

**DAVID B. JONELIS, ESQ. (BAR NO. 265235)**  
**LAVELY & SINGER PROFESSIONAL CORPORATION**  
2049 Century Park East, Suite 2400  
Los Angeles, California 90067-2906  
Telephone: (310) 556-3501  
djonelis@lavelysinger.com

**TODD S. EAGAN, ESQ. (BAR NO. 207426)**  
**EAGAN LAW CORPORATION**  
401 Wilshire Boulevard, 12<sup>th</sup> Floor  
Santa Monica, California 90401  
Telephone: (310) 304-3302  
[teagan@eaganlawcorp.com](mailto:teagan@eaganlawcorp.com)

Attorneys for Plaintiffs and  
Class Representatives GENE JUDSON and  
MICHELLE JUDSON

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

GENE JUDSON and MICHELLE  
JUDSON, individually and on behalf of  
all others similarly situated,

Plaintiffs,

v.

CORPORATION OF THE  
PRESIDENT OF THE CHURCH OF  
JESUS CHRIST OF LATTER-DAY  
SAINTS and ENSIGN PEAK  
ADVISERS, INC.,

Defendants.

**Case No.:**

**CLASS ACTION COMPLAINT FOR:**

- 1) Fraudulent Misrepresentation;**
- 2) Fraudulent Concealment;**
- 3) Negligent Misrepresentation;**
- 4) Negligence;**
- 5) Breach of Fiduciary Duty;**
- 6) Unjust Enrichment;**
- 7) California Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et seq.;**
- 8) California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq.;**
- 9) Civil Conspiracy**

**JURY TRIAL DEMANDED**

1 **INTRODUCTION**

2 *“Let the truth be taught by example and precept—that to steal is evil, that to cheat is*  
3 *wrong, that to lie is a reproach to anyone who indulges in it.”<sup>1</sup>*

4 – LDS President Gordon B. Hinkley, September 1996

5  
6 1. Had LDS President Hinkley followed his own words about the importance  
7 of being truthful instead of falsely representing how the Corporation of the President of  
8 the Church of Jesus Christ of Latter-Day Saints (“LDS Corporation”) was using the hard-  
9 earned money donated by church members, this case (along with the plethora of other  
10 similar cases filed in the past year across the country) would never have been necessary.  
11 It is only because President Hinkley and other high-ranking members of the Church of  
12 Jesus Christ of Latter-Day Saints (the “LDS Church”) intentionally concealed the truth  
13 about how charitable donations were being spent that the LDS Corporation and its  
14 affiliated financial entity, Ensign Peak Advisers, Inc. (“Ensign” or “EPA,” and together  
15 with the LDS Corporation, “Defendants’)) now face a reckoning in a multitude of  
16 jurisdictions. This case is the latest sounding of the alarm seeking to hold Defendants  
17 accountable for their misconduct and hubris.

18 2. Plaintiffs GENE JUDSON and MICHELLE JUDSON (collectively,  
19 “Plaintiffs’), individually and on behalf of the other members of a Nationwide Class or  
20 Statewide Class defined below (the “Class” or “Class Members’)) bring this Class Action  
21 Complaint against Defendant Corporation of the President of the Church of Jesus Christ of  
22 Latter-Day Saints (“LDS Corporation”) and Defendant Ensign Peak Advisers, Inc.  
23 (“Ensign” or “EPA”) (collectively “Defendants’)) seeking redress and remedy for 1)  
24 fraudulent misrepresentation; 2) fraudulent concealment; 3) negligent misrepresentation;  
25 4) negligence; 5) breach of fiduciary duty; 6) unjust enrichment; 7) violation of  
26 California Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et seq.; 8) violation of  
27 California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq.; and 9) civil  
28

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<sup>1</sup> <https://www.churchofjesuschrist.org/study/general-conference/1996/10/honesty-a-moral-compass>

1 conspiracy, arising from Defendants misrepresenting to Plaintiffs and Class Members  
2 that their monetary contributions, known as “tithing” or “tithing funds”, *were not* being  
3 used for commercial, for-profit purposes when, in fact, Defendants used at least \$1.4  
4 billion in tithing funds to finance a commercial, for-profit shopping mall during relevant  
5 times, and have otherwise diverted tithing funds for profit-generating, non-charitable  
6 purposes.

7 3. Plaintiffs make these allegations upon personal knowledge as to themselves  
8 and their own acts and as to all other matters upon information and belief.

9 4. None of the allegations in this Class Action Complaint arise from the  
10 religious beliefs, religious practices, religious doctrines, or organizational governance of  
11 the Church of Jesus Christ of Latter-Day Saints (“LDS Church”) or its members. In other  
12 words, this case has nothing to do with, and does not implicate, the First Amendment  
13 and/or the Free Exercise Clause in the Constitution of the United States.

