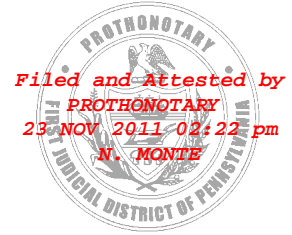


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Attorneys for Plaintiff,  
John Doe #4

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"John Doe #4", a pseudonym,  
c/o Andreozzi & Associates, P.C.  
215 Pine Street, Suite 200  
Harrisburg, PA 17101

Plaintiff

v.

The Second Mile  
1402 South Atherton Street  
State College, PA 16801

Defendant

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY,  
PENNSYLVANIA**

DOCKET NO.

COMPLAINT - EQUITY

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**EMERGENT MOTION FOR INJUNCTIVE RELIEF**

Plaintiff "John Doe #4", a pseudonym, by his attorneys, respectfully moves this Honorable Court to grant injunctive relief pursuant to Rules 1531 & 1533 of the Pennsylvania Rules of Civil Procedure and avers the following in support thereof:

1. Plaintiff filed a Verified Complaint in Support of Injunctive Relief in conjunction with the filing of the present Motion, and that Complaint forms the factual basis for the relief requested and is incorporated by reference herein. See attached Verified Complaint in Support of Injunctive Relief with Exhibits 1-7, attached hereto as Exhibit 1.

2. In summary, Plaintiff's Complaint avers that he was repeatedly sexually assaulted by Jerry Sandusky, and that The Second Mile, which Sandusky founded, was negligent and

reckless in allowing Sandusky to have continued access to the Plaintiff and other children after it knew that he posed a significant risk of harm to Plaintiff and similarly situated children. *Id.* at paras. 11-21; 30-31. The Verified Complaint in Support of Injunctive Relief seeks to bar The Second Mile from dissipating its assets in anticipation of litigation. *Id.*

3. In Pennsylvania, the prerequisites for granting a preliminary injunction are:

- (a) “the party seeking a preliminary injunction must show that an injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages”;
- (b) “the party must show that greater injury would result from refusing an injunction than by granting it, and, concomitantly, that issuance of an injunction will not substantially harm other interested parties in the proceedings”;
- (c) “the party must show that a preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct”;
- (d) “the party seeking an injunction must show that the activity it seeks to restrain is actionable, that its right to relief is clear, and that the wrong is manifest, or, in other words, must show that it is likely to prevail on the merits”;
- (e) “the party must show that a preliminary injunction will not adversely affect the public interest.”

*W. Pittsburgh P’ship v. McNeilly*, 840 A.2d 498, 505 (Pa. Commw. Ct. 2004) (quoting *Summitt Towne Centre, Inc. v. Shoe Show*, 828 A.2d 995, 1001 (Pa. 2003)).

4. Plaintiff and other victims of Sandusky and The Second Mile will suffer immediate and irreparable harm if the Defendant dissipates its assets and becomes judgment proof.

5. The injury that Plaintiff and other victims would suffer as a result of liquidation or the transfer of assets significantly outweighs the harm to Defendant which would merely be precluded from transferring, selling, encumbering, dissipating or adversely affecting assets

without prior Court approval. The proposed injunction, would not interfere with Defendant's everyday operations.

6. The preliminary injunction will properly restore the parties to their status as it existed prior to the alleged wrongful conduct while at the same time ensure that the Defendant remains solvent and operational.

7. The Plaintiff and other victims are likely to prevail on the merits of the case as further outlined in Plaintiff's Complaint, which specifically identifies Defendant's notice of inappropriate contact between Sandusky and children. Furthermore, a party seeking the injunction does not need to prove that it will prevail on its theory of liability but only that there are substantial legal questions that the court must resolve to determine the rights of the parties. *Walter v. Stacy*, 837 A.2d 1205, 1209 (Pa. Super. Ct. 2003).

8. A Court may order relief in the form of issuance of a preliminary injunction barring the dissipation of assets in *anticipation* of civil liability, not requiring the certainty of liability or entry of a judgment. *Id.*; see *Ambrogi v. Reber*, 932 A.2d 969, 2007 PA Super. 278 (Pa. Super. 2007), *appeal denied*, 597 Pa. 725, 952 A.2d 673, 2008 Pa. LEXIS 926 (2008); Standard Pennsylvania Practice, § 83:57 Dissipation of Assets (“A trial court may grant a preliminary injunction to prevent dissipation of assets in *anticipation* of a lawsuit.”) (emphasis added).

