

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

JANE DOE 2 :
and :
JOHN DOE 2 : Case No. 2014 CA 7644 B, Consolidated
and : with Case Nos. 2014 CA 8073 B and
: 2015 CA 7814 B
: Judge Brian Holeman
: Next Event: Motion to Dismiss Due
: August 24, 2016
JANE DOE 3 :
and :
JOHN DOE 3 :
and :
JANE DOE 4 :
and :
JOHN DOE 4 :
and :
JANE DOE 5 :
and :
JANE DOE 6 :
and :
JANE DOE 7 :
and :
JANE DOE 8 :

and
JANE DOE 9

and
JANE DOE 10

and
JOHN DOE 10

Plaintiffs,

v.

**THE GEORGETOWN SYNAGOGUE –
KESHER ISRAEL CONGREGATION, et al.**

and
NATIONAL CAPITAL MIKVAH, INC.

and
RABBINICAL COUNCIL OF AMERICA

and
BERNARD FREUNDEL

and
**THE BETH DIN OF THE UNITED STATES
OF AMERICA,
Serve: [STILL TBD]**

Defendants.

CONSOLIDATED CLASS ACTION COMPLAINT

Plaintiffs, by and through their undersigned counsel, Sanford Heisler, LLP and Chaikin, Sherman, Cammarata & Siegel, P.C., bring this action in their individual capacities and on behalf of

the two classes of persons defined below against Defendants the Georgetown Synagogue-Kesher Israel Congregation, the National Capital Mikvah, Inc., the Rabbinical Council of America, the Beth Din of America, and Bernard Freundel. Based upon knowledge concerning themselves and their own acts, and upon information and belief as to all other matters, Plaintiffs allege as follows:

I. OVERVIEW OF THIS ACTION

1. This class action lawsuit arises from egregious breaches of trust by Defendant Bernard Freundel (“Rabbi Freundel”) and the religious institutions that enlisted his services: Defendants the Georgetown Synagogue – Kesher Israel Congregation (“Kesher”), the National Capital Mikvah, Inc. (“National Capital Mikvah” or “NCM”), the Rabbinical Council of America (“RCA”), and the Beth Din of America (“BDA”). For nearly a decade, Rabbi Freundel surreptitiously videoed his congregants, his conversion students, and other users of a Jewish ritual bath, called a mikvah, while they were partially or completely nude. His crimes became public knowledge on October 14, 2014, when he was arrested on criminal voyeurism charges. Prosecutors subsequently identified approximately 150 women since just 2009 whom Rabbi Freundel videotaped while they were undressed. Rabbi Freundel ultimately pleaded guilty to 52 counts of misdemeanor voyeurism and was sentenced to six and a half years in prison.

2. Until the horrific events giving rise to this lawsuit came to light, Rabbi Freundel was one of the most prominent and influential Modern Orthodox rabbis in the United States. Rabbi Freundel positioned himself as a leading moral and religious authority, and authored books, journal articles, and numerous op-eds on an array of Jewish subjects, including *halakha* (Jewish law). Just a month before his arrest in October 2014 on criminal voyeurism charges, Rabbi Freundel was quoted in the *Washington Jewish Week* decrying the “lack of sexual morality that pervades this society.”

3. For approximately twenty-five years, Rabbi Freundel served as the rabbi for Keshet, a Modern Orthodox synagogue in Washington, D.C. Having described itself as a “beacon of modern orthodoxy,” Keshet boasts of membership that includes a Senator, a Congressman, numerous Ambassadors, and the Secretary of the Treasury. During his tenure as Keshet’s rabbi and the public face of the synagogue, Rabbi Freundel interacted with many hundreds of congregants and visitors to the community. On its website before Rabbi Freundel’s arrest, Keshet touted Rabbi Freundel’s “stellar reputation as a halakhic authority.”

4. Prior to his arrest, Rabbi Freundel also served as a leader of the Rabbinical Council of America – the main professional association of Modern Orthodox rabbis in the United States – and a leader of its affiliated organization, the Beth Din of America – the largest Jewish religious court in the United States. Rabbi Freundel served as a member of the RCA’s Executive Committee until the day after his arrest, and he served as Chairman of the RCA’s Geirus [Conversion] Policies and Standards Committee from 2006 to 2013. Under Rabbi Freundel’s direction, the RCA developed uniform rules for conversion to Orthodox Judaism and a new, centralized system to oversee and approve Orthodox Jewish conversions through a network of regional rabbinical courts, called *beit dins*, operated under the auspices of the Rabbinical Council of America and the Beth Din of America. From 2008 to 2014, Rabbi Freundel headed the RCA’s and BDA’s *beit din* for conversions in the Washington, D.C. area, called the Conversion Court of Washington, D.C.

5. While serving as Keshet’s rabbi, Rabbi Freundel was instrumental in founding the National Capital Mikvah, which served as the site of his crimes. From 2005 to the present day, National Capital Mikvah has operated an Orthodox mikvah – a Jewish ritual bath used primarily for purposes of *taharat ha’mishpacha* (which requires an Orthodox married woman to immerse after her monthly menstruation) and for conversions to Judaism. At all times relevant to this

action, NCM was affiliated with Keshet; NCM's mikvah is located in the building adjacent to Keshet, NCM's leadership has included many members of Keshet, NCM's corporate registration lists Keshet's address as its own. At all times from its founding until Rabbi Freundel's arrest, Rabbi Freundel served as the National Capital Mikvah's supervising rabbi. Indeed, prior to Rabbi Freundel's arrest, the National Capital Mikvah's website expressly stated, "Halakhic decision authority for the mikvah rests with the rabbi of Keshet Israel Congregation."

6. The mikvah is supposed to be – and is reasonably expected to be – a private, safe, and sacred space. At all times since its founding, the National Capital Mikvah has required its users to disrobe fully and be completely naked in order to immerse themselves in the ritual bath. Likewise, the Rabbinical Council of America and Beit Din of America only recognize conversions where the conversion candidate has disrobed fully and is fully naked while immersed in the ritual bath. Upon information and belief, a National Capital Mikvah attendant carefully observes and supervises each mikvah user. As a result, Rabbi Freundel's female victims received more scrutiny when they visited the mikvah than Rabbi Freundel himself.

7. Unbeknownst to the congregants, conversion students, and other women who used the National Capital Mikvah, Rabbi Freundel installed recording equipment on the premises of the National Capital Mikvah and surreptitiously monitored naked women who were preparing to use the mikvah. Rabbi Freundel used multiple cameras to record women, including one hidden in a clock radio, another hidden in a fan, and another hidden in a tissue box. Rabbi Freundel carefully composed his recordings and appeared in many videos positioning the cameras. Rabbi Freundel catalogued nude shots, editing, saving, and labeling many of his videos and storing many at the residence provided to him by Keshet. There is no dispute that Rabbi

Freundel committed all of these unlawful acts and did so without the knowledge or consent of his victims; he admitted as much when he pled guilty to his crimes.

8. This case is brought on behalf of the many victims – whose emotional wellbeing and attitudes towards the *mikvah*, Jewish institutions, and Judaism have been permanently tainted by the acts and omissions of the Defendants. Indeed, Rabbi Freundel has acknowledged publicly the devastating impact on congregants of Keshet, conversion candidates, and others. In a signed, open letter published in the *Washington Jewish Week*, Rabbi Freundel admitted, “I shook the faith foundations of those who were approaching Judaism with determination and the trepidation of leaving their previous lives behind; I defiled a space that was supposed to be private, sacred and healing; and I caused people to feel unsafe, abused and objectified.”

9. The Class Representatives bring this action on behalf of two classes of women: (a) all women who used the NCM mikvah prior to Rabbi Freundel’s arrest (the “Mikvah Class,” as further detailed below), and (b) the women who used the NCM mikvah prior to Rabbi Freundel’s arrest specifically in connection with religious conversion (the “Conversion Class,” as further detailed below). This action seeks damages in excess of \$100 million.

II. JURISDICTION AND PARTIES

10. This Court has subject matter jurisdiction over this action pursuant to D.C. Code § 11-921. The actions complained of herein occurred in the District of Columbia.

11. This Court has personal jurisdiction over Defendant Keshet, Defendant NCM, and Defendant Freundel pursuant to, *inter alia*, D.C. Code § 13-422. At all times relevant to this action, Rabbi Freundel has been domiciled in the District of Columbia. Defendant Keshet and Defendant NCM maintain their principal place of business in the District of Columbia.

