

# Supreme Court of Pennsylvania

## Court of Common Pleas Civil Cover Sheet

Philadelphia

County

For Prothonotary Use Only:

Docket No:

TIME STAMP

Filed and Attested by

PROTHONOTARY

23 NOV 2011 02:22 PM

N. MONTE

The information collected on this form is used solely for court administration purposes and does not supplement or replace the filing and service of pleadings or other papers as required by law or order of court.

SECTION A

### Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition  
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

John Doe #4 (a pseudonym),

Lead Defendant's Name:

The Second Mile

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits  
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Benjamin D. Andreozzi, Esquire & Jeffrey P. Fritz, Esquire

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

**Nature of the Case:** Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

### TORT (do not include Mass Tort)

- ☐ Intentional  
☐ Malicious Prosecution  
☐ Motor Vehicle  
☐ Nuisance  
☐ Premises Liability  
☐ Product Liability (does not include mass tort)  
☐ Slander/Libel/ Defamation  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### MASS TORT

- ☐ Asbestos  
☐ Tobacco  
☐ Toxic Tort - DES  
☐ Toxic Tort - Implant  
☐ Toxic Waste  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### PROFESSIONAL LIABILITY

- ☐ Dental  
☐ Legal  
☐ Medical  
☐ Other Professional:  
\_\_\_\_\_  
\_\_\_\_\_

### CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff  
☐ Debt Collection: Credit Card  
☐ Debt Collection: Other  
\_\_\_\_\_  
\_\_\_\_\_  
☐ Employment Dispute:  
Discrimination  
☐ Employment Dispute: Other  
\_\_\_\_\_  
\_\_\_\_\_  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### REAL PROPERTY

- ☐ Ejectment  
☐ Eminent Domain/Condemnation  
☐ Ground Rent  
☐ Landlord/Tenant Dispute  
☐ Mortgage Foreclosure: Residential  
☐ Mortgage Foreclosure: Commercial  
☐ Partition  
☐ Quiet Title  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### CIVIL APPEALS

- Administrative Agencies  
☐ Board of Assessment  
☐ Board of Elections  
☐ Dept. of Transportation  
☐ Statutory Appeal: Other  
\_\_\_\_\_  
\_\_\_\_\_  
☐ Zoning Board  
☐ Other:  
\_\_\_\_\_  
\_\_\_\_\_

### MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration  
☐ Declaratory Judgment  
☐ Mandamus  
☐ Non-Domestic Relations  
☐ Restraining Order  
☐ Quo Warranto  
☐ Replevin  
☒ Other:  
Complaint in Support of  
Injunctive Relief  
\_\_\_\_\_

Case ID: 111102384

Updated 1/1/2011

Control No.: 11113411

Benjamin D. Andreozzi, Esquire  
Identification No.: 89271  
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215-732-2260

Attorneys for Plaintiff,  
John Doe #4

"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**

#### **NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court with only such further notice to you as may be required by law, for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE, OR IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**PHILA. BAR ASSOCIATION  
LAWYER REFERRAL & INFORMATION SERVICE  
One Reading Center  
Philadelphia, PA 19107  
(215) 238-1701**

#### **AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las piginas siguientes, usted tiene veinte (20) dias de plazo al partir de las demanda y la nonficacion, llace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demands en contra de su persona. Sea avisado que si ustedno se definiendo la corta tomara medidas y puede continuar la demanda en contra suya sin previo aviso o nonficacion. Ademís, la corta puede decidir a favor del demandante y requiere que usted compla con indas las provisiones de estra demanda Usted puede perder dinero o sus propiedades u otius derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOCADO IMMEDIATAMENTE SI NO TIENE ABOCADO O SI NO TIENE EL DINFRO SUFICIENTE DE PACSR TEL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERICUAR DONDE SE PUEDE CONSECUIR ASISTENCIA LEGAL.

**PHILA. BAR ASSOCIATION  
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Attorneys for Plaintiff,  
John Doe #4

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215 Pine Street, Suite 200  
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Plaintiff

v.

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

Defendant

**COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY,  
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DOCKET NO.

COMPLAINT-EQUITY

**VERIFIED COMPLAINT IN SUPPORT OF INJUNCTIVE RELIEF**

Plaintiff "John Doe #4", a pseudonym, by his attorneys, respectfully petitions 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:

**The Parties**

1. Plaintiff is an adult individual who is identified herein as "John Doe #4"<sup>1</sup> (a pseudonym) who can be contacted by his counsel, Ben Andreozzi, Esquire, 215 Pine Street, Suite 200, Harrisburg, PA 17101.

