

HANDOUT #5

**Complaint Against Perpetrator for Child
Exploitation, 18 U.S.C. § 2255, Child Sexual
Abuse Act (NJ) & Negligence
(Federal & NJ) (2015)**

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Attorney for Plaintiff, T.B. a minor,
by and through her parents and natural
guardians, S.B. & R.B.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

T.B. a minor, by and through her :
Parents and natural guardians, S.B. & R.B. :
Plaintiff, :

CIVIL ACTION COMPLAINT &
DEMAND FOR JURY TRIAL

vs. :

Michael Kulick, Tracy Kulick & :
KM Custom Rods, LLC :
Defendants :

CASE NO.

CIVIL ACTION COMPLAINT

Plaintiff, T.B. a minor, by and through her Parents and natural guardians, S.B. &
R.B., alleges the following against Defendants:

PARTIES

1. Plaintiff T.B., is a minor who was sexually assaulted and whose identity and address are not disclosed herein because of her desire to keep confidential her identity and address and pursuant to New Jersey’s Child Sexual Abuse Act. Plaintiff T.B. may be contacted by and through her counsel at Soloff & Zervanos, 457 Haddonfield Road, Suite 540, Cherry Hill, NJ 08002. Plaintiff T.B. is a citizen and resident of the State of New Jersey.
2. Plaintiff S.B. is the parent and natural guardian of T.B. Plaintiff S.B. may be contacted

by and through her counsel at Soloff & Zervanos, 457 Haddonfield Road, Suite 540, Cherry Hill, NJ 08002. Plaintiff S.B. is a citizen and resident of the State of New Jersey.

3. Plaintiff R.B. is the parent and natural guardian of T.B. Plaintiff R.B. may be contacted by and through her counsel at Soloff & Zervanos, 457 Haddonfield Road, Suite 540, Cherry Hill, NJ 08002. Plaintiff R.B. is a citizen and resident of the State of New Jersey.
4. Defendant, Michael Kulick, is a citizen and resident of Connecticut, residing at FCI-Danbury, Route 37, Danbury, CT 06811. At all relevant times outlined herein, Michael Kulick was an adult.
5. Defendant Tracy Kulick is a citizen and resident of New Jersey, residing at 3798 Hance Bridge Road, Vineland, NJ. At all relevant times outlined herein, Tracy Kulick was an adult.
6. Defendant KM Custom Rods, LLC is a corporation or other business entity which is incorporated in New Jersey and maintains a principal place of business at 74 Tuckahoe Road, Marmora, NJ which owns, maintains and operates a manufacturing and sales business at this address and at 12 Ravenwood East Drive, Cape May Court House, NJ. Defendant KM Custom Rods, LLC is a citizen of New Jersey.

JURISDICTION AND VENUE

7. This action seeks damages for, *inter alia*, Defendant Michael Kulick's violation of 18 U.S.C.A. § 2421, 18 U.S.C.A. § 2422 and/or 18 U.S.C.A. § 2423 pursuant to 18 U.S.C.A. § 2255. The Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 in that this action is brought, in part, seeking damages for a civil action arising under the Constitution, laws, or treaties of the United States.

8. Plaintiff requests that this Court exercise supplemental jurisdiction over the remainder of the claims asserted herein against Michael and Tracy Kulick and KM Custom Rods, LLC, pursuant to 28 U.S.C.A. § 1367.
9. Venue is proper in this District under 28 U.S.C. § 1391 in that the plaintiff T.B. and Defendant Tracy Kulick reside in New Jersey and defendant KM Custom Rods is located in New Jersey and all defendants are otherwise subject to personal jurisdiction in this judicial district. Additionally, a substantial part of the events and omissions giving rise to this claim occurred in this District.

SEXUAL ASSAULT OF PLAINTIFF, T.B.

10. At all relevant times and presently, Plaintiff T.B. was under the age of 18.
11. At all relevant times, Defendants Michael Kulick and Tracy Kulick were adult individuals.
12. Between June, 2012 and October, 2012, Defendant Michael Kulick, an adult, engaged in criminal sexual contact with Plaintiff, T.B., a minor, on multiple occasions in violation of the laws of Pennsylvania, New Jersey and the United States.
13. In addition, on or about August 17, 2012, Defendant Michael Kulick knowingly transported Plaintiff, T.B., a minor, from New Jersey to Pennsylvania with intent to engage in sexual activity.
14. Defendant Michael Kulick admitted to knowingly transporting Plaintiff, T.B., a minor, from New Jersey to Pennsylvania with intent to engage in sexual activity and engaging in sexual activity on August 17, 2012 and multiple other occasions and has been found guilty of doing so in violation of 18 U.S.C.A. § 2421 and the laws of Pennsylvania for

which he is currently serving a prison sentence.