14 5. Rather, the allegations in this Class Action Complaint arise solely from  
15 specific public statements made by Defendant LDS Corporation, the corporate arm of the  
16 LDS Church, EPA, and their agents and employees regarding the use of tithing funds for  
17 commercial, for-profit business enterprises, including but not limited to City Creek  
18 Center in Salt Lake City, Utah, and the sources for funding these commercial, for-profit  
19 business enterprises, and the use of tithing funds to finance non-charitable purposes more  
20 generally.

21 6. Plaintiffs bring this action on behalf of themselves and all other Class  
22 Members residing in the United States who paid monetary donations (“tithing” or “tithing  
23 funds”) to Defendants whose tithing funds were used for commercial, for-profit purposes.

24 7. Defendants’ use of tithing funds for commercial, for-profit purposes was and  
25 is problematic insofar as it is diametrically opposed to representations made by  
26 Defendants to the members of the Class. Specifically, from April 5, 2003 to October 5,  
27 2012, Defendants and their agents and employees—including the president of the LDS  
28 Church who was also a member of Defendant LDS Corporation—made repeated

1 representations, in both video broadcasts and print publications, to Plaintiffs and Class  
2 Members that tithing funds *were not* being used for commercial, for-profit purposes and  
3 in particular, and more specifically, *were not* being used to finance the purchase of land  
4 and development of City Creek Center mall (“City Creek Center”) in Salt Lake City,  
5 Utah. These statements were made in part because of concerns by LDS Church members  
6 that Defendant LDS Corporation was doing just that.

7 8. In December 2019, David Nielsen, a senior portfolio manager with  
8 Defendant Ensign Peak Advisors (“EPA”), a corporate entity that acted as the investment  
9 division of Defendant LDS Corporation, filed an IRS Whistleblower Complaint alleging  
10 that Defendants had used \$1.4 billion in tithing funds to finance City Creek Center.

11 9. The IRS Whistleblower Complaint revealed that the \$1.4 billion used to  
12 finance City Creek Center, a for-profit business enterprise, was drawn from EPA’s  
13 treasury account **which contained never-invested tithing funds.**

14 10. David Nielsen further set forth in his IRS Whistleblower Complaint that the  
15 LDS Church should lose its tax exempt status because the money was not used for  
16 charitable purposes, noting that Defendants had amassed over \$100 billion in assets while  
17 not returning any money for religious, educational, or charitable purposes in twenty-two  
18 (22) years to the LDS Church.

19 11. The misrepresentations made by Defendant LDS Corporation through its  
20 agents and employees—including the president and other high-ranking leaders of the  
21 LDS Church—that tithing funds *were not* used to finance City Creek Center or other  
22 commercial, for-profit purposes—were false, intentional, and made to induce Plaintiffs  
23 and Class Members to continue paying tithing funds in spite of Defendants having  
24 amassed \$100 billion in assets and using member donations for commercial, for-profit  
25 purposes and not the LDS Church’s published purposes.

26 12. The situation with City Creek Center is demonstrative. Beginning in 2003,  
27 Plaintiffs and Class Members became aware of suggestions that Defendant LDS  
28 Corporation was using \$1.4 billion to purchase and develop a property for a commercial,

1 for-profit purpose, City Creek Center, which contradicted the LDS Church's published  
2 purposes for tithing; regardless, Plaintiffs and Class Members thereafter relied on the  
3 representations of high-ranking LDS Church leaders and employees that tithing funds  
4 *were not* being used to purchase or develop the City Creek Center property, and in  
5 reliance on those representations, Plaintiff and Class Members continued to pay ten  
6 percent (10%) of their incomes as tithing.

7 13. Furthermore, Plaintiffs and Class Members relied on Defendants as  
8 fiduciaries to use their donated tithing funds for charitable, not-for-profit purposes,  
9 including distribution to the poor and needy. Defendants' failure to use donated tithing  
10 funds in this fashion meant that Plaintiff and Class Members were unable to fulfill their  
11 intentions, in part, for donating tithing funds. As a result, millions of dollars in charitable  
12 donations never reached people in need, as intended by Plaintiffs and Class Members.

13 14. Plaintiffs and Class Members would not have paid ten percent (10%) of their  
14 incomes as tithing to Defendants had they known that their contributions would be used  
15 for a commercial, for-profit purpose as opposed to the LDS Church's published purposes  
16 for tithing, including care for the poor and needy. Simply stated, tithing that ultimately  
17 ends up solely benefitting the recipient in its for-profit ventures is not tithing at all.

18 15. Plaintiffs' and Class Members' reasons for paying tithes have been  
19 frustrated as a result of Defendants' failure to use tithing funds for the LDS Church's  
20 published purposes, including care for the poor and needy.

