssa Mendez hereby brings this cause of action against Defendant The National Federation of The Blind, and states as follows:

70. All of the allegations contained in the above paragraphs are incorporated herein as if those allegations are set forth in this Count.

71. At all times relevant hereto, Ausbun was acting in the course and scope of his employment/agency for NFB and sexually battered Ally, causing her physical injury and psychological and emotional distress.

72. Ausbun took advantage of his position as an NFB instructor to sexually assault and batter Ally. Ausbun's conduct constituted an intentional and unpermitted touching of Ally that was harmful and offensive to her, and was undertaken without her consent, deliberately and with actual malice.

73. As a direct and proximate result of the conduct of Ausbun, Ally has suffered and will continue to suffer, among other things, serious, painful and permanent injury to her body, pain, suffering, mental anguish, emotional distress, psychological trauma, and loss of enjoyment of life. As a further direct and proximate result of the conduct of Ausbun, Ally has suffered and

will continue to suffer substantial economic loss, including but not limited to significant medical and other care needs and expenses.

74. Ausbun committed sexual assault and battery against Ally while he was acting as an instructor for NFB, under the guise of, and in furtherance of NFB's interests.

75. Ausbun's acts of sexual assault and battery against Ally were committed at NFB facilities, including the student housing where Ally resided during her stay at LCB.

76. As the employer/principal of Ausbun, and/or given NFB's oversight of LCB, including its Code of Conduct, and its authority directly over Ausbun, who was a member of NFB, NFB is vicariously liable for the actions of Ausbun committed by him within the course and scope of his employment/agency.

77. As the employer and/or principal responsible for the actions of its actual and/or apparent agents, servants and/or employees, including but not limited to Ausbun, NFB is responsible for all of the injuries and damages caused to her by Ausbun committed within the course and scope of his employment/agency with NFB.

78. The injuries and damages complained of herein were directly and proximately caused by Ausbun and NFB. None of the injuries and damages complained of herein were caused by Ally.

WHEREFORE, Plaintiff Alyssa Mendez hereby requests that a judgment be entered against the Defendant, The National Federation of The Blind, for compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000), plus pre-judgment interest, post-judgment interest, costs, and any other relief to which this Court finds she is entitled.

Count II
Negligence

Plaintiff Alyssa Mendez hereby brings this cause of action against Defendant The National Federation of The Blind, and states as follows:

79. All of the allegations contained in the above paragraphs are incorporated herein as if those allegations are set forth in this Count.

80. In the summer of 2018, Ally enrolled in an instructional training program through NFB at LCB and was thereby deprived of the protection of her parents while she attended the training and resided in LCB's student apartment housing.

81. Upon Ally's enrollment, NFB assumed custody of her and was obligated to keep her safe while on the training center's premises.

82. In so doing, NFB entered into a relationship with Ally that imposed on it a duty of reasonable care, including, among other things, a duty of supervision to protect Ally from reasonably foreseeable harm.

83. NFB through its administrators, faculty, and/or staff, breached its duties of care owed to Ally and was otherwise negligent by, among other things:

- a. Failing to properly protect Ally, then a minor, from sexual abuse and harassment;
- b. Failing to identify and eliminate, minimize, and/or address known and foreseeable risks of physical and emotional injury;
- c. Failing to investigate, correct, and/or otherwise address the openly pervasive environment of sexual harassment and sexual abuse created by its actual and/or apparent agent, servant and/or employee, Ausbun;

- d. Failing to investigate, correct, and/or otherwise address the known history of sexual abuse by its actual and/or apparent agent, servant and/or employee, Ausbun;
- e. Failing to investigate, prohibit, and/or otherwise address the illicit use of NFB, NFBL, and LCB facilities for sexual exploits and abuse carried out by Ausbun;
- f. Ignoring and/or otherwise failing to properly address complaints about numerous instances of inappropriate conduct by Ausbun toward Ally;
- g. Failing to promptly report Ausbun's sexual assaults of Ally to law enforcement;
- h. Failing to heed numerous warnings from staff and/or faculty members regarding the blatant inappropriate and illegal conduct of Ausbun toward Ally;
- i. Failing to supervise, monitor, and/or train staff to handle reports of sexual assault appropriately and adequately;
- j. Fostering a culture where sexual abuse was tolerated within its organization, including its affiliates, its staff, and its leadership, which led to and contributed to Ausbun's sexual assaults of Ally and the failure to punish/discipline Ausbun; and/or
- k. Failing to investigate LCB, which had a history of employing serial sexual assaulters, including Rex Schuttler, who, in 2021, was deemed to have a "longstanding and persistent pattern of engaging in inappropriate nonconsensual physical and verbal conduct," including at LCB.

