

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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JOHN DOE NO. 1 and JOHN DOE NO. 2,

Plaintiffs,

v.

**RABBI YEHUDA KOLKO; YESHIVA &
MESIVTA TORAH TEMIMAH, INC. F/K/A
YESHIVA TORAH VODAATH OF
FLATBUSH, INC.; and CAMP AGUDAH, INC.,**

Defendants.

CASE NO.: 06-2096

COMPLAINT

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Plaintiffs, JOHN DOE NO. 1 and JOHN DOE NO. 2, by and through their attorneys, HERMAN & MERMELSTEIN, P.A., hereby file this Complaint against Defendants, RABBI YEHUDA KOLKO, YESHIVA & MESIVTA TORAH TEMIMAH, INC. F/K/A YESHIVA TORAH VODAATH OF FLATBUSH, INC. and CAMP AGUDAH, INC., and state as follows:

INTRODUCTION

1. Plaintiff, JOHN DOE NO. 1, is an adult male who is a citizen and resident of Israel. He is identified in this lawsuit by the pseudonym JOHN DOE NO. 1 in that this case involves horrific acts of childhood sexual abuse perpetrated on the Plaintiff by RABBI YEHUDA KOLKO (“RABBI KOLKO”).

2. Plaintiff, JOHN DOE NO. 2, is an adult male who is a citizen of the United States, with his permanent residence outside the State of New York. He is identified in this lawsuit by the pseudonym JOHN DOE NO. 2 in that this case involves horrific acts of childhood sexual abuse perpetrated on the Plaintiff by RABBI KOLKO.

3. Each Plaintiff is seeking in excess of \$10,000,000.00 in damages in this lawsuit.

4. At all material times, Defendant, YESHIVA & MESIVTA TORAH TEMIMAH, INC. F/K/A YESHIVA TORAH VODAATH OF FLATBUSH, INC. (“TORAH TEMIMAH”) was a New York not-for-profit religious corporation organized and existing pursuant to the Religious Corporation Law of the State of New York. At all material times, TORAH TEMIMAH was a Jewish day school with its principal place of business in Brooklyn, New York. At all material times, Defendant RABBI KOLKO was an agent, employee, or appointee of TORAH TEMIMAH in his capacities as rabbi, teacher, and/or counselor at the school.

5. At all material times, Defendant, CAMP AGUDAH, was a New York not-for-profit corporation based in Kings County, New York. CAMP AGUDAH is a children’s summer camp located in Ferndale, New York. At all material times, RABBI KOLKO was an agent, employee, or appointee of CAMP AGUDAH in his capacities as rabbi, teacher, and/or counselor at the camp.

JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to 28 U.S.C. §1332(a)(3) in that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different states and a citizen of a foreign state is an additional party.

7. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b) and (c) because all or a substantial part of the events or omissions giving rise to the claims occurred in the State of New York within this District.

SEXUAL ABUSE BY RABBI KOLKO

8. JOHN DOE NO. 1 and JOHN DOE NO. 2 spent all or part of their childhoods in a tight-knit Orthodox Jewish community in Brooklyn, New York. One of the more important and revered institutions within this community is TORAH TEMIMAH. The leader of TORAH TEMIMAH is Rabbi Lipa Margulies, in whom the community has placed its utmost trust and confidence.

9. JOHN DOE NO. 1 enrolled in TORAH TEMIMAH for the seventh grade. RABBI KOLKO was a teacher at TORAH TEMIMAH under the supervision of Rabbi Lipa Margulies. He was also one of JOHN DOE NO. 1's neighbors.

10. RABBI KOLKO frequently drove JOHN DOE NO. 1 to school at TORAH TEMIMAH. On one occasion while JOHN DOE NO. 1 was in the seventh grade, RABBI KOLKO parked his car down the street from TORAH TEMIMAH and instructed JOHN DOE NO. 1 to sit on his lap and hold the steering wheel. JOHN DOE NO. 1 did as instructed as he could not fathom saying no to a Rabbi. RABBI KOLKO began to grind his erect penis against JOHN DOE NO. 1 while placing his hands in JOHN DOE NO. 1's pants and fondling his genitals. JOHN DOE NO. 1 felt frozen and helpless while the abuse occurred.

11. Following this incident, RABBI KOLKO abused JOHN DOE NO. 1 on at least fifteen other occasions at TORAH TEMIMAH or while driving JOHN DOE NO. 1 to or from TORAH TEMIMAH. On multiple occasions, RABBI KOLKO abused JOHN DOE NO. 1 following recess at TORAH TEMIMAH. RABBI KOLKO told JOHN DOE NO. 1 to face a wall while RABBI KOLKO reached his hand around and molested JOHN

DOE NO. 1 and fondled his genitals. The abuse continued until JOHN DOE NO. 1 graduated from the yeshiva in the eighth grade.