12. This Court has personal jurisdiction over Defendant RCA and Defendant BDA pursuant to, *inter alia*, D.C. Code § 13-423, in that the tortious conduct that Plaintiffs herein allege that Defendants RCA and BDA committed arose out of, *inter alia*, their transaction of business in the District of Columbia, their acts and/or omissions in the District of Columbia, their persistent course of conduct in the District of Columbia, and their rendering of services in the District of Columbia.

13. Plaintiff Jane Doe 2 is a woman who used the NCM mikvah on or about October 6, 2013, and again on or about February 9, 2014, in connection with her religious conversion.¹ She resides in Florida. She serves as class representative for the Mikvah Class and the Conversion Class, and she is also referred to herein as a Mikvah Class Representative and as the Conversion Class Representative.

14. Plaintiff John Doe 2 is the husband of Plaintiff Jane Doe 2. He resides in Florida.

15. Plaintiff Jane Doe 3 is a woman who used the NCM mikvah on an approximately monthly basis from February 2012 to October 2014. She resides in the District of Columbia. She serves as class representative for the Mikvah Class, and she is also referred to herein as a Mikvah Class Representative.

16. Plaintiff John Doe 3 is the husband of Plaintiff Jane Doe 3. He resides in the District of Columbia.

¹ Plaintiffs Jane Doe [1], Emma Shulevitz and Stephanie Smith (“Jane Doe 1 Plaintiffs”) have voluntarily dismissed their claims against Defendant Keshet and Defendant RCA, which they originally brought in Case No. 2014 CA 7644 B, and the Jane Doe 1 Plaintiffs have never brought claims against Defendants BDA or Freundel. *See* Praecipe Submitting Notice of Voluntary Dismissal Without Prejudice, filed July 1, 2016.

17. Plaintiff Jane Doe 4 is a woman who used the NCM mikvah in or about August 2009 in connection with her religious conversion. She resides in Canada. She is a member of the Mikvah Class and the Conversion Class.

18. Plaintiff John Doe 4 is the husband of Plaintiff Jane Doe 4. He resides in Canada.

19. Plaintiff Jane Doe 5 is a woman who used the NCM mikvah in or about November 2011 in connection with her religious conversion. She resides in Pennsylvania. She is a member of the Mikvah Class and the Conversion Class.

20. Plaintiff Jane Doe 6 is a woman who used the NCM mikvah in or about October 2013 and again in or about February 2014 in connection with her religious conversion. She resides in California. She is a member of the Mikvah Class and the Conversion Class.

21. Plaintiff Jane Doe 7 is a woman who used the NCM mikvah in or about March 2013 and again in or about April 2014 in connection with her religious conversion. She resides in Maryland. She is a member of the Mikvah Class and the Conversion Class.

22. Plaintiff Jane Doe 8 is a woman who used the NCM mikvah in or about February 2013 in connection with her religious conversion. She resides in Maryland. She is a member of the Mikvah Class and the Conversion Class.

23. Plaintiff Jane Doe 9 is a woman who used the NCM mikvah in or about November 2013 in connection with her religious conversion. She resides in Maryland. She is a member of the Mikvah Class and the Conversion Class.

24. Plaintiff Jane Doe 10 is a woman who used the NCM mikvah in or about November of 2013. She resides in Israel. She is a member of the Mikvah Class and the Conversion Class.

25. Plaintiff John Doe 10 is the husband of Plaintiff Jane Doe 10. He resides in Pennsylvania.

26. Plaintiffs Jane Doe 2, 3, 4, 5, 6, 7, 8, and 9 are also referred to hereto as the female Plaintiffs.

27. Defendant the Georgetown Synagogue – Keshet Israel Congregation is an Orthodox Jewish congregation located at 2801 N Street, NW, Washington, D.C. 20007. At all times relevant to this action, Defendant Bernard Freundel was the rabbi of Defendant Keshet, appointed by Defendant Keshet, and an actual and/or apparent agent, servant, and/or employee of Defendant Keshet, acting within the course and scope of his employment.

28. Defendant the National Capital Mikvah, Inc. owns and operates the mikvah and its premises located at 1308 28th Street NW, Washington, D.C. 20007 (“the NCM mikvah”). At all times relevant to this action, the National Capital Mikvah has been affiliated with Keshet. The National Capital Mikvah specifically vested “Halakhic decision authority for the mikvah . . . with the rabbi of Keshet Israel Congregation,” meaning Rabbi Freundel. At all times relevant to this action, Defendant Freundel was an actual and/or apparent agent, servant, and/or employee of Defendant NCM, acting within the course and scope of his agency.

29. Defendant the Rabbinical Council of America is one of the world’s largest organizations of Orthodox rabbis and is the main professional organization for Modern Orthodox rabbis in the United States. RCA is organized and exists under the laws of the state of New York with its principal place of business at 305 Seventh Avenue, 12th Floor, New York, NY 10001. RCA establishes uniform guidelines for conversion to Orthodox Jewish practice, which are applied to Orthodox conversions performed in the District of Columbia. Jointly with BDA, RCA also established and oversees the religious court located in the District of Columbia (called the Conversion Court of Washington, D.C.) that supervises, authorizes, and approves conversions to Orthodox conversions performed in the greater District of Columbia metropolitan area. At all times

relevant to this action, Defendant Freundel was an actual and/or apparent agent, servant, and/or employee of Defendant RCA, acting within the course and scope of his agency.

30. Defendant the Beth Din of America is the largest Jewish religious court in the United States. At all times relevant to this action, the Beth Din of America has been affiliated with Rabbinical Council of America. The Beth Din of America has its principal place of business at 305 Seventh Avenue, 12th Floor, New York, NY 10001, the same location as RCA's principle place of business. Jointly with RCA, BDA established and oversees the religious court located in the District of Columbia (called the Conversion Court of Washington, D.C.) that supervises, authorizes, and approves conversions to Orthodox conversions performed in the greater District of Columbia metropolitan area. At all times relevant to this action, Defendant Freundel was an actual and/or apparent agent, servant, and/or employee of Defendant BDA, acting within the course and scope of his agency.

31. Defendant Bernard Freundel is an Orthodox Jewish rabbi. Rabbi Freundel was employed as the rabbi for Defendant Keshet from 1989 until November 24, 2014, and he resided in a home provided by Defendant Keshet (located at 3026 O Street, NW, Washington, D.C. 20007) until March 3, 2014. Rabbi Freundel served as the supervising rabbi for Defendant National Capital Mikvah from the mikvah's founding until November 24, 2014. Rabbi Freundel was a member of Defendant RCA's Executive Committee until the day after his arrest, and from 2006 to 2013 he served as the Chairman of the RCA's Geirus Policies and Standards Committee. Prior to his arrest, Rabbi Freundel also headed RCA's and BDA's Conversion Court of Washington, D.C.

III. THE PROCESS FOR USING NATIONAL CAPITAL MIKVAH

32. A mikvah is a ritual bath used in Judaism. In the Orthodox Jewish tradition, one of the primary uses of the mikvah is to serve the *taharat hamishpacha* needs of married women –

the ritual cleansing that, according to Orthodox Jewish law, married women are required to undertake every month following their menstruation. Additionally, immersion in the mikvah is the final step required in a person's conversion to Judaism.

33. The National Capital Mikvah premises are made up of the mikvah pool itself, an anteroom with a couch, and two changing rooms, each containing a bathroom with a shower.

34. At all times relevant to this action, the National Capital Mikvah has required users to make an appointment to use the NCM mikvah. In addition, at all times relevant to this action, the National Capital Mikvah has charged a fee for using the NCM mikvah.

35. At all times relevant to this action, the procedure at National Capital Mikvah for using the mikvah has been as follows. Prior to immersing in the mikvah, the mikvah user is required to disrobe completely and remove external barriers, including all clothing, jewelry, makeup, nail polish, glasses or contact lenses; she must also clean herself thoroughly, which includes brushing her teeth, washing her hair, thoroughly soaking and scrubbing her body in a shower, and removing any stray hairs or hanging nails. At the National Capital Mikvah, the mikvah user disrobes in one of the changing rooms adjacent to the mikvah pool and cleans herself in the shower and bathroom adjacent to the mikvah pool.

36. Upon information and belief, after the mikvah user completes this procedure, a National Capital Mikvah attendant checks the female mikvah user's back prior to permitting her to use the mikvah to ensure her compliance with the dictates of Orthodox Jewish law. Once approved to use the mikvah by the mikvah attendant, the mikvah user walks into the mikvah room, and the user immerses her naked body completely in the mikvah waters. In the case of a conversion, once a female user is immersed in the water, the three (male) members of the RCA and BDA *beit din* overseeing the conversion also serve as witnesses to the immersion, but the

RCA and BDA jointly represent and warrant that the conversion process “ensure[s] sensitivity to the dignity of all potential converts at all times” and that “[t]he modesty of a female convert is ensured throughout the process.”