84. NFB, through its administrators, faculty, and/or staff, knew or should have known that it had created an opportunity for Ally to be sexually assaulted and harassed.

85. As a direct and proximate result of NFB's negligence, Ally has suffered and will continue to suffer, among other things, serious, painful and permanent injury to her body, pain,

suffering, mental anguish, emotional distress, psychological trauma, and loss of enjoyment of life. As a further direct and proximate result of NFB's negligence, Ally has suffered and will continue to suffer substantial economic loss, including but not limited to significant medical and other care needs and expenses.

86. The injuries and damages complained of herein were directly and proximate caused by the negligence of NFB, with no negligence on the part of Ally contributing thereto.

WHEREFORE, Plaintiff Alyssa Mendez hereby requests that a judgment be entered against the Defendant, The National Federation of The Blind, for compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000), plus pre-judgment interest, post-judgment interest, costs, and any other relief to which this Court finds she is entitled.

Count III
Negligent Hiring, Training, Supervision, and Retention

Plaintiff Alyssa Mendez hereby brings this cause of action against Defendant The National Federation of The Blind, and states as follows:

87. All of the allegations contained in the above paragraphs are incorporated herein as if those allegations are set forth in this Count.

88. NFB had a fiduciary relationship with Ally as both a student at LCB and minor under the age of 18.

89. NFB owed Ally a special duty of trust and confidence to ensure her safety and well-being.

90. NFB owed Ally a duty to use reasonable care in, among other things:

- a. Employing/appointing only actual and/or apparent agents, servants and/or employees to care for Ally who would keep her safe and protect her from harm;

- b. Not employing/appointing actual and/or apparent agents, servants and/or employees to care for Ally who would cause her harm and/or sexually assault and/or abuse her;
- c. Vetting and investigating individuals before hiring and/or appointing them to care for individuals, including Ally;
- d. Training individuals it hires and/or appoints regarding how to properly, appropriately and safely care for individuals, including Ally;
- e. Having suitable policies, procedures and programs in place to prevent individuals including Ally from being sexually assaulted and/or abused by those whose responsibility it is to protect and care for them;
- f. Permitting only those people who are deemed to be safe and qualified to protect and care for individuals, including Ally, to do so;
- g. Hiring and/or appointing only individuals who are not sexual predators to care for and protect individuals including Ally;
- h. Properly and appropriately supervising those it hires and/or appoints to protect and care for individuals including Ally;
- i. Immediately terminating any actual and/or apparent agent, servant and/or employee who exhibits inappropriate conduct toward an individual in their care, including Ally;
- j. Properly protecting Ally, then a minor, from sexual abuse and harassment;
- k. Investigating, correcting, and/or otherwise addressing its actual and/or apparent agent, servant and/or employee, Ausbun's blatant sexual assaults of Ally;

- l. Investigating, prohibiting, and/or otherwise addressing the illicit use of NFB, NFBL, and LCB facilities by Ausbun to further his sexual assaults of Ally;
- m. Promptly reporting Ally's sexual assaults to law enforcement;
- n. Heeding numerous warnings from staff and/or faculty members regarding the overtly inappropriate conduct by Ausbun toward Ally;
- o. Supervising, monitoring, and/or training staff to handle reports of sexual assault appropriately and adequately; and/or
- p. Investigating LCB, which had a history of employing serial sexual assaulters, including Rex Schuttler, who, in 2021, was deemed to have a "longstanding and persistent pattern of engaging in inappropriate nonconsensual physical and verbal conduct," including at LCB.

91. NFB, through its directors, administrators, faculty, and/or staff, breached its duties of care owed to Ally and was otherwise negligent by, among other things:

- a. Failing to hire and/or appoint only actual and/or apparent agents, servants and/or employees who would keep Ally safe and protect her from harm;
- b. Hiring and/or appointing Ausbun, a sexual predator;
- c. Failing to properly and appropriately investigate and/or vet Ausbun, a sexual predator;
- d. Failing to properly train individuals it hires and/or appoints, including Ausbun, regarding how to properly, appropriately and safely care for and protect Ally;
- e. Failing to have suitable policies, procedures and programs in place to prevent Ally from being sexually assaulted and/or abused by those whose responsibility it is to protect and care for her;