12. RABBI KOLKO also abused JOHN DOE NO. 1 during the summer following seventh and eighth grade at CAMP AGUDAH in Ferndale, New York. At the summer camp, RABBI KOLKO engaged in a similar pattern of abuse. RABBI KOLKO pulled JOHN DOE NO. 1 out of camp to go driving around town. While in the car, RABBI KOLKO would invariably molest JOHN DOE NO. 1 after placing him on his lap so RABBI KOLKO could grind his penis against JOHN DOE NO. 1's buttocks.

13. JOHN DOE NO. 2 also enrolled in TORAH TEMIMAH beginning in the seventh grade. Over the next three years, RABBI KOLKO sexually abused JOHN DOE NO. 2 on repeated occasions. The abuse, which began when JOHN DOE NO. 2 was in the seventh grade, generally occurred in the book room of the basement of TORAH TEMIMAH. RABBI KOLKO would fondle JOHN DOE NO. 2 and rub his own erect penis against him.

14. JOHN DOE NO. 1 and JOHN DOE NO. 2, and their respective families, placed their trust in the Defendants' institutions. In particular, the Plaintiffs reposed trust and confidence in the fidelity and integrity of RABBI KOLKO. With the authorization and knowledge of the Defendants, RABBI KOLKO accepted this trust and confidence and used it gain influence with the Plaintiffs, as well as assume control and responsibility over them.

15. RABBI KOLKO seized this opportunity to sexually abuse JOHN DOE NO. 1 and JOHN DOE NO. 2. RABBI KOLKO's position of trust and confidence, together

with his unfettered access to JOHN DOE NO. 1 and JOHN DOE NO. 2, facilitated him in committing the heinous abuse on numerous occasions over a period of years.

16. The Defendants received multiple, credible reports that RABBI KOLKO was sexually abusing other young boys whom he came into contact with as a result of his employment with TORAH TEMIMAH and CAMP AGUDAH. Instead of accepting responsibility or at a minimum conducting a good faith investigation, Rabbi Lipa Margulies, as director and managing agent of TORAH TEMIMAH, and in concert with Rabbi Kolko, willfully engaged in a campaign of intimidation, concealment and misrepresentations designed to prevent victims from filing civil lawsuits and/or obtaining facts necessary to bring civil claims. These tactics included, but were not limited to, the following:

- a. Rabbi Margulies directed Rabbi Pinchus Scheinberg to contact victims, and tell them they were not actually abused and have no claim to bring;
- b. Rabbi Margulies contacted family members of victims and told them that if they pursued claims, or even investigated the allegations of abuse, other children in their families would be expelled from the yeshiva and prevented from attending other yeshivas in the New York area; and
- c. Rabbi Margulies threatened RABBI KOLKO's victims with retaliation and ostracism from their Orthodox Jewish community if they pursued their claims.

17. Rabbi Lipa Margulies, in concert with Defendants and in his capacity as their agent, willfully made the following material misrepresentations:

- a. Rabbi Margulies stated that a Rabbinical Court cleared RABBI KOLKO of allegations of sexual abuse by other victims, knowing that there was credible evidence that RABBI KOLKO had committed acts of child sexual abuse;
- b. Rabbi Margulies stated that he was not aware of any other allegations of sexual abuse, when in fact he had knowledge that there were allegations of abuse by RABBI KOLKO;
- c. Rabbi Margulies said he had no knowledge of any inappropriate sexual activities or inappropriate sexual predisposition by RABBI KOLKO, when in fact he knew that RABBI KOLKO was acting in a sexually inappropriate manner;
- d. Rabbi Margulies informed Rabbi Scheinberg about the nature of the sexual abuse being perpetrated by RABBI KOLKO, with the instruction that Rabbi Scheinberg was to advise the victims of RABBI KOLKO that what occurred did not constitute abuse, and that therefore there was nothing they could do about it.

18. The Defendants actively and fraudulently concealed information pertinent and relevant to claims relating to the sexual abuse in this matter for the purpose of protecting themselves from civil liability and evading same.

COUNT I – NEGLIGENCE

19. Plaintiffs repeat and re-allege, as if fully set forth herein, each and every allegation contained in the above Paragraphs 1 through 18.

20. At all material times, the Defendants owed a duty to Plaintiffs to use reasonable care to ensure the safety, care, well-being and health of the Plaintiffs while they were under their care, custody or in the presence of their agents or employees. The Defendants' duties encompassed the hiring, appointment, retention and/or supervision of RABBI KOLKO and otherwise providing a safe environment for the Plaintiffs.