37. As to each and every woman who used the NCM mikvah, each and every Defendant had a relationship with her, and/or undertook an obligation to her, of a nature that necessarily implicated her emotional well-being. Each and every Defendant voluntarily undertook to provide religious services in connection with the NCM mikvah that implicated the emotional well-being of female mikvah users. Each and every Defendant represented and warranted to users that the policies, practices, and procedures employed at the NCM mikvah were in accordance with Orthodox Jewish law, which, *inter alia*, demands respect for the modesty of female users. For example, NCM represented and warranted to the users of the mikvah that the NCM mikvah was a “sacred, private, beautiful space where women could fulfill the mitzvah of mikvah in a positive environment.” Furthermore, Defendant Freundel as a rabbi acted as a spiritual guide and counselor within the Orthodox Jewish community for the female Plaintiffs, Class Representatives, and Class Members, by virtue of giving each them legitimate religious instructions, guidance, counseling, aid, and/or supervision. Each and every woman who used the mikvah had a reasonable expectation that no men would be viewing, photographing, and/or video-recording her naked body at the mikvah. Breach of these obligations voluntarily undertaken by Defendants was especially likely to cause the female users of the mikvah serious emotional distress, and Defendants were obligated to take precautions to avoid causing them such serious emotional distress.

IV. RABBI FREUNDEL’S ROLE AT THE NATIONAL CAPITAL MIKVAH

38. Rabbi Freundel was an advocate for, and played an integral role in the founding of the National Capital Mikvah. After it opened, Rabbi Freundel served as the supervisory rabbi for the National Capital Mikvah. The National Capital Mikvah vested in Rabbi Freundel the responsibility and authority to ensure that the mikvah operated in compliance with Jewish law.

39. Keshet also was instrumental to the founding of the National Capital Mikvah. Since the National Capital Mikvah opened, many of the people who have served on the board of, or otherwise served as leaders of, the National Capital Mikvah, have been members of Keshet Israel. The day after Rabbi Freundel's arrest, the President of Keshet referred to the National Capital Mikvah as "our mikvah" in an address to the Keshet congregation. As part of Rabbi Freundel's Factual Proffer in Support of Guilty Plea, Rabbi Freundel admitted that the National Capital Mikvah was affiliated with Keshet Israel. Keshet undertook the responsibility to ensure that the NCM mikvah operated in compliance with Jewish law.

40. Since the National Capital Mikvah opened, Rabbi Freundel regularly encouraged and directed women to use the mikvah, in his capacities as: the rabbi at Keshet vis-à-vis persons including but not limited to female Keshet congregants; the supervisory rabbi at Defendant NCM; and a religious authority and leader within, and recognized by, Defendant Rabbinical Council of America and Defendant Beth Din of America.

41. Defendants Keshet, NCM, RCA, and BDA (collectively "the Institutional Defendants") explicitly and/or implicitly communicated to the Orthodox Jewish community and public at large, and placed Rabbi Freundel in a position to communicate, that the Institutional Defendants consented to and ratified Rabbi Freundel's exercise of authority over the NCM mikvah.

42. The Institutional Defendants imbued Rabbi Freundel with extensive authority over the National Capital Mikvah. For years, Rabbi Freundel was given the authority to enter

and exit the National Capital Mikvah freely, without any requirement that he be accompanied by anyone else and without any requirement that he explain or account for his presence in the mikvah. For years, Rabbi Freundel was given the authority to direct suspicious and un-Orthodox uses of the mikvah, which the Institutional Defendants repeatedly failed to question, much less investigate and stop.

43. The authority that the Institutional Defendants gave to Rabbi Freundel enabled his unlawful acts. On numerous occasions over the course of many years, Rabbi Freundel installed and maintained electronic devices at the NCM mikvah for the purposes of secretly photographing, videoing, and/or audio recording women who were totally or partially undressed. He positioned cameras to record women in the bathroom, either before and/or after they showered. In some cases, Rabbi Freundel used multiple recording devices to view his female victims from multiple vantage points at once.

44. The cameras that Rabbi Freundel maintained in the NCM mikvah included one hidden in a clock radio, another hidden in a fan, and another hidden in a tissue box. Upon information and belief, Rabbi Freundel also hid cameras in a computer charger and in a car key. Upon information and belief, Rabbi Freundel maintained additional devices not discovered by the police for purposes of secretly photographing, videoing, and/or audio recording women who were totally or partially undressed.

45. After making these recordings, Defendant Freundel stored the recordings, for, *inter alia*, his own sexual gratification. Rabbi Freundel separately saved his recordings and named files by using the name or initials of the women he recorded.

46. Upon information and belief, Defendant Freundel began recording women at the NCM mikvah in 2005. From early 2009 to October 2014 alone, Rabbi Freundel videoed at least

approximately 150 women who were totally or partially undressed in the NCM mikvah. In addition to actually photographing, videoing, and/or audio recording numerous women who used the NCM mikvah while they were undressed, Rabbi Freundel's course of conduct victimized all women who used the NCM mikvah, whether or not they actually were recorded.

V. FREUNDEL'S IMPROPER INTERACTIONS WITH WOMEN RAISE RED FLAGS AND CREATE WARNING SIGNS

47. While Rabbi Freundel was acting as a mikvah voyeur, the Institutional Defendants repeatedly failed to heed warning signs about Rabbi Freundel and instead maintained him in positions of authority over vulnerable women using the NCM mikvah, imbuing these vulnerable women with a false sense of security and allowing Rabbi Freundel to carry on his predations unchecked.

48. The Institutional Defendants knew or should have known that Rabbi Freundel specifically pursued young, attractive women to shepherd through the conversion process and/or to encourage their use of the NCM mikvah.

49. Rabbi Freundel had a long history of behaving inappropriately with women, including female congregants at Keshet and female conversion students. The Institutional Defendants knew or should have known that Rabbi Freundel commonly made inappropriate, sexually tinged comments toward young, attractive women within his orbit as a religious authority, including both female congregants of Keshet and female conversion candidates.

50. The Institutional Defendants also knew or should have known of Rabbi Freundel's exploitation and intimidation of conversion students that included bringing young female candidates into Rabbi Freundel's home, compelling such women to donate money to his *beit din*, and compelling such women to perform clerical work for Rabbi Freundel. Defendant

RCA investigated this misconduct in 2012 but did no more than reprimand Rabbi Freundel; otherwise, no Institutional Defendant imposed any meaningful discipline on Rabbi Freundel.

51. In 2013, the RCA received an anonymous report that Rabbi Freundel had shared a train sleeping compartment with a woman other than his wife. RCA took no action except to bring the allegation to Defendant Freundel's attention.

52. Keshet not only refused to heed the complaints about Rabbi Freundel – it actively discouraged congregants from speaking out about his inappropriate behavior. Upon information and belief, Keshet board members issued a statement discouraging congregants from further complaining about Rabbi Freundel and wrote off those complaints as “*lashon hara*,” slanderous talk considered sinful in Orthodox Judaism. Keshet directed congregants to “cease to participate in any Lashon Hara, to stop listening to insinuations and attacks, to disassociate ourselves from them, and finally to respond forcefully in opposition to Lashon Hara” against Rabbi Freundel.

53. The Institutional Defendants also knew or should have known that Rabbi Freundel encouraged women to use the mikvah in ways inconsistent with Orthodox Jewish law, including requiring converts to perform “practice dunks” and “re-dunks” and allowing non-Jews to use the mikvah for non-religious purposes. Rather than investigating and stopping these suspicious uses, the National Capital Mikvah *endorsed* Rabbi Freundel's “practice dunks,” stating on its website, “The National Capital Mikvah supports conversions and ‘practice dunks’ for conversion students who are working under the aegis of the Rabbinical Council of America and Beth Din of America.” The Rabbinical Council of America and Beth Din of America also took no action to stop these practices, which Freundel used to target victims.

54. Rabbi Freundel's use of the mikvah should have been deeply concerning to any Orthodox Jewish leader. Rabbi Freundel sought out attractive young women as conversion

students. Rabbi Freundel required his conversion students to perform “practice dunks” – something that has no basis in Orthodox Judaism and was subsequently repudiated by the RCA. As part of his “practice dunks,” Freundel compelled converts to disrobe and immerse in the mikvah without completing their conversion to Judaism. Rather than investigating the suspicious “practice dunks,” Keshet and the National Capital Mikvah *endorsed* the practice. In fact, the National Capital Mikvah stated explicitly on its website, “The National Capital Mikvah supports conversions and ‘practice dunks’ for conversion students who are working under the aegis of the Rabbinical Council of America and Beth Din of America.” Meanwhile, the RCA and BDA knew or should have known of these practices but took no action to stop them.