21 16. Plaintiffs and Class Members are entitled to compensation for tithing paid as  
22 gifts to Defendants because, as donors, their intent was induced by fraud. Therefore,  
23 Plaintiffs' and Class Members' gifts, in the form of tithing, may be rescinded or set aside  
24 in an action in equity.

25 17. Plaintiffs' and Class Members' monetary payments to Defendants, in the  
26 form of tithing, resulted in Defendants receiving and retaining an unjust benefit which  
27 must be disgorged.  
28

**PARTIES**

1  
2 18. Plaintiffs are married to each other, and have been citizens and residents of  
3 San Leandro, California at all relevant times.

4 19. Mr. Judson has been a member of the LDS Church since 1967, and Mrs.  
5 Judson has been a member since 1971.

6 20. Although Plaintiffs are not wealthy and have sometimes had very limited  
7 means, they until very recently routinely paid tithing to the LDS Church on an annual  
8 basis.

9 21. From 2003 to 2020, Plaintiffs collectively paid approximately \$40,000 in  
10 tithing to the LDS Church.

11 22. Plaintiffs appear in this action individually and on behalf of all others  
12 similarly situated (hereinafter “Class Members” or “Class”), and pursuant to Fed. R. Civ.  
13 P. 23(a) and (b).

14 23. Defendant Corporation of the President of the Church of Jesus Christ of Latter-  
15 Day Saints (“LDS Corporation”) is a Utah corporation with its principal place of business  
16 located at 50 E. North Temple Dr., 2WW, Salt Lake City, Salt Lake County, Utah 84150.

17 24. Defendant Ensign Peak Advisors, Inc. (“Ensign,” “Ensign Peak,” or “EPA”) is  
18 a Utah not-for-profit corporation with its principal place of business located at 60 E. South  
19 Temple St., Ste. 400, Salt Lake City, Salt Lake County, Utah 84111.

20 25. At all times relevant herein, as detailed more fully *infra*, Defendants were  
21 engaged in a civil conspiracy with one another to redirect tithing funds to for-profit ventures  
22 and the financial enrichment of the church itself rather than its charitable and religious  
23 purposes, and to otherwise effectuate the scheme set forth herein.

24 26. All acts and omissions of Defendants as described herein were done by their  
25 agents, servants, employees and/or owners, acting in the course and scope of their  
26 respective agencies, services, employments and/or ownership.

**JURISDICTION AND VENUE**

1  
2 27. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d),  
3 because at least once Class Member is of diverse citizenship from Defendants, there are  
4 more than one hundred (100) Class Members, and the aggregate amount in controversy  
5 exceeds \$5,000,000 exclusive of costs and interest.

6 28. This Court has personal jurisdiction over Defendants pursuant to 28 U.S.C. §  
7 1391(a) because Defendants’ contacts with the State of California and this federal judicial  
8 district are systematic, continuous, and sufficient to subject them to personal jurisdiction  
9 in this Court. Specifically, Defendants worked in tandem to avail themselves of the  
10 privilege of conducting business in the forum state by collecting tithing funds from LDS  
11 Church members within the forum state. In addition, Defendants have maintained  
12 systematic and continuous business contacts within the forum state, including business  
13 contacts with their organizational units consisting of stakes, wards, and branches, and the  
14 administrators of temples in San Diego, Feather River, Los Angeles, Newport Beach,  
15 Oakland, Redlands, Sacramento, and Fresno, California.

16 29. Venue is proper in this District under 28 U.S.C. § 1391(b) because a  
17 substantial portion of the acts and omissions alleged herein to have been committed by  
18 Defendants occurred within this District, where the LDS Church has its second largest  
19 temple. Moreover, the LDS Corporation is already defending against another similar  
20 (albeit, non-class action) lawsuit in this district, entitled *Huntsman v. Corporation of the*  
21 *President of the Church of Jesus Christ of Latter-Day Saints*, case no. 21-cv-02504 (“the  
22 *Huntsman case*”).

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1 **FACTS COMMON TO ALL COUNTS**

2 **Defendant LDS Corporation and its investment division, Defendant Ensign Peak**  
3 **Advisors, have a storied history of intentionally concealing financial information**  
4

5 30. On February 21, 2023, a press release titled, “SEC Charges The Church of  
6 Jesus Christ of Latter-day Saints and Its Investment Management Company for  
7 Disclosure Failures and Misstated Filings,” announced that the U.S. Securities and  
8 Exchange Commission (“SEC”) had found that Defendant LDS Corporation and its  
9 investment division, Defendant Ensign Peak Advisors (“Ensign Peak”), had created

10 31. thirteen (13) shell LLCs to intentionally conceal Defendant LDS  
11 Corporation’s investments:<sup>2</sup>