15. Defendant Michael Kulick knowingly persuaded, induced, enticed and/or coerced Plaintiff, T.B., a minor, to travel from New Jersey to Pennsylvania with intent to engage in sexual activity in violation of 18 U.S.C.A. § 2422 and the laws of Pennsylvania.
16. Defendant Michael Kulick knowingly transported Plaintiff T.B., a minor, from New Jersey to Pennsylvania with intent to engage in sexual activity in violation of 18 U.S.C.A. § 2423 and the laws of Pennsylvania.
17. Defendant Michael Kulick also persuaded, induced, enticed and/or coerced and transported Plaintiff T.B., a minor, from Pennsylvania to New Jersey with the intent to engage in sexual activity in violation of 18 U.S.C.A. §§ 2421, 2422 & 2423 and the laws of New Jersey.
18. Between June, 2012 and October, 2012, Defendant Michael Kulick, an adult, also engaged in illegal sexual contact with Plaintiff, T.B., a minor, on multiple occasions in violation of the laws of New Jersey.
19. At all relevant times, Plaintiff T.B., a minor, was in the care of the Defendants Michael and Tracy Kulick visiting at their homes within New Jersey, in a condominium in New Jersey and in their home in North Carolina and in a Pennsylvania hotel room rented by them and Defendants stood *in loco parentis* to Plaintiff, a minor, within their household as defined by the Child Sexual Abuse Act.
20. Defendant Michael Kulick also committed harmful acts upon Plaintiff T.B. on the property owned, managed, possessed and/or controlled by defendant KM Custom Rods, LLC.

21. As a direct and proximate result of the defendants' actions, outlined herein, plaintiff has sustained severe emotional distress, physical injury and personal injuries, which are likely to be permanent.

COUNT I
PLAINTIFF v. DEFENDANT MICHAEL KULICK
SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN
IN VIOLATION OF 18 U.S.C.A. § 2421 & 18 U.S.C.A. § 2255

22. Plaintiff incorporates all other paragraphs of this complaint as though fully set forth herein.

23. On multiple occasions, Defendant Michael Kulick violated 18 U.S.C.A. § 2421 causing personal injury to plaintiff while she was a minor for which Plaintiff asserts a claim pursuant to 18 U.S.C.A. § 2255(a).

24. As a direct and proximate result of the defendant Michael Kulick's actions, plaintiff has sustained severe emotional distress, shame, humiliation, physical injury and personal injuries, which are likely to be permanent.

WHEREFORE, Plaintiff demands judgment against Defendant Michael Kulick and seeks an award of all damages recoverable and allowable by 18 U.S.C.A. § 2255, plus interest, attorneys' fees, costs of suit and punitive damages.

COUNT II
PLAINTIFF v. DEFENDANT MICHAEL KULICK
SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN
IN VIOLATION OF 18 U.S.C.A. § 2422 & 18 U.S.C.A. § 2255

25. Plaintiff incorporates all other paragraphs of this complaint as though fully set forth herein.

26. On multiple occasions, Defendant Michael Kulick violated 18 U.S.C.A. § 2422 causing personal injury to plaintiff while she was a minor for which Plaintiff asserts a claim pursuant to 18 U.S.C.A. § 2255(a).

27. As a direct and proximate result of the defendant Michael Kulick's actions, plaintiff has sustained severe emotional distress, shame, humiliation, physical injury and personal injuries, which are likely to be permanent.

WHEREFORE, Plaintiff demands judgment against Defendant Michael Kulick and seeks an award of all damages recoverable and allowable by 18 U.S.C.A. § 2255, plus interest, attorneys' fees, costs of suit and punitive damages.

COUNT III
PLAINTIFF v. DEFENDANT MICHAEL KULICK
SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN
IN VIOLATION OF 18 U.S.C.A. § 2423 & 18 U.S.C.A. § 2255

28. Plaintiff incorporates all other paragraphs of this complaint as though fully set forth herein.

29. On multiple occasions, Defendant Michael Kulick violated 18 U.S.C.A. § 2423 causing personal injury to plaintiff while she was a minor for which Plaintiff asserts a claim pursuant to 18 U.S.C.A. § 2255(a).