55. Rabbi Freundel even required some women who had already completed their conversion to perform “re-dunks” but with only Rabbi Freundel supervising rather than the three witnesses needed to complete a conversion – another practice with no basis in Orthodox Judaism. The Institutional Defendants knew or should have known of these practices and their impropriety but took no action to stop them.

56. Rabbi Freundel even allowed women to use the *mikvah* for non-ritual purposes, including his female students from Georgetown University and Towson University. Again, the Institutional Defendants knew or should have known of these practices but took no action to stop them.

57. One member of Keshet accused Rabbi Freundel of “treat[ing] that mikvah like a car wash. Every Sunday, six students at a time.”

58. Had the Institutional Defendants acted reasonably and taken adequate precautions or investigated earlier in Rabbi Freundel’s tenure, Rabbi Freundel would have been stopped and countless women would not have been victimized. In fact, Rabbi Freundel was arrested just

weeks after Keshet and the National Capital Mikvah finally launched their joint investigation into him.

VI. FACTUAL BACKGROUND APPLICABLE TO INDIVIDUAL PLAINTIFFS AND CLASS REPRESENTATIVES

A. PLAINTIFF JANE DOE 2

59. Plaintiff Jane Doe 2, who was originally not Jewish, became interested in converting to Orthodox Judaism in or about 2009. In or about 2010, while residing several hundred miles away, Plaintiff Jane Doe 2 began communications with the Conversion Court of Washington, D.C. (the *beit din* established and overseen by RCA and BDA and headed by Rabbi Freundel), and with Rabbi Freundel in particular, for the purpose of initiating her conversion process.

60. Over the next approximately four years, Plaintiff Jane Doe 2 continued to communicate with, and periodically visit, the D.C. area *beit din* established and overseen by RCA and BDA and headed by Rabbi Freundel, and with Defendant Freundel in particular, as Plaintiff Jane Doe 2 progressed in her conversion process.

61. Over this course of time, Defendant Freundel became a father figure to Plaintiff Jane Doe 2, by virtue of his great religious authority in the Orthodox Jewish community and the personal relationship that he forged with Plaintiff Jane Doe 2 as her spiritual guide in the conversion process.

62. In or about September 2012, during one of her visits to Washington, D.C., Defendant Freundel – alone with Plaintiff Jane Doe 2 – gave Plaintiff Jane Doe 2 a tour of the NCM mikvah. Her immersion in the mikvah would ultimately be the final act of her conversion.

63. On or about October 6, 2013, at the direct encouragement of Defendant Freundel, Plaintiff Jane Doe 2 performed a “practice dunk” at the NCM mikvah, a simulation of what would be the final act of conversion. As part of the “practice dunk,” Plaintiff Jane Doe 2 was required to

disrobe completely in the NCM mikvah's changing room, to shower in the NCM mikvah's bathroom, and to immerse herself in the NCM mikvah pool. Orthodox Jewish law does not provide for any "practice dunk," but Defendant Freundel induced Plaintiff Jane Doe 2 to perform one nonetheless. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 2 while she was undressed in the changing room of the NCM mikvah on this occasion.

64. The consummation of Plaintiff Jane Doe 2's conversion came on or about February 9, 2014, when she used the NCM mikvah a second time. At Rabbi Freundel's direction, again Plaintiff Jane Doe 2 disrobed in the NCM mikvah changing room, showered in the NCM mikvah's bathroom, and, unclothed, immersed herself in the waters of the mikvah. On this occasion, Rabbi Freundel was present in a room neighboring the mikvah itself, and through a cracked door gave Plaintiff Jane Doe 2 instructions on how to use the mikvah. At the time, this was a signature moment in the life of Plaintiff Jane Doe 2. She had now entered the Orthodox Jewish faith and completed her journey of multiple years. Upon information and belief, Rabbi Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 2 while she was undressed in the changing room of the NCM mikvah on this occasion.

65. During her conversion, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 2's usage of the NCM mikvah. Plaintiff Jane Doe 2 paid fees to Defendants NCM and in return for the service of performing her conversion, which included her use of the NCM mikvah.

66. Since the disclosure of Defendant Freundel's illicit acts, Plaintiff Jane Doe 2 has experienced serious emotional distress.

B. PLAINTIFF JANE DOE 3

67. Plaintiff Jane Doe 3 is a practicing Orthodox Jewish woman. Plaintiff Jane Doe 3 used the NCM mikvah, on approximately a monthly basis from February 2012 to October 2014, following her monthly menstruation, in accordance with the requirements of *taharat ha-mishpacha* under Orthodox Jewish law.

68. On each occasion, Plaintiff Jane Doe 3 contacted National Capital Mikvah to reserve a time to come to use the mikvah, and a National Capital Mikvah attendant supervised her usage. Upon information and belief, Plaintiff Jane Doe 3 paid fees to Defendant NCM in return for use of the NCM mikvah.

69. On each occasion, Plaintiff Jane Doe 3 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 3 while she was undressed in the changing room of the NCM mikvah on these occasions.

70. Since the disclosure of Defendant Freundel's illicit acts, Plaintiff Jane Doe 3 has experienced serious emotional distress.

C. PLAINTIFF JANE DOE 4

71. Plaintiff Jane Doe 4 began the process of converting to Orthodox Judaism in 2006, at which time she resided in Raleigh, North Carolina.

72. In or about 2008, Plaintiff Jane Doe 4 began contacting Defendant Freundel by telephone, and following his spiritual guidance, as part of the conversion process.

73. Subsequently, Plaintiff Jane Doe 4 travelled to the District of Columbia on approximately four different occasions, each time meeting with Defendant Freundel, all as part of her conversion process.

74. The consummation of Plaintiff Jane Doe 4's conversion came in or about August 2009, when she travelled to the District of Columbia and used the NCM mikvah. On that occasion, Plaintiff Jane Doe 4 brought along her minor daughter, who used the NCM mikvah with Plaintiff Jane Doe 4.

75. Both Plaintiff Jane Doe 4 and her minor daughter were photographed, video or audio recorded by Defendant Freundel when they used the NCM mikvah.

76. During her conversion, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 4's usage of the NCM mikvah. Plaintiff Jane Doe 4 paid fees to Defendants NCM and BDA in return for the service of performing her conversion, which included her use of the NCM mikvah.

77. Plaintiff Jane Doe 4 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 4 while she was undressed in the changing room of the NCM mikvah on this occasion.

78. Since the disclosure of Defendant Freundel's illicit acts, Plaintiff Jane Doe 4 has experienced serious emotional distress, as a result of her and her minor daughter's victimization.

D. PLAINTIFF JANE DOE 5

79. Plaintiff Jane Doe 5 began the process of converting to Orthodox Judaism, in or about 2009.

80. In or about 2010, Plaintiff Jane Doe 5 began travelling periodically to the District of Columbia (approximately four times in total), where she met Defendant Freundel in person each time to pursue her conversion. Defendant Freundel became her spiritual guide in the process.

81. The consummation of Plaintiff Jane Doe 5's conversion came in or about November 2011, when she travelled to the District of Columbia and used the NCM mikvah.

82. During her conversion, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 5's usage of the NCM mikvah. Plaintiff Jane Doe 5 paid fees to Defendants NCM and BDA in return for the service of performing her conversion, which included her use of the NCM mikvah.

83. Plaintiff Jane Doe 5 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 5 while she was undressed in the changing room of the NCM mikvah on this occasion.

84. Since the disclosure of Defendant Freundel's illicit acts, Plaintiff Jane Doe 5 has experienced serious emotional distress.

E. PLAINTIFF JANE DOE 6

85. Plaintiff Jane Doe 6 began the process of converting to Orthodox Judaism in 2012.

86. In or about April 2013, Plaintiff Jane Doe 6 began weekly meetings with Defendant Freundel, who became her spiritual guide in the process. At Defendant Freundel's encouragement, Plaintiff Jane Doe 6 also began attending the Keshar congregation on at least a weekly basis.

87. Over this course of time, Defendant Freundel became a father figure to Plaintiff Jane Doe 6, by virtue of his great religious authority in the Orthodox Jewish community and the personal relationship that he forged with Plaintiff Jane Doe 6.