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<sup>1</sup> John Doe #4 is identified as "Victim 4" in the statewide investigating grand jury findings of fact, attached as Exhibit 1 hereto.

2. Plaintiff's name and address is not contained in this Complaint so as to protect the privacy and identity of John Doe #4, who incurred injuries and damages while a minor, due to sexual assaults, negligence and recklessness.
3. John Doe #4's use of this pseudonym is done in good faith in order to avoid humiliation, embarrassment, additional psychological harm, and disruption or interference with the following pending criminal cases: *Commonwealth of Pennsylvania v. Gerald A. Sandusky*, docketed in Centre County as MJ-49201-CR-0000636-2011; *Commonwealth of Pennsylvania v. Timothy M. Curley*, docketed in Dauphin County as MJ-12303-CR-0000353-2011; and *Commonwealth of Pennsylvania v. Gary Charles Schultz*, docketed in Dauphin County as MJ-12303-CR-0000354-2011.
4. Defendant, The Second Mile, is a non-profit corporation or similar business entity having offices at 1402 South Atherton Street, State College, PA 16801, Centre County, and elsewhere.
5. Upon information and belief, The Second Mile regularly conducts business in Philadelphia County, including, but not limited to: providing services to residents of Philadelphia County<sup>2</sup>; contracting with Pennsylvania Chamber Insurance of Philadelphia to provide its health insurance; receiving sponsorships and donations from companies and individuals located in Philadelphia County; and recently

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<sup>2</sup> According to The Second Mile's website: "The Second Mile's Southeast Office, located in King of Prussia, is the base from which volunteers in that area support the statewide work of The Second Mile and serve children and families in the seven-county region: Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, and Philadelphia Counties." See <http://www.thesecondmile.org/specialEvents/seSpecEv.php>. See Exhibit 2.

hiring as its general counsel Lynn Abraham, Esquire of the law firm of Archer & Greiner, located in Philadelphia, Pennsylvania.

6. According to The Second Mile's publications and website, [www.thesecondmile.org](http://www.thesecondmile.org), "The Second Mile is a nonprofit organization serving the youth of Pennsylvania". See <http://www.thesecondmile.org/welcome.php>, attached as Exhibit 3.
7. Further, according to the Second Mile's website, The Second Mile "was founded in 1977 in State College, Pennsylvania, and is a statewide non-profit organization for children who need additional support and who would benefit from positive human contact. The Second Mile plans, organizes, and offers activities and programs for children - and adults who work with them - to promote self-confidence as well as physical, academic, and personal success." See <http://www.thesecondmile.org/aboutUs.php>, attached as Exhibit 4.

### **Summary**

8. Plaintiff John Doe #4 brings this action seeking emergent injunctive relief to prevent The Second Mile from dissipating its assets so that these assets remain available for John Doe #4 and other victims of childhood sexual abuse committed through the actions of its founder and former employee, Jerry Sandusky, and the negligence and recklessness of The Second Mile and others.

### **Background**

9. The Second Mile was founded by former Penn State University Football Defensive Coordinator Jerry Sandusky and, upon information and belief, was a charity initially devoted to helping troubled young boys.

10. John Doe #4 was introduced to Sandusky in or around 1996 or 1997 through The Second Mile program. John Doe #4 was in his second year of the program and was aged 12 or 13 when he first met Sandusky.
11. Over the course of the next several years, Sandusky and John Doe #4 participated together in various Second Mile programs and frequently met on the property of The Second Mile and elsewhere. During this time, John Doe #4 was subjected to repeated severe sexual assaults by Sandusky at various locations.
12. Upon information and belief, Pennsylvania's Office of Attorney General conducted a multi-year investigation through November, 2011, and a Pennsylvania statewide investigating grand jury heard testimony and considered evidence "into reported sexual assaults of minor male children by Gerald A. Sandusky ("Sandusky") over a period of years, both while Sandusky was a football coach for the Pennsylvania State University ("Penn State") football team and after he retired from coaching." See Findings of Fact of Statewide Investigating Grand Jury, p. 1, attached as Exhibit 1.
13. On November 5, 2011, the investigating grand jury findings were made public and contained numerous findings of fact. *Id.*
14. The Thirty-third statewide investigating grand jury found, among other things, that:
  - a. Sandusky sexually assaulted eight children, including Plaintiff John Doe #4, whom he met through The Second Mile;
  - b. "[i]t was within The Second Mile program that Sandusky found his victims";

- c. The Second Mile personnel and/or its counsel were made aware of complaints of Sandusky's sexual assaults on children and/or inappropriate behavior with children in 1998, 2002 and 2008; and
- d. Sandusky continued his work with The Second Mile until retiring in September, 2010.