- f. Failing to permit only those people who are deemed to be safe and qualified to care and protect Ally to do so;
- g. Failing to hire and/or appoint only individuals who are not sexual predators to protect and care for Ally;
- h. Failing to properly and appropriately supervise those it hired and/or appointed to protect and care for Ally;
- i. Failing to immediately terminate any actual and/or apparent agent, servant and/or employee who exhibited inappropriate conduct toward Ally;
- j. Failing to properly protect Ally, then a minor, from sexual abuse and harassment;
- k. Failing to investigate, correct, and/or otherwise address its actual and/or apparent agent, servant and/or employee, Ausbun's blatant sexual assaults of Ally;
- l. Failing to investigate, prohibit, and/or otherwise address the illicit use of NFB, NFBL, and LCB facilities by Ausbun to further his sexual assaults of Ally;
- m. Failing to promptly report Ally's sexual assaults to law enforcement;
- n. Failing to heed numerous warnings from staff and/or faculty members regarding the overtly inappropriate conduct by Ausbun toward Ally;
- o. Failing to supervise, monitor, and/or train staff to handle reports of sexual assault appropriately and adequately;. and/or

92. Failing to investigate LCB, which had a history of employing serial sexual assaulters, including Rex Schuttler, who, in 2021, was deemed to have a "longstanding and persistent pattern of engaging in inappropriate nonconsensual physical and verbal conduct," including at LCB.NFB, through its directors, administrators, faculty, and/or staff, knew or should

have known that it had created an opportunity for Ally to be sexually assaulted and harassed and that it employed woefully insufficient protocols for the reporting and investigation of incidents of sexual assault.

93. NFB failed to provide adequate training, monitoring, and supervision of its directors, administrators, faculty, and/or staff concerning reports of sexual assault.

94. NFB carelessly and recklessly failed to supervise Ausbun, even after specific complaints of inappropriate conduct were made by certain staff members;

95. NFB failed to implement training and monitoring mechanisms by which sexual assaults such as those suffered by Ally could have been prevented, or at the very least, appropriately reported to parents and law enforcement authorities.

96. As a direct and proximate result of NFB's negligence, Ally has suffered and will continue to suffer, among other things, serious, painful and permanent injury to her body, pain, suffering, mental anguish, emotional distress, psychological trauma, and loss of enjoyment of life. As a further direct and proximate result of NFB's negligence, Ally has suffered and will continue to suffer substantial economic loss, including but not limited to significant medical and other care needs and expenses.

97. The injuries and damages complained of herein were directly and proximate caused by the negligence of NFB, with no negligence on the part of Ally contributing thereto.

WHEREFORE, Plaintiff Alyssa Mendez hereby requests that a judgment be entered against the Defendant, The National Federation of The Blind, for compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000), plus pre-judgment interest, post-judgment interest, costs, and any other relief to which this Court finds she is entitled.

Count IV
**Violation of Requirements to Report Suspected Abuse of a Child Under
MD CODE ANN., FAMILY LAW § 5-701, et. seq.**

Plaintiff Alyssa Mendez hereby brings this cause of action against Defendant The National Federation of The Blind, and states as follows:

98. All of the allegations contained in the above paragraphs are incorporated herein as if those allegations are set forth in this Count.

99. At all times material to this case, Ausbun had responsibility for supervising Ally and, because of his position or occupation, exercised authority over Ally.

100. Ausbun committed numerous acts of “abuse” against Ally, as defined by MD. CODE ANN., FAM. LAW § 5-701(b)(1), including acts of sexual abuse against Ally. At all times during which Ausbun’s abuse of Ally occurred, Ally was a “child” as defined by FAM. LAW § 5-701(e).

101. Ausbun’s abuse of Ally was noticed, realized, and/or acknowledged by numerous agents and/or employees of NFB both within and outside the State of Maryland which individuals knew about the abuse, should have known about the abuse and/or had reason to believe the abuse was occurring, and otherwise was reported to various individuals within NFB both within and outside the State of Maryland.

102. The individuals within NFB who noticed, realized, acknowledged, and/or received reports of Ausbun’s abuse of Ally, and/or who knew about the abuse, should have known about the abuse and/or had reason to believe the abuse was occurring, were health practitioners, educators and/or human service workers acting in a professional capacity under FAM. LAW § 5-704, or other persons under FAM. LAW § 5-705, both within and outside of the State of Maryland, and at all times material to this case, knew, should have known and/or had reason to believe that Ally had been and/or was being subjected to abuse by Ausbun.