21. At all material times, Defendants knew or should have known that RABBI KOLKO sexually abused young male students and/or campers under his supervision or control. Defendants knew or should have known of RABBI KOLKO's dangerous sexual predisposition and/or that he was otherwise unfit, dangerous and a threat to the health, safety and welfare of the minors entrusted to his counsel, care and protection in course of his duties at TORAH TEMIMAH and CAMP AGUDAH.

22. The Defendants breached their duty of care by failing to protect the minor Plaintiffs from sexual assault and lewd and lascivious acts committed by their agent and/or employee, RABBI KOLKO. Despite their knowledge regarding RABBI KOLKO's dangerous propensities, Defendants failed to take any remedial action, conduct a good faith investigation, and/or place restrictions on RABBI KOLKO's duties and interactions with minors.

23. At all relevant times, the Defendants had grossly inadequate policies and procedures to protect children they were entrusted to care for and protect, including JOHN DOE NO. 1 and JOHN DOE NO. 2.

24. As a direct and proximate cause of Defendants' failure to remove RABBI KOLKO from his duties and/or otherwise take remedial action upon receiving allegations of sexual abuse by RABBI KOLKO, JOHN DOE NO. 1 and JOHN DOE NO. 2 were sexually abused.

25. The sexual abuse has caused JOHN DOE NO. 1 and JOHN DOE NO. 2 to suffer severe and permanent psychological, emotional and physical injuries and the inability to lead a normal life, as well as attendant economic losses. Plaintiffs' injuries are persistent, permanent, and debilitating in nature.

WHEREFORE, Plaintiffs, JOHN DOE NO. 1 and JOHN DOE NO. 2, pray that judgment be entered in their favor and against the Defendants, YESHIVA & MESIVTA TORAH TEMIMAH, INC. F/K/A YESHIVA TORAH VODAATH OF FLATBUSH, INC. and CAMP AGUDAH.

COUNT II - BREACH OF FIDUCIARY DUTY

26. Plaintiffs repeat and re-allege, as if fully set forth herein, each and every allegation contained in the above Paragraphs 1-18.

27. At all relevant times, RABBI KOLKO occupied and accepted a position as fiduciary to JOHN DOE NO. 1 and JOHN DOE NO. 2 as their counselor and advisor, in a relationship of trust and confidence.

28. Defendants knew that RABBI KOLKO had a fiduciary relationship with JOHN DOE NO. 1 and JOHN DOE NO. 2, and in fact authorized RABBI KOLKO to act as their agent in counseling and advising JOHN DOE NO. 1 and JOHN DOE NO. 2. Accordingly, Defendants were also in a fiduciary relationship with Plaintiffs.

29. Defendants breached their fiduciary duty to Plaintiffs by allowing RABBI KOLKO to serve as Plaintiffs' rabbi, teacher, counselor, and advisor despite knowledge of his dangerous sexual propensities.

30. As a direct and proximate cause of Defendants' failure to remove RABBI KOLKO from his duties and/or otherwise take remedial action upon receiving allegations of sexual abuse by RABBI KOLKO, JOHN DOE NO. 1 and JOHN DOE NO. 2 were sexually abused.

31. The sexual abuse has caused JOHN DOE NO. 1 and JOHN DOE NO. 2 to suffer severe and permanent psychological, emotional and physical injuries and the inability to lead a normal life, as well as attendant economic losses. Plaintiff's injuries are persistent, permanent, and debilitating in nature.

WHEREFORE, Plaintiffs, JOHN DOE NO. 1 and JOHN DOE NO. 2, pray that judgment be entered in their favor and against the Defendants, YESHIVA & MESIVTA TORAH TEMIMAH, INC. F/K/A YESHIVA TORAH VODAATH OF FLATBUSH, INC. and CAMP AGUDAH.

COUNT III – SEXUAL ASSAULT

32. Plaintiffs repeat and re-allege, as if fully set forth herein, each and every allegation contained in the above Paragraphs 1-18.

33. RABBI KOLKO tortiously assaulted, molested, and otherwise sexually abused JOHN DOE NO. 1 and JOHN DOE NO. 2 on multiple occasions during their childhood.

34. RABBI KOLKO, in concert with Rabbi Marguilies, engaged in, participated in, and/or authorized, active concealment, intimidation, and

misrepresentations designed to prevent victims from coming forward and pursuing their claims.

35. The sexual abuse has caused JOHN DOE NO. 1 and JOHN DOE NO. 2 to suffer severe and permanent psychological, emotional and physical injuries and the inability to lead a normal life, as well as attendant economic losses. Plaintiffs' injuries are persistent, permanent, and debilitating in nature.

WHEREFORE, Plaintiffs, JOHN DOE NO. 1 and JOHN DOE NO. 2, respectfully demand judgment in their favor and against Defendant, RABBI YEHUDA KOLKO.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demands a trial of their claims by jury.

Dated: May 2, 2006

Respectfully submitted,

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