9. The relief requested will not adversely affect the public interest, and, to the contrary, will promote the greater interest of the public by not interrupting Defendant's current operations, assuming proper institutional policies and procedures have been implemented to ensure the safety and well being of the children involved in Defendant's continuing pursuits.

10. A court may order a defendant place assets or the proceeds from the sale of any of their assets into escrow to satisfy a potential judgment. *Ambrogi v. Reber*, 932 A.2d at 976, *appeal denied*, 597 Pa. 725, 952 A.2d 673, 2008 Pa. LEXIS 926 (2008); *Walter*, 837 A.2d at 1207.

11. The proposed injunction is needed to prevent the “unfair, wholesale” dissolution of Defendant's assets. *See Walter, supra*. To allow Defendant to sell off or otherwise dispose of their assets and evade a judgment would result in a miscarriage of justice.

12. The proposed injunction is necessary and its need emergent because the interim CEO David Woodle has already announced, both on November 18<sup>th</sup> and November 21, 2011, that the board is contemplating folding or transferring its programs to other organizations. See “Charity Founded by Accused Ex-Coach May Fold”, New York Times, November 18, 2011, Exhibit 6 to the Verified Complaint; Statement of The Second Mile, November 21, 2011, attached as Exhibit 3 to the Verified Complaint.

13. Both of these options would likely result in the dissipation of assets.

14. The proposed injunctive relief is reasonable and will abate the harm Plaintiff and others will suffer.

15. Plaintiff and other victims should be entitled to recover damages from any judgment they may ultimately receive in a civil proceeding, and only the entry of a preliminary injunction will ensure the preservation of assets.

16. Based upon the foregoing, Plaintiff has demonstrated that all of the elements necessary for the entry of injunctive relief are present, and no public interest is harmed by the relief sought.

17. Further, Plaintiff will deposit with the Court an appropriate amount determined by the Court in the form of a bond pursuant to *Pa. R.C.P. 1531(b)* to facilitate the issuance of the preliminary/permanent injunction. John Doe #4 has limited financial resources and therefore should only be required to post *de minimis* bond.

18. Plaintiff John Doe #4 requests appointment of a receiver, pursuant to Pa.R.Civ.P. 1533, to oversee the financial transactions of Defendant The Second Mile and entry of an appropriate Order.

WHEREFORE, for the foregoing reasons, plaintiff respectfully requests that this Court grant the injunctive relief sought and enter an Order to:

1. enjoin and restrain Defendant The Second Mile from transferring, selling, encumbering, dissipating or adversely affecting its assets until further Order of this Court;
2. appoint a receiver pursuant to Pa.R.Civ.P. 1533, who shall be permitted to approve day to day expenditures of the Second Mile limited to rent, utilities, supplies, and other ordinary and necessary business costs and expenses. The payment of any other expenditures, whether at the request of the receiver or the defendant The Second Mile, shall occur only upon request to and approval by the Court upon notice to the Plaintiff, through his counsel; and
3. require The Second Mile to supply an accounting of its present assets and liabilities to the receiver.

Respectfully submitted,

BY: *Benjamin D. Andreozzi /s/*

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Benjamin D. Andreozzi, Esquire

BY: *Jeffrey P. Fritz /s/*

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Jeffrey P. Fritz, Esquire

*Co-Counsel for Plaintiff*  
*John Doe #4*

Dated: November 23, 2011

## VERIFICATION

Benjamin D. Andreozzi, Esquire, attorney for the Plaintiff John Doe #4 in the foregoing matter, verifies that he is authorized to sign this Verification. He has reviewed the facts set forth in the foregoing Plaintiff's Emergent Motion for Injunctive Relief and accompanying Memorandum of Law and the facts set forth herein are true and correct to the best of his knowledge, information and belief. These statements are made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

BY: *Benjamin D. Andreozzi /s/*

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Benjamin D. Andreozzi, Esquire

Date: November 23, 2011

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that service of a true and correct copy of the Plaintiff's Emergent Motion for Injunctive Relief, Memorandum of Law in Support of Plaintiff's Emergent Motion for Injunctive Relief and Exhibits thereto were served upon the following counsel and parties by email (*labraham@archerlaw.com*) and first-class U.S. mail, postage prepaid, on November 23, 2011:

Lynn Abraham, Esquire  
**Archer & Greiner**  
One Liberty Place, Thirty-Second Floor  
1650 Market Street  
Philadelphia , PA 19103  
*Counsel for The Second Mile*

**SOLOFF & ZERVANOS, P.C.**

BY: *Jeffrey P. Fritz /s/*  
JEFFREY P. FRITZ, Esq.  
1525 Locust Street, Eighth Floor  
Philadelphia, PA 19102

Dated: November 23, 2011