103. The individuals within NFB who noticed, realized, acknowledged, and/or received reports of Ausbun's abuse of Ally, and/or who knew about the abuse, should have known about the abuse and/or had reason to believe the abuse was occurring, were required and owed Ally a duty to timely and properly report Ausbun's abuse of Ally pursuant to FAM. LAW §§ 5-704 and 5-705, including but certainly not limited to by notifying the local department or the appropriate law enforcement agency, and notifying the head of the institution or the designee of the head of the institution in accordance with the provisions of those statutes.

104. The individuals within NFB who noticed, realized, acknowledged and/or received reports of Ausbun's abuse of Ally, and/or who knew about the abuse, should have known about the abuse and/or had reason to believe the abuse was occurring, breached the above-mentioned requirements and duty by, among other things, failing to report Ausbun's abuse of Ally as required by FAM. LAW §§ 5-704 and 5-705.

105. The statutes requiring that suspected abuse of a child be reported under FAM. LAW § 5-701, *et. seq.*, including the reporting requirements under FAM. LAW §§ 5-704 and 5-705, were designed to protect a specific class of individuals that included Ally; namely, children who are victims of abuse. Ally is within the class of persons sought to be protected by these statutes, and the harm suffered by her is the kind which these statutes were intended, in general, to prevent. The legislative purpose and desired beneficial effects of this statutory scheme is to redress previous abuse and to prevent future incidence thereof.

106. Pursuant to FAM. LAW § 5-705.1, the obligation and duty to report the abuse of Ally under FAM. LAW §§ 5-704 and 5-705 applied despite the fact the abuse occurred outside the State of Maryland.

107. Ausbun's abuse of Ally continued after the above-mentioned obligations and duty to report the abuse arose and were breached. In other words, the failure to comply with the statutory reporting obligations allowed and proximately caused continued and further preventable abuse of Ally by Ausbun.

108. Had Ausbun's abuse of Ally been timely and properly reported as required by FAM. LAW §§ 5-704 and 5-705, the continued and further abuse of Ally by Ausbun would have been prevented, and Ally would have avoided the injuries, harms, and losses that she sustained.

109. At all times material to this case, the individuals within NFB who noticed, realized, acknowledged and/or received reports of Ausbun's abuse of Ally, and/or who knew about the abuse, should have known about the abuse and/or had reason to believe the abuse was occurring, but failed to report the abuse as required by FAM. LAW §§ 5-704 and 5-705, were actual and/or apparent agents, servants, and/or employees of NFB acting within the scope of their agency and/or employment.

110. As the employer/principal of the above-mentioned individuals who failed to comply with the above-mentioned statutory reporting obligations regarding Ausbun's abuse of Ally, NFB is vicariously liable for the actions and inactions of those individuals committed by them within the course and scope of their employment/agency.

111. As a direct and proximate result of NFB's and/or its agents/employees' negligence, including its/their breaches of its/their duty to timely and properly report Ausbun's abuse of Ally under FAM. LAW §§ 5-704 and 5-705, Ally has suffered and will continue to suffer, among other things, serious, painful, and permanent injury to her body, pain, suffering, mental anguish, emotional distress, psychological trauma, and loss of enjoyment of life. As a further direct and proximate result of NFB's and its agents/employees' breach of its/their duty to timely and properly

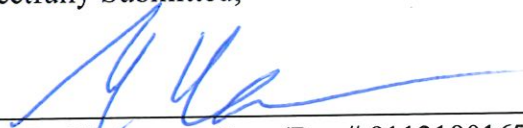
report Ausbun's abuse of Ally under FAM. LAW §§ 5-704 and 5-705, Ally has suffered and will continue to suffer substantial economic loss, including but not limited to significant medical and other care needs and expenses.

112. The injuries and damages complained of herein were directly and proximately caused by the negligence of NFB and/or its agents and/or employees, with no negligence on the part of Ally contributing thereto.

WHEREFORE, Plaintiff Alyssa Mendez hereby requests that a judgment be entered against the Defendant, The National Federation of The Blind, for compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000), plus pre-judgment interest, post-judgment interest, costs, and any other relief to which this Court finds she is entitled.

Dated: January 6, 2023

Respectfully Submitted,



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DEMAND FOR JURY TRIAL

The Plaintiff hereby demands a jury trial on all issues so triable in this case.



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