*Id.*

- 15. Specifically, sometime in 1998, complaints were made to Penn State administrators and to university counsel Wendell Courtney, Esquire, who was also general counsel to The Second Mile, that Sandusky engaged in inappropriate sexual activity with minors in the showers of the locker room at Penn State. *Id.* at p. 9. Upon information and belief, Courtney is no longer counsel to The Second Mile.
- 16. Further, on March 1, 2002 at 9:30 p.m., a Penn State graduate assistant observed Sandusky subjecting a ten year old boy to anal intercourse while both were naked in the showers located in the locker room at the Lasch Football Building on the University Park Campus. *Id.* at pp. 6-13.
- 17. After this event, the graduate assistant reported what he had seen to Penn State's head football coach, who, in turn reported this to the Athletic Director. Approximately one and a half weeks later, the **incident was reported to The Second Mile.** *Id.* at pp. 7-8 (emphasis added).
- 18. In particular, then Athletic Director Tim Curley "informed Dr. Jack Raykovitz, Executive Director of the Second Mile of [Sandusky's] conduct reported to him and met with Sandusky to advise Sandusky that he was prohibited from bringing

youth onto the Penn State campus from that point forward. Curley testified that he met again with the graduate assistant and advised him that Sandusky had been directed not to use Penn State's athletic facilities with young people and 'the information' had been given to director of The Second Mile." *Id.* at p. 8.

19. According to a statement issued by the Second Mile on its website, in "November 2008, Mr. Sandusky informed The Second Mile that he had learned he was being investigated as a result of allegations made against him by an adolescent male in Clinton County, PA." See Statement of The Second Mile, November 6, 2011, Exhibit 3.
20. Sandusky ended his work and association with The Second Mile in September, 2010. See Report of Statewide Investigating Grand Jury, p. 1, attached as Exhibit 1.
21. On November 4, 2011, Sandusky was indicted on 40 counts of child sexual abuse, based upon the factual findings of the grand jury as contained in Exhibit 1. *Id.*
22. On November 5, 2011, Sandusky surrendered to authorities and thereafter was arraigned and released on \$100,000 bail. *Id.*
23. On November 13, 2011, The Second Mile's CEO, Jack Raykovitz, resigned after 28 years which was believed to be "in the best interests of the organization", according to a statement on the Second Mile's website. See Statement of The Second Mile, November 13, 2011, Exhibit 3.
24. At the same time, The Second Mile appointed David Woodle as an interim CEO. *Id.*

**The Second Mile Seeks to “Fold” or “Transfer its Programs”**

25. On January 10, 2011, The Second Mile reported in its last filed IRS form 990 tax return for 2009 (for calendar year ending August 31, 2010) that it had total assets of \$9,454,510 and net assets, after deduction of liabilities, of \$8,974,689. See Return of Organization Exempt From Income Tax, The Second Mile, 2009, Exhibit 5.
26. On November 18, 2011, the New York Times and other news organizations reported that The Second Mile charity planned to “fold.” See “Charity Founded by Accused Ex-Coach May Fold”, New York Times, November 18, 2011, Exhibit 6; See also articles from Centre Daily Times, 11/19/11, NBC Philadelphia, 11/18/11, CBS News, 11/18/11, attached collectively as Exhibit 7 .
27. The New York Times specifically reported that The Second Mile’s interim CEO David Woodle “said in an interview Friday [November 18, 2011] that **the foundation was seeking to transfer its programs to other nonprofit organizations. The Second Mile’s leaders are looking at organizations that could, and would, carry forward the foundation’s work with disadvantaged youths.** He would not say which organizations would be candidates.” Exhibit 6 (emphasis added).
28. On November 21, 2011, The Second Mile reported on its website that: “Because the focus of our organization is on the children, The Second Mile is currently exploring three options: (1) restructuring the organization and keeping its programs going, even if it means doing so at a reduced level of service and

funding, (2) maintaining the programs by transferring them to other organizations or (3) not continuing.” See Statement of The Second Mile, November 21, 2011, Exhibit 3.