88. In or about October 2013, at the direct encouragement of Defendant Freundel, Plaintiff Jane Doe 6 performed a "practice dunk" at the NCM mikvah, a simulation of what would

be the final act of conversion. As part of the “practice dunk,” Plaintiff Jane Doe 6 was required to disrobe completely in one of the NCM mikvah’s changing room, to shower in an NCM mikvah’s bathroom, and to immerse herself in the NCM mikvah pool. Orthodox Jewish law does not provide for any “practice dunk,” but Defendant Freundel induced Plaintiff Jane Doe 6 to perform one nonetheless.

89. The consummation of Plaintiff Jane Doe 6’s conversion came in or about February 2014, when she used the NCM mikvah a second time.

90. During both of her immersions, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 6’s usage of the NCM mikvah. Plaintiff Jane Doe 6 paid fees to Defendants NCM and BDA in return for the service of performing her conversion, which included her use of the NCM mikvah.

91. On each occasion, Plaintiff Jane Doe 6 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 6 while she was undressed in the changing room of the NCM mikvah on this occasion.

92. Since the disclosure of Defendant Freundel’s illicit acts, Plaintiff Jane Doe 6 has experienced serious emotional distress.

F. PLAINTIFF JANE DOE 7

93. Plaintiff Jane Doe 7 began the process of converting to Orthodox Judaism in 2013.

94. In or about February of 2013, Plaintiff Jane Doe 7 began periodic meetings with Defendant Freundel, who became her spiritual guide in the process.

95. In or about March of 2013, at the direct encouragement of Defendant Freundel, Plaintiff Jane Doe 7 performed a “practice dunk” at the NCM mikvah.

96. In or about April of 2014, at the direct encouragement of Defendant Freundel, Plaintiff Jane Doe 7 performed a second “practice dunk” at the NCM mikvah.

97. As part of the “practice dunks,” Plaintiff Jane Doe 7 was required to disrobe completely in the NCM mikvah’s changing room, to shower in the NCM mikvah’s bathroom, and to immerse herself in the NCM mikvah pool. Orthodox Jewish law does not provide for any “practice dunk,” but Defendant Freundel induced Plaintiff Jane Doe 6 to perform one nonetheless.

98. During both of her immersions, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 7’s usage of the NCM mikvah. Plaintiff Jane Doe 7 paid fees to Defendants NCM and BDA in return for the service of performing her conversion, which included her use of the NCM mikvah.

99. On each occasion, Plaintiff Jane Doe 7 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 7 while she was undressed in the changing room of the NCM mikvah on these occasions.

100. Defendant Freundel’s illicit acts were disclosed before Plaintiff Jane Doe 7 consummated her conversion, which she never completed.

101. Since the disclosure of Defendant Freundel’s illicit acts, Plaintiff Jane Doe 7 has experienced serious emotional distress.

G. PLAINTIFF JANE DOE 8

102. Plaintiff Jane Doe 8 began the process of converting to Orthodox Judaism in or about 2012.

103. In or about 2012, Plaintiff Jane Doe 8 began periodic meetings with Defendant Freundel, who became her spiritual guide in the process.

104. The consummation of Plaintiff Jane Doe 8's conversion came in or about February of 2013, when she used the NCM mikvah.

105. During her conversion, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 8's usage of the NCM mikvah. Plaintiff Jane Doe 8 paid fees to Defendants NCM and BDA in return for the service of performing her conversion, which included her use of the NCM mikvah.

106. As part of her conversion, Plaintiff Jane Doe 8 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 2 while she was undressed in the changing room of the NCM mikvah on this occasion.

107. Since the disclosure of Defendant Freundel's illicit acts, Plaintiff Jane Doe 8 has experienced serious emotional distress.

H. PLAINTIFF JANE DOE 9

108. Plaintiff Jane Doe 9 began the process of converting to Orthodox Judaism in or about 2012.

109. In or about May 2012, Plaintiff Jane Doe 9 began periodic meetings with Defendant Freundel, who became her spiritual guide in the process.

110. In or about November 2013, at the direct encouragement of Defendant Freundel, Plaintiff Jane Doe 9 performed a “practice dunk” at the NCM mikvah. As part of the “practice dunk,” Plaintiff Jane Doe 9 was required to disrobe completely in the NCM mikvah’s changing room, to shower in the NCM mikvah’s bathroom, and to immerse herself in the NCM mikvah pool. Orthodox Jewish law does not provide for any “practice dunk,” but Defendant Freundel induced Plaintiff Jane Doe 9 to perform one nonetheless.

111. Subsequently, in or about November of 2013, Plaintiff Jane Doe 9 consummated her conversion by again using the NCM mikvah. The consummation of Plaintiff Jane Doe 9’s conversion came in or about February of 2013, when she used the NCM mikvah.

112. During both of her immersions, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 9’s usage of the NCM mikvah. Plaintiff Jane Doe 9 paid fees to Defendants NCM and BDA in return for the service of performing her conversion, which included her use of the NCM mikvah.

113. On each occasion, Plaintiff Jane Doe 9 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower. Upon information and belief, Defendant Freundel photographed, videoed, and/or audio recorded Plaintiff Jane Doe 9 while she was undressed in the changing room of the NCM mikvah on this occasion.

114. Since the disclosure of Defendant Freundel’s illicit acts, Plaintiff Jane Doe 9 has experienced serious emotional distress.

I. PLAINTIFF JANE DOE 10

115. Plaintiff Jane Doe 10 began the process of converting to Orthodox Judaism in or about 2012.

116. In or about November 2012, Plaintiff Jane Doe 10 began periodic meetings with Defendant Freundel, who became her spiritual guide in the process.

117. In or about November 2013, at the direct encouragement of Defendant Freundel, Plaintiff Jane Doe 10 performed a “practice dunk” at the NCM mikvah. As part of the “practice dunk,” Plaintiff Jane Doe 9 was required to disrobe completely in the NCM mikvah’s changing room, to shower in the NCM mikvah’s bathroom, and to immerse herself in the NCM mikvah pool. Orthodox Jewish law does not provide for any “practice dunk,” but Defendant Freundel induced Plaintiff Jane Doe 10 to perform one nonetheless.

118. Subsequently, in or about November of 2013, Plaintiff Jane Doe 10 consummated her conversion by again using the NCM mikvah.

119. Plaintiff Jane Doe 10 was photographed, video or audio recorded by Defendant Freundel when she used the NCM mikvah.

120. During both of her immersions, a National Capital Mikvah attendant supervised Plaintiff Jane Doe 10’s usage of the NCM mikvah. Plaintiff Jane Doe 10 paid fees to Defendants NCM and BDA in return for the service of performing her conversion, which included her use of the NCM mikvah.

121. On each occasion, Plaintiff Jane Doe 10 used the NCM mikvah in accordance with the procedure described *supra* in, *inter alia*, Section III. Among other things, she disrobed completely and showered in the National Capital Mikvah shower.

122. Since the disclosure of Defendant Freundel’s illicit acts, Plaintiff Jane Doe 10 has experienced serious emotional distress.

VII. CLASS ACTION ALLEGATIONS

123. The Class Representatives re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

124. The Class Representatives seek to maintain claims on their own behalf and on behalf of two classes of similarly situated women, pursuant to SCR Civ. 23(a), 23(b)(1), 23(b)(3), and 23-I.

A. Class Definitions

125. The Mikvah Class Representatives bring this action on behalf of the Mikvah Class, which consists of any and all females who used any portion of the NCM mikvah at any time from 2005 to October 14, 2014.

126. In addition, the Conversion Class Representative brings this action on behalf of the Conversion Class, which consists of any and all females who used any portion of the NCM mikvah any time from 2006 to October 14, 2014, in connection with a contemplated conversion to Orthodox Judaism (whether or not the conversion was ultimately completed).

B. Numerosity and Impracticability of Joinder

127. Each Class that the Class Representatives seek to represent is too numerous to make joinder practicable.

128. Prosecutors identified approximately 150 women recorded by Freundel using passive methods of evidence collection, with the D.C. Metropolitan Police accepting reports from potential victims rather than actively seeking them out. Upon information and belief, the actual number of Rabbi Freundel's victims is much larger.

129. Upon information and belief, the Mikvah Class contains at least hundreds of members. Historically, approximately thirty to forty women have used the mikvah per month. Defendant NCM knows the identities of the women who have used its facilities.

130. According to the RCA's own records "concerning conversions overseen by Rabbi Freundel and the Beit Din he headed from 2008 to 2014," the Conversion Class contains at least 109 members.² Defendant RCA and Defendant BDA have records that identify the members of the Conversion Class.