30. As a direct and proximate result of the defendant Michael Kulick's actions, plaintiff has

sustained severe emotional distress, shame, humiliation, physical injury and personal injuries, which are likely to be permanent.

WHEREFORE, Plaintiff demands judgment against Defendant Michael Kulick and seeks an award of all damages recoverable and allowable by 18 U.S.C.A. § 2255, plus interest, attorneys' fees, costs of suit and punitive damages.

COUNT IV
PLAINTIFF v. DEFENDANTS MICHAEL KULICK & TRACY KULICK
CHILD SEXUAL ABUSE ACT N.J.S.A. § 2A:61B-1

34. Plaintiff incorporates all other paragraphs of this Complaint as if fully set forth under this Count.

35. The defendants Michael and Tracy Kulick are “persons” within the meaning of N.J.S.A. § 2A:61B-1.

36. While in the care, custody and control of the Defendants Michael and Tracy Kulick, they acted as guardians of the plaintiff in the place of her parents, and stood *in loco parentis* to T.B.

37. Defendant Michael Kulick engaged in sexual contact with Plaintiff while she was a minor in violation of New Jersey’s Child Sexual Abuse Act and plaintiff seeks all damages available under N.J.S.A. § 2A:61B-1(h), including, but not limited to, compensatory damages, punitive damages, costs of suit, reasonable attorney’s fees, and such other relief as this Court deems necessary.

38. Defendant Tracy Kulick, the wife of Defendant Michael Kulick, knowingly permitted or acquiesced in the conduct of Defendant Michael Kulick in violation of New Jersey’s Child Sexual Abuse Act and plaintiff seeks all damages available under N.J.S.A. § 2A:61B-1(h),

including, but not limited to, compensatory damages, punitive damages, costs of suit, reasonable attorney's fees, and such other relief as this Court deems necessary.

WHEREFORE, Plaintiff demands judgment against Defendants Michael Kulick and Tracy Kulick and seeks an award of all damages recoverable and allowable by N.J.S.A. § 2A:61B-1(h), plus interest, attorneys' fees, costs of suit and punitive damages.

COUNT V
PLAINTIFF V. DEFENDANT TRACY KULICK
NEGLIGENCE

39. Plaintiff incorporates all other paragraphs of this Complaint as if fully set forth under this Count.

40. At all material times, the Defendant Tracy Kulick owed a duty to Plaintiff to use reasonable care to ensure the safety, care, well-being and health of the minor Plaintiff while she was under the care, custody or in the presence of the Defendant Tracy Kulick. Defendant Tracy Kulick's duties included proper supervision of her property, Defendant Michael Kulick and/or the minor plaintiff and to report suspected abuse to legal authorities in a timely manner and otherwise providing a safe environment for the minor Plaintiff.

41. Defendant Tracy Kulick breached these duties by failing to protect the minor Plaintiff from sexual battery and lewd and lascivious acts committed by Defendant Michael Kulick.

42. Defendant Tracy Kulick also failed to report suspected abuse to legal authorities in violation of New Jersey's child protection laws.

43. At all relevant times, the Defendant Tracy Kulick knew, or in the exercise of reasonable care should have known, that Defendant Michael Kulick was unfit, dangerous, and a

threat to the health, safety and welfare of minors entrusted to his care and protection.

44. At all relevant times, the Defendant Tracy Kulick failed to warn the minor plaintiff and her parents that Defendant Michael Kulick posed a danger to children.

45. As a direct and proximate result of the defendant Tracy Kulick's breaches, plaintiff has sustained severe emotional distress, shame, humiliation, physical injury and personal injuries, which are likely to be permanent.

WHEREFORE, Plaintiff demands judgment against Defendant Tracy Kulick and seeks damages as provided for under the laws of New Jersey and Pennsylvania.

COUNT VI
PLAINTIFF V. DEFENDANT KM CUSTOM RODS, LLC
NEGLIGENCE

46. Plaintiff incorporates by reference the averments contained both above and below, as though fully set forth herein.

47. On or about August, 2012 and October, 2012, Defendant Michael Kulick committed improper and harmful acts upon Plaintiff at the property owned, managed, controlled and/or possessed by KM Custom Rods, LLC at 12 Ravenwood East Drive, Cape May Court House, NJ.