**The Second Mile Should Be Enjoined From Dissipating or Disturbing Assets**

29. The Plaintiff John Doe #4 brings this action seeking injunctive relief to prevent The Second Mile from “transferring its programs” to other organizations or “not continuing”, as has been widely reported and as stated by The Second Mile on its website.
30. Upon information and belief, at least eleven (11) alleged victims of Sandusky have come forward and would likely assert civil claims for negligence and violation of Pennsylvania’s Child Protective Services Law against The Second Mile and other persons and organizations who provided access for Sandusky to sexually assault children.
31. Plaintiff John Doe #4 and others intend to file an action(s) at law seeking damages against Defendant The Second Mile and others based upon The Second Mile’s negligence and failure to report known sexual abuse of children of which The Second Mile personnel were or should have been aware. Based upon the information known to date, as outlined above, John Doe #4 intends to file a complaint against all responsible parties, including The Second Mile for, among other things, the following:
- a. negligence and recklessness in the supervision of John Doe #4;
  - b. negligence and recklessness in the hiring, supervision and retention of its employee/agent, Jerry Sandusky;

- c. negligence per se for violations of Pennsylvania's Child Protective Services Law in failing to report known abuse to authorities;
- d. negligently failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of children against child sexual abuse;
- e. failing to develop criteria for the selection of employees and volunteers of The Second Mile;
- f. failing to limit one-to-one interactions between Sandusky and children, including John Doe #4;
- g. failing to ban or restrict overnight activities between Sandusky and children, including John Doe #4;
- h. failing to develop and enforce "out of program" contact restrictions between Sandusky and children, including John Doe #4;
- i. failing to develop policies and procedures for the reporting of inappropriate sexual conduct by employees and volunteers within The Second Mile;
- j. failing to prevent the isolation of Sandusky with children, including John Doe #4;
- k. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of children including the "Two Deep Rule" or "Two Adult Rule" as is followed in the Boy Scouts of America, religious organizations and other organizations;

- l. negligently failing to warn John Doe #4 and other children and their parents of the known harm posed by Sandusky after The Second Mile personnel knew or should have known of such risk;
  - m. negligently failing to provide John Doe #4 with any assistance in coping with the injuries sustained from sexual assaults; and
  - n. negligent or reckless misrepresentation.
32. Upon information and belief, the Second Mile will likely be without insurance or be without adequate insurance coverage for civil actions asserted against it considering the number of victims, the severity of the harm and consideration of exclusions likely to exist in The Second Mile's insurance policies.
33. The assets of The Second Mile should not be dissipated, encumbered or in any way obligated or disturbed in any form and should be available to victims of sexual abuse, including John Doe #4, if it is determined that The Second Mile is liable for its actions and/or omissions.
34. Unless Defendant is restrained and enjoined as sought herein, John Doe #4 and other victims will be substantially and irreparably injured, for which they will have no adequate remedy at law.
35. The liquidation of Defendant's assets will leave The Second Mile judgment proof and allow it to evade justice for the harm to John Doe #4 and other victims.
36. In Pennsylvania, the prerequisites for granting a preliminary injunction are:
  - (1) "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";

(2) “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”;

(3) “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”;

(4) “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”;

(5) “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)).

37. A court may order that 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 969, 2007 PA Super. 278 (Pa. Super. 2007), *appeal denied*, 597 Pa. 725, 952 A.2d 673, 2008 Pa. LEXIS 926 (2008); *Walter v. Stacy*, 837 A.2d 1205, 1207 (Pa. Super. Ct. 2003).

38. The 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*, 837 A.2d at 1209.

39. 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 also 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).
40. Because Plaintiff, John Doe #4 and others will suffer immediate and irreparable harm if the Defendant The Second Mile liquidates its assets and becomes judgment proof, he brings this action seeking an injunction and appropriate relief so that assets will not dissipate, be encumbered, obligated or disturbed to the detriment of himself and other victims of child sexual abuse.

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 regular expenditures of the Second Mile incurred in the normal course of its business, 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/*

\_\_\_\_\_  
Benjamin D. Andreozzi, Esquire

BY: *Jeffrey P. Fritz /s/*

\_\_\_\_\_  
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 Verified Complaint in Support of Injunctive Relief and the facts set forth therein 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/*

\_\_\_\_\_  
Benjamin D. Andreozzi, Esquire

Date: November 23, 2011