C. Common Questions of Law and Fact

131. The prosecution of the claims of the Class Representatives will require the adjudication of numerous questions of law and fact common to their claims and those of the Classes that they seek to represent.

132. The common questions of law and fact include, but are not limited to: (a) whether Rabbi Freundel photographed, videoed, and/or audio recorded females without their consent in the changing areas of the NCM mikvah and, if so, for how long did he do so and how frequently; (b) whether, in photographing, videoing, and/or audio recording females without their consent in the changing areas of the NCM mikvah, Rabbi Freundel was acting as the agent, servant, and/or employee of any of the Institutional Defendants within the course and scope of his employment and/or agency; (c) whether the Institutional Defendants knew or should have known of Rabbi Freundel's misconduct; (d) whether Class Members have a reasonable fear of having been photographed, videoed, and/or audio recorded by Rabbi Freundel; (e) the nature of the privacy violation that Class Members have suffered, which is the cause of their damages; and (f) whether Class Members can recover damages for the acts above.

D. Typicality of Claims and Relief Sought

133. Each Class Representative is a member of the Class that she seeks to represent. The claims of the Class Representatives are typical of the claims of the respective Classes.

² Case 1:15-cv-00028-CRC, Dkt. 15-4 (Zylberman Declaration) (indicating that the RCA has records concerning 149 conversions by Rabbi Freundel from 2008 to 2014, of whom 109 were female).

134. The acts and omissions to which the Institutional Defendants subjected the Class Representatives and the respective Classes applied universally within each Class and were not unique to any Class Representative or Class Member.

135. Each Class Representative's claims are typical of other Class Members' claims in that, like all Class Members, the named Plaintiff used the mikvah.

136. The relief necessary to remedy the claims of the Class Representatives is exactly the same as that necessary to remedy the claims of the Class Members in this case. This includes damages for emotional distress, punitive damages, and attorneys' fees and costs.

E. Adequacy of Representation

137. The Class Representatives are adequate representatives of the proposed Classes.

138. The Class Representatives' interests are co-extensive with those of the respective Classes that they seek to represent in this case. There is no conflict of interest between Class Representatives and the Classes they seek to represent.

139. The Class Representatives are willing and able to represent the respective Classes fairly and vigorously as they pursue the class claims in this action.

140. There is no defense unique or personal to the Class Representatives that would prejudice the probability of success for the respective Classes.

141. The Class Representatives have retained counsel who are qualified, experienced, and able to conduct this litigation and to meet the time and fiscal demands required to litigate this action.

F. Requirements of SCR 23(b)(1)

142. The prosecution of separate actions by individual members of the Classes would create a risk of: (a) inconsistent or varying adjudications with respect to individual members of the

Classes that would establish incompatible standards of conduct for Defendants; and/or (b) adjudications with respect to individual members of the Classes that would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

F. Requirements of SCR 23(b)(3)

143. The common issues of fact and law affecting the claims of the respective Class Representatives and proposed Class Members, including, but not limited to, the common issues previously identified herein, predominate over any issues affecting only individual Class Members.

144. A class action is superior to other available means for the fair and efficient adjudication of the claims of the Class Representatives and members of the respective Classes. Among other things, (a) the Classes are readily definable and its members are easily identified in the Institutional Defendants' own records as well as in through other records, (b) prosecution of the case as a class action will eliminate the possibility of duplicative litigation and prevent an overcrowding of the Court's docket with a wave of time-consuming lawsuits; (c) it would be in the best interest of the Class Members to pool their resources and thereby more effectively present their claim against the Institutional Defendants; (d) there are no defenses unique to the named Plaintiffs, and there is no conflict of interest between the named Plaintiffs and the Class Members; (e) concentrating the litigation of this controversy in this forum is desirable because the Defendants' tortious conduct and employment were centered in the District of Columbia; and (f) there are not obstacles that would make this case difficult to manage as a class action.

VIII. COUNTS

COUNT I

INTRUSION UPON SECLUSION

(on Behalf of all female Plaintiffs against all Defendants, on behalf of the Mikvah Class Representatives and the Mikvah Class against all Defendants, and on behalf of the Conversion Class Representative and the Conversion Class against all Defendants)

145. Plaintiffs re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

146. All female Plaintiffs bring this count on their own behalf against the Defendants. Additionally, the Mikvah Class Representatives bring this count against the Defendants on behalf of the Mikvah Class. The Conversion Class Representative brings this count against the Defendants on behalf of the Conversion Class.

147. The female Plaintiffs, Class Representatives, and Class Members each reasonably believed that the changing area of the NCM mikvah was private and secluded, and a safe location to disrobe.

148. When using the NCM mikvah, the female Plaintiffs, Class Representatives, and Class Members each disrobed in the changing area.

149. Defendant Freundel physically invaded the changing area while the female Plaintiffs, Class Representatives, and Class Members disrobed in the changing area, by previously installing and maintaining surveillance equipment to photograph, video, and/or audio record the female Plaintiffs, Class Representatives, and Class Members while disrobing in the privacy of the changing area.

150. Defendant Freundel used the equipment to make recordings of the female Plaintiffs, Class Representatives, and Class Members while they disrobed in the changing area.

151. Defendant Freundel collected the recordings in order to view and/or listen to them, for his own sexual gratification.

152. Defendant Freundel invaded the privacy of the female Plaintiffs, Class Representatives, and Class Members by, among other things, photographing, videotaping, and/or otherwise sexually exploiting them while they were in the changing area and participated in the immersion ritual and/or “practice dunks” at the mikvah owned and/or controlled by NCM.

153. The changing area and the mikvah’s ritual bath areas are objectively and subjectively private, secure, and intimate places, and the female Plaintiffs, Class Representatives, and Class Members reasonably expected that they would have privacy in the NCM mikvah’s changing area and ritual bath area because, among other things, the individual participating disrobes, showers naked, and participates naked in the mikvah ritual. In addition, only one person at a time is permitted to participate in the mikvah ritual, so the participant reasonably assumes she is alone in a private, secure, and intimate setting.

154. Defendant Freundel’s conduct was highly offensive to an ordinary, reasonably sensitive person.

155. Defendant Freundel acted with malice toward the female Plaintiffs, Class Representatives, and Class Members, in conscious disregard and reckless indifference toward the rights and feelings of Plaintiffs.

156. The Institutional Defendants are each responsible for Defendant Freundel’s conduct, given that at all relevant times he acted as their agent, servant, and/or employee within the course and scope of his agency and/or employment.

157. As a direct, foreseeable, and proximate result of each Defendant’s tortious acts and omissions, the Class Representatives and Class Members have each suffered serious emotional distress that may be permanent, which has necessitated medical expenses and/or may require medical expenses in the future, as well as other pecuniary losses.

COUNT II
(WIRETAPPING ACTION UNDER D.C. CODE § 23-554(a))

(on Behalf of all female Plaintiffs against all Defendants, on behalf of the Mikvah Class Representatives and the Mikvah Class against all Defendants, and on behalf of the Conversion Class Representative and the Conversion Class against all Defendants)

158. Plaintiffs re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

159. This Count is brought pursuant to D.C. Code § 23-554(a).

160. All female Plaintiffs bring this count on their own behalf against the Defendants. Additionally, the Mikvah Class Representatives bring this count against the Defendants on behalf of the Mikvah Class. The Conversion Class Representative brings this count against the Defendants on behalf of the Class.

161. By installing surveillance equipment in the changing room of the NCM mikvah, Defendant Freundel intentionally intercepted and recorded oral communications by the female Plaintiffs, Class Representatives, and Class Members in a private and secluded location, in violation of D.C. Code § 23-542(a)(1).

162. Defendant Freundel furthermore used his recordings of the female Plaintiffs, Class Representatives, and Class Members for his own sexual gratification, in violation of D.C. Code § 23-542(a)(3).

163. Defendant Freundel acted with malice toward the female Plaintiffs, Class Representatives, and Class Members, in conscious disregard and reckless indifference toward the rights and feelings of the female Plaintiffs, Class Representatives, and Class Members.

164. The Institutional Defendants are each responsible for Defendant Freundel's conduct because he acted as their agent, servant, and/or employee within the course and scope of his agency and/or employment.

165. As a direct, foreseeable, and proximate result of each Defendant's acts and omissions, the female Plaintiffs, Class Representatives, and Class Members have each suffered severe mental distress and emotional damages that may be permanent, which has necessitated medical expenses and/or may require medical expenses in the future, as well as other pecuniary losses.