48. Defendant KM Custom Rods, LLC owed a duty of reasonable care to Plaintiff, an invitee upon its property.

49. At all relevant times, the Defendant KM Custom Rods, LLC knew, or in the exercise of reasonable care should have known, that Defendant Michael Kulick was unfit, dangerous, and a threat to the health, safety and welfare of minors.

50. Prior to this incident, Defendant KM Custom Rods, LLC knew, or should have

known, of Michael Kulick's propensities to commit such illegal acts, making him an inappropriate and/or unfit employee yet, though its own negligence and recklessness in the hiring, training, supervision and retention of Kulick, caused injuries to Plaintiff, both physical and emotional.

51. Defendant KM Custom Rods, LLC acted negligently and/or recklessly, resulting in the injuries to Plaintiff, for which damages are sought, based upon the following:

- a. Negligently supervising its property;
- b. Negligently hiring, retaining and/or supervising Defendant Michael Kulick;
- c. Failing to exercise due care under all circumstances; and
- d. Failing to come to the aid or rescue of plaintiff, after placing her in a perilous condition, when they knew, or should have known, that she was exposed to a dangerous condition upon their property, namely Defendant Michael Kulick.

52. As a result of Defendant KM Custom Rods, LLC's negligence and other failures below, Defendant Michael Kulick sexually assaulted Plaintiff, including on its property.

53. As a direct and proximate result of the defendant KM Custom Rod, LLC's breaches, plaintiff has sustained severe emotional distress, shame, humiliation, physical injury and personal injuries, which are likely to be permanent.

WHEREFORE, Plaintiff demands judgment against Defendant KM Custom Rods, LLC and seeks damages as provided for under the laws of New Jersey.

COUNT VII
PLAINTIFF V. DEFENDANT MICHAEL KULICK
ASSAULT & BATTERY

54. Plaintiff incorporates by reference the averments contained both above and below, as though fully set forth herein.

55. Defendant Michael Kulick sexually assaulted Plaintiff for which a claim of assault is brought.

56. Defendant Michael Kulick performed sexual acts and sexual harassment acts upon Plaintiff without her consent.

57. Defendant Michael Kulick unlawfully touched Plaintiff without her consent for which a claim for battery is brought.

58. As a direct and proximate result of the defendant Michael Kulick's breaches, plaintiff has sustained severe emotional distress, shame, humiliation, physical injury and personal injuries, which are likely to be permanent.

59. For these actions, Plaintiff seeks damages, including punitive damages of these defendants to the extent allowed by New Jersey and Pennsylvania law.

WHEREFORE, Plaintiff demands judgment against Defendant Michael Kulick and seeks damages as provided for under the laws of New Jersey and Pennsylvania.

COUNT VIII
PLAINTIFF V. DEFENDANTS MICHAEL AND TRACY KULICK
INTENTIONAL AND NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS

60. Plaintiff incorporates by reference the averments contained above and below, as though fully set forth herein.

61. The plaintiff also brings actions for intentional and negligent infliction of emotional distress caused by the defendants, Michael and Tracy Kulick.

62. Defendant Michael Kulick acted intentionally, recklessly or negligently in performing non-consensual sexual acts upon plaintiff and confining her, intending to produce emotional distress or, alternatively acting in deliberate disregard of a high degree of probability that emotional distress would follow.

63. Defendant Tracy Kulick acted recklessly and/or negligently in permitting Defendant Michael Kulick to perform non-consensual sexual acts upon plaintiff and confining her, acting in deliberate disregard of a high degree of probability that emotional distress would follow.

64. Defendants' actions were extreme and outrageous in character and so extreme in degree as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.

65. As a direct and proximate result of the breaches and failures outlined herein, Plaintiff was caused to suffer bodily injury, emotional distress/injury and injury which is severe and likely to be permanent in nature.

66. Plaintiff's emotional distress was and is so severe that no reasonable person could be expected to endure such distress.

67. For these actions, Plaintiff seeks damages, including punitive damages of this defendant to the extent allowed by New Jersey and Pennsylvania law.

WHEREFORE, Plaintiff demands judgment against Defendant Michael Kulick and Tracy Kulick and seeks an award of all damages recoverable and allowable by New Jersey and Pennsylvania law.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial in this action.

SOLOFF & ZERVANOS

/s/ Jeffrey P. Fritz

Jeffrey P. Fritz, Esquire

DATED: March 9, 2015