COUNT III
NEGLIGENT HIRING, TRAINING, RETENTION AND SUPERVISION

(on Behalf of all female Plaintiffs against the Institutional Defendants, on behalf of the Mikvah Class Representatives and the Mikvah Class against the Institutional Defendants, and on behalf of the Conversion Class Representative and the Conversion Class against the Institutional Defendants)

166. The female Plaintiffs re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

167. All female Plaintiffs bring this count on their own behalf against the Institutional Defendants. Additionally, the Mikvah Class Representatives bring this count against the Institutional Defendants on behalf of the Mikvah Class. The Conversion Class Representative brings this count against the Institutional Defendants on behalf of the Conversion Class.

168. The female Plaintiffs, Class Representatives, and Class Members relied on the Institutional Defendants to provide trustworthy and competent religious authorities. At all times mentioned herein, the Institutional Defendants owed a continuing duty to reasonably, carefully, and conscientiously secure the service of qualified and well-trained persons to act as religious authorities and provide religious instruction, guidance, counseling, aid, and/or supervision. The Institutional

Defendants had a continuing duty to properly monitor, investigate, supervise and train such individuals to ensure that they met the appropriate standards, and to not continue to retain any person where the Institutional Defendants knew or had reason to know that the individual was failing to perform his duties reasonably.

169. By retaining Defendant Freundel's services, and/or by imbuing him with the actual and/or apparent authority to utilize and serve as the religious authority for the Kesher Israel synagogue, the NCM mikvah, the RCA, and BDA *beit din*, the Institutional Defendants communicated and warranted to the female Plaintiffs, Class Representatives, Class Members, the Orthodox Jewish community, and the public in general, that Defendant Freundel was a respected and trustworthy religious authority whose religious instruction, guidance, counseling, aid, and/or supervision could be relied upon, including in matters pertaining to the NCM mikvah.

170. By placing Rabbi Freundel in positions of actual and/or apparent authority, the Institutional Defendants enabled his access to the NCM mikvah, allowing him to secretly install recording equipment, again to the injury of the Class Representatives and Class Members.

171. Defendant Freundel's conduct, as promoted and enabled by the Institutional Defendants, was foreseeable to the Institutional Defendants, who were on notice in multiple respects of Defendant Freundel's illicit and/or illegitimate proclivities, including but not limited the facts set forth in Section V.

172. The Institutional Defendants breached their duties to the female Plaintiffs, Class Representatives and Class Members by, *inter alia*, failing to terminate Rabbi Freundel after receiving notice of his inappropriate behavior, as set forth above; failing to remove or limit Rabbi Freundel's access to the NCM mikvah; failing to supervise Rabbi Freundel's operation of the NCM mikvah; failing to remove Rabbi Freundel from any position of authority; failing to reduce Rabbi

Freundel's authority; and failing to warn the female Plaintiffs, Class Representatives, Class Members, the congregation, or the public at large of Rabbi Freundel's inappropriate behavior, or the danger Rabbi Freundel posed.

173. As a direct, foreseeable, and proximate result of the Institutional Defendants' negligence, the female Plaintiffs, Class Representatives, and Class Members were photographed, videoed, or audio recorded by Defendant Freundel or have a reasonable fear of having been photographed, videoed, or audio recorded by Defendant Freundel. The female Plaintiffs, Class Representatives, and Class Members have suffered serious emotional distress, which has necessitated medical expenses and/or may require medical expenses in the future, as well as other pecuniary losses.

COUNT IV
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

(on Behalf of all female Plaintiffs against all Defendants, on behalf of the Mikvah Class Representatives and the Mikvah Class against all Defendants, and on behalf of the Conversion Class Representative and the Conversion Class against all Defendants)

174. Plaintiffs re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

175. All female Plaintiffs bring this count on their own behalf against the Defendants. Additionally, the Mikvah Class Representatives bring this count against the Defendants on behalf of the Mikvah Class. The Conversion Class Representative brings this count against the Defendants on behalf of the Conversion Class.

176. Each and every Defendant had a special and intimate relationship, religious and spiritual in nature, with the female Plaintiffs, Class Representatives, and Class Members, as set

forth above at Paragraph 37. Defendants undertook their relationship with the female Plaintiffs, Class Representatives, and Class Members voluntarily.

177. The intimate nature of Defendants' relationship with the female Plaintiffs, Class Representatives, and Class Members was such that negligent conduct was especially likely to cause serious emotional distress to the female Plaintiffs, Class Representatives, and Class Members, which Defendants knew or should have known.

178. Defendants undertook a duty to act in such a manner as to avoid – and to refrain from acting in such a manner as to cause – serious emotional distress to the female Plaintiffs, Class Representatives, and Class Members, within the scope of each Defendant's relationship to the female Plaintiffs, Class Representatives, and Class Members.

179. Defendants breached their duties to the female Plaintiffs, Class Representatives, and Class Members. Namely, Defendant Freundel secretly installed recording equipment in the NCM mikvah changing room to record the female Plaintiffs, Class Representatives, and Class Members in a state of undress, and Defendant Freundel did so record these persons, which was later publicly discovered and disclosed, to the female Plaintiffs, Class Representatives, and Class Members' horror and injury. The Institutional Defendants failed to take reasonable measures to prevent, detect, and stop such acts. Further, the Institutional Defendants are each responsible for Defendant Freundel's conduct, given that he acted as their agent, servant, and/or employee within the course and scope of his agency.

180. Defendants' conduct was extreme and outrageous as viewed by the community.

181. Defendants acted in conscious disregard and reckless indifference toward the rights and feelings of the female Plaintiffs, Class Representatives, and Class Members.

182. Both the Class Representatives and Class Members who were and were not actually recorded by Defendant Freundel have suffered damages. Class Representatives and Class Members who cannot definitively determine whether they were actually recorded have lived with the ongoing and insoluble fear that they were in fact recorded, by virtue of Defendant Freundel's conduct.

183. As a direct, foreseeable, and proximate result of Defendants' tortious acts and omissions, the Class Representatives and Class Members have each suffered serious emotional distress, which may be permanent in nature, which has necessitated medical expenses and/or may require medical expenses in the future, as well as other pecuniary losses.

COUNT V
BREACH OF WARRANTY

(on Behalf of all female Plaintiffs against all Defendants, on behalf of the Mikvah Class Representatives and the Mikvah Class against all Defendants, and on behalf of the Conversion Class Representative and the Conversion Class against all Defendants)

184. Plaintiffs re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

185. All female Plaintiffs bring this count on their own behalf against the Defendants. Additionally, the Mikvah Class Representatives bring this count against the Defendants on behalf of the Mikvah Class. The Conversion Class Representative brings this count against the Defendants on behalf of the Conversion Class.

186. At all relevant times, the Institutional Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted Freundel to remain as such for all relevant periods.

187. At all relevant times, the Institutional Defendants granted privileges to Rabbi

Freundel to practice as a rabbi and, thereby, to render spiritual services to their congregants and/or community members.

188. Defendants all represented to the Plaintiffs expressly and/or impliedly that Defendant Freundel would provide rabbinical counselling and other services, *inter alia*, relative to the process of converting to Judaism and/or the utilization of the mikvah, while respecting Plaintiffs' privacy and in accordance with Jewish law; that the NCM mikvah provided a safe space free from male gaze within which each Plaintiff's privacy would be sacrosanct; that the modesty of female converts would be respected; and, that the changing areas of the NCM mikvah contained no recording devices that would photograph, video, or audio record any female Plaintiff, Class Representative, or Class Member therein, while utilizing the NCM mikvah.

189. Each Plaintiff, Class Representative, and Class Member relied upon these representations in deciding to use the NCM mikvah, and would not have chosen to use the NCM mikvah had she learned that these warranties were untrue.

190. In consideration for these representations, the female Plaintiffs, Class Representatives, and Class Members paid various fees. Among other things, Defendant NCM collected a usage fee, Defendant Keshet Israel collected membership fees, and Defendants RCA and BDA collected administrative fees for administering the *beit din* that oversaw conversions.

191. By installing and maintaining photography, video, and audio recording equipment in or near the changing room, as well as by actually recording Plaintiffs, and/or by failing to prevent the same, Defendant Freundel and the Institutional Defendants breached the above warranties and/or caused breaches of the above warranties made by the Defendants.

192. Each Defendant is liable individually, by virtue of warranties they themselves made. Furthermore, each Defendant is liable for each other's warranties, as Defendants jointly encouraged

utilization of the NCM mikvah.

193. The Institutional Defendants are furthermore liable by virtue of the fact that they are each responsible for Defendant Freundel's conduct, given that he acted as their agent, servant, and/or employee within the course and scope of his agency.

194. As a direct, foreseeable, and proximate result of Defendants' conduct, the Plaintiffs, Class Representatives, and Class Members have each suffered serious emotional distress that may be permanent, which has necessitated medical expenses and/or may require medical expenses in the future, as well as other pecuniary losses.

COUNT VI
PREMISES LIABILITY

(on Behalf of all female Plaintiffs against NCM, on behalf of the Mikvah Class Representatives and the Mikvah Class against NCM, and on behalf of the Conversion Class Representative and the Conversion Class against NCM)

195. Plaintiffs re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

196. All female Plaintiffs bring this count on their own behalf against Defendant NCM. Additionally, the Mikvah Class Representatives bring this count against Defendant NCM on behalf of the Mikvah Class. The Conversion Class Representative brings this count against Defendant NCM on behalf of the Conversion Class.

197. Defendant NCM owned and operated the premises of the NCM mikvah.

198. At all relevant times, the female Plaintiffs, Class Representatives, and Class Members were patrons of the NCM mikvah who were lawfully and properly present upon the premises of the NCM mikvah.

199. Defendant NCM owed a continuing duty to all female Plaintiffs, Class Representatives, and Class Members, to use or exercise reasonable care to protect the privacy and emotional well-being of the female Plaintiffs, Class Representatives, and Class Members, especially given the vulnerable position of the female Plaintiffs, Class Representatives, and Class Members who all disrobed in preparation for a sensitive religious ritual at the NCM mikvah. This duty included the duty to ensure that the facility was a safe and secure environment for the activities taking place therein, and to prevent persons such as Rabbi Freundel from installing recording equipment in the NCM mikvah changing room to record women, in a state of undress.

200. Defendant Freundel's misconduct was foreseeable to Defendant NCM, given, *inter alia*, the sensitive nature of the NCM mikvah and its actual and/or constructive knowledge and/or notice of the danger posed by Rabbi Freundel, as discussed above. Given the risk of extreme harm to female Plaintiffs, Class Representatives, and Class Members, Defendant NCM's duty to prevent harm to female Plaintiffs, Class Representatives, and Class Members was commensurate with that risk.

201. Defendant NCM breached its duty to the female Plaintiffs, Class Representatives, and Class Members, in that Defendant NCM took no action to prevent Defendant Freundel from installing and maintaining recording devices on Defendant NCM's own premises, including but not limited to inspecting the premises for such devices or limiting Defendant Freundel's access to the premises.

202. As a direct, foreseeable, and proximate result of Defendant NCM's negligence, Defendant Freundel installed recording equipment in the NCM mikvah changing room to record women, in a state of undress, in that Defendant NCM negligently, carelessly, recklessly, wantonly, and/or without regard to the rights of the Class Representatives and Class Members, provided an

environment that enabled Defendant Freundel to victimize the Class Representatives and Class Members.

203. As a direct, foreseeable, and proximate result of Defendant NCM's negligence, the Class Representatives and Class Members have each suffered serious emotional distress that may be permanent, which has necessitated medical expenses and/or may require medical expenses in the future, as well as other pecuniary losses.

COUNT VII
NEGLIGENCE

(on Behalf of all female Plaintiffs against all Defendants, on behalf of the Mikvah Class Representatives and the Mikvah Class against all Defendants, and on behalf of the Conversion Class Representative and the Conversion Class against all Defendants)

204. Plaintiffs re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

205. All female Plaintiffs bring this count on their own behalf against the Defendants. Additionally, the Mikvah Class Representatives bring this count against the Defendants on behalf of the Mikvah Class. The Conversion Class Representative brings this count against the Defendants on behalf of the Conversion Class.

206. At all relevant times, the Institutional Defendants appointed, engaged, employed, and/or contracted with Freundel to act as their actual and/or apparent, duly authorized agent, servant, and/or employee and permitted Freundel to remain as such for all relevant periods.

207. At all relevant times, the Institutional Defendants granted privileges to Rabbi Freundel to practice as a rabbi and, thereby, to render spiritual services to their congregants and/or community members.

208. At all relevant times, Defendants owed a continuing duty to assure and maintain the safety and privacy of their congregants and participants in the immersion ritual at the NCM mikvah.

209. In addition and in the alternative, Defendants owed the female Plaintiffs, Class Representatives, and Class Members special legal duties to preserve and protect the sanctity of religious exercise.

210. Rabbi Freundel breached these duties by sexually exploiting the female Plaintiffs, Class Representatives, and Class Members. The Institutional Defendants breached these duties by failing to take any reasonable action to prevent Rabbi Freundel from sexually exploiting the female Plaintiffs, Class Representatives, and Class Members, despite clear warning signs and numerous red flags.

211. As a direct, foreseeable, and proximate result of Defendants' negligence, Plaintiffs have each suffered serious emotional distress that may be permanent, which has necessitated medical expenses and/or may require medical expenses in the future, as well as other pecuniary losses.

COUNT VIII
LOSS OF CONSORTIUM

**(on Behalf of Jane Doe 3, John Doe 3, Jane Doe 4, John Doe 4, Jane Doe 10,
John Doe 10 against all Defendants)**

212. Jane Doe 2, John Doe 2, Jane Doe 3, John Doe 3, Jane Doe 4, John Doe 4, Jane Doe 10, and John Doe 10 re-allege and incorporate by reference each and every allegation in the Complaint as though fully set forth herein.

213. At the time of the disclosure of Defendant Freundel's illicit activities, Jane Doe 2 and John Doe 2 were living together as husband and wife, Jane Doe 3 and John Doe 3 were

living together as wife and husband, Jane Doe 4 and John Doe 4 were living together as wife and husband, and Jane Doe 10 and John Doe 10 were living together as wife and husband.

214. As a direct and proximate result of Defendants' tortious conduct described *supra*, they have suffered the loss of society, companionship, and consortium of their respective spouse.

IX. JURY DEMAND

Plaintiffs do hereby request a trial by jury as to all issues triable herein.

X. PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs, on their own behalf and on behalf of the respective Classes, pray that this Court:

A. Certify this case as a class action maintainable under D.C. Superior Court Rules of Civil Procedure 23(a), 23(b)(1), 23(b)(3), and 23-I, on behalf of the proposed Mikvah Class and Conversion Class; designate the proposed Class Representatives as representatives of the respective Classes; and designate Plaintiffs' counsel of record as Class Counsel for the respective Classes;

B. Award all damages to Plaintiffs, Class Representatives, and members of the Classes at the maximum amount available under law, including actual damages, compensatory damages, punitive damages, and liquidated damages;

C. Award all prejudgment interest and post-judgment interest available under law;

D. Award all reasonable attorney's fees and litigation expenses, to Plaintiffs, the Class Representatives, and members of the respective Classes.

E. Enter judgement in favor of Plaintiffs, the Class Representatives, and members of the respective Classes in excess of \$100 million; and

F. Award additional and further relief as this Court may deem just and proper.

Dated: July 25, 2016

Respectfully submitted,

/s/ David Sanford

David W. Sanford (D.C. Bar No. 457933)

Jeremy Heisler (*admitted pro hac vice*)

SANFORD HEISLER, LLP

1666 Connecticut Avenue NW, Suite 300

Washington, DC 20009

Phone: (202) 499-5201

dsanford@sanfordheisler.com

jheisler@sanfordheisler.com

Ira Sherman (D.C. Bar No. 212175)

Joseph Cammarata (D.C. Bar No. 389254)

Allan M. Siegel (D.C. Bar No. 44705)

Matthew W. Tivesky (D.C. Bar No. 1004955)

CHAIKIN, SHERMAN,

CAMMARATA & SIEGEL, P.C.

The Law Building

1232 Seventeenth Street, N.W.

Washington, DC 20036

Phone: (202) 659-8600

sherman@dc-law.net

joe@dc-law.net

siegel@dc-law.net

matthew@dc-law.net

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of July, 2016, a copy of the foregoing Consolidated Class Action Complaint was served by CaseFileXpress upon:

Edward Clark Bacon
Patricia Maureen Thornton
Bacon, Thornton & Palmer, LLP
Capital Office Park
6411 Ivy Lane, Suite 500
Greenbelt, MD 20770

Paul Blankenstein
Gibson, Dunn & Crutcher, LLP
1050 Connecticut Avenue NW
Washington, D.C. 20036

Evan T. Barr
Fried, Frank, Harris, Shriver
& Jacobson LLP
One New York Plaza, 24th Floor
New York, NY 10004

Jeffrey Harris
Rubin Winston Diercks Harris & Cooke LLP
1201 Connecticut Avenue NW
Suite 200
Washington, D.C. 20036

*/s/ David W. Sanford*_____

David W. Sanford