12 32. Notably, the press release reported that “[t]he Church agreed to settle the  
13 SEC’s allegation that it caused Ensign Peak’s violations through its knowledge and  
14 approval of Ensign Peak’s use of the shell LLCs.”<sup>3</sup>

15 33. In the Order Instituting Cease-and-Desist Proceedings Pursuant to Section  
16 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing A Cease-  
17 and-Desist Order, the SEC found:<sup>4</sup>

18 [T]he Church and Ensign Peak created thirteen limited liability corporations  
19 (“LLCs”), including twelve similar LLCs (the “Clone LLCs”) with addresses  
20 located throughout the U.S., for the sole purpose of filing Forms 13F and  
21 preventing public disclosure by Ensign Peak of the Church’s equity securities  
22 holdings.”

23 34. The SEC concluded, “Ensign Peak developed its approach to filing Forms  
24 13F in the names of these LLCs **with the knowledge and approval of the Church,**

25  
26 <sup>2</sup> SEC Charges The Church of Jesus Christ of Latter-day Saints and Its Investment Management  
27 Company for Disclosure Failures and Misstated Filings, U.S. Securities and Exchange Commission  
website, <https://www.sec.gov/news/press-release/2023-35> (Last visited Nov. 14, 2023).

28 <sup>3</sup> *Id.*

<sup>4</sup> Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange  
Act of 1934, Making Findings, and Imposing A Cease-and-Desist Order, p. 2.  
<https://www.sec.gov/files/litigation/admin/2023/34-96951.pdf> (Last visited Nov. 14, 2023).



1 **which sought to avoid disclosure of the amount and nature of its assets**” (emphasis  
2 added).<sup>5</sup>

3 35. To settle the charges, Ensign Peak agreed to pay a \$4 million penalty and  
4 the LDS Church agreed to pay a \$1 million penalty.<sup>6</sup>

5 36. On February 21, 2023, the LDS Church issued an official statement on the  
6 SEC settlement.<sup>7</sup> In the Frequently Asked Questions section of the statement, the  
7 following question and answer appeared:<sup>8</sup>

8 Q: Did the Church know about the practices at Ensign Peak described in the order?

9 A: The Church’s senior leadership received and relied upon legal counsel when it approved of the use of  
10 the external companies to make the filings. Ensign Peak handled the mechanics of the filing process.  
11 The Church’s senior leadership never prepared or filed the specific reports at issue.

12 37. This statement unequivocally confirms that the LDS Church’s senior  
13 leadership knew about the scheme to intentionally conceal Defendant LDS Corporation’s  
14 investments. In addition, the statement reveals the evasive and disingenuous position  
15 that the LDS Church had taken regarding this proceeding: senior leadership within the  
16 LDS Church are sophisticated and experienced business managers who were well  
17 aware—with or without legal counsel—that creating thirteen (13) shell companies and  
18 filing Forms 13F in the names of these shell companies was a patently dishonest business  
19 practice.

20 38. The SEC action against the LDS Church and Ensign Peak reveals a pattern  
21 of conduct and corporate culture that valued dishonesty and concealment over honesty  
22 and transparency.

23 39. Like in the aforementioned SEC action, in the present action brought by  
24 Plaintiff and Class Members, Defendant LDS Corporation and its investment division,

25 \_\_\_\_\_  
26 <sup>5</sup> *Id.*

27 <sup>6</sup> *Id.* at p. 8.

28 <sup>7</sup> *Church Issues Statement on SEC Settlement*, LDS Church website,  
<https://newsroom.churchofjesuschrist.org/article/church-issues-statement-on-sec-settlement> (Last visited  
Nov. 14, 2023).

<sup>8</sup> *Id.*

1 Defendant Ensign Peak, intentionally concealed financial information from LDS Church  
2 members and the public through misrepresentations.

3  
4 **The LDS Church repeatedly represented that tithing funds would be used for its**  
5 **published purposes: to build and maintain temples and meetinghouses, to sustain**  
6 **missionary work, to educate members, and to care for the poor and needy.**

7 40. On its official website, the LDS Church represented and continues to  
8 represent:

9  
10 Tithing funds are always used for the Lord’s purposes—to build and maintain  
11 temples and meetinghouses, to sustain missionary work, to educate Church  
12 members, and to carry on the work of the Lord throughout the world.<sup>9</sup>

13 41. On October 5, 2002 during the LDS Church’s bi-annual General  
14 Conference, Robert D. Hales, an “apostle”, which is one of fifteen (15) top-ranking  
15 leaders who govern the LDS Church, stated:

16 All tithing funds are spent for the purposes of the Church, **including welfare—**  
17 **care for the poor and needy**—temples, buildings and upkeep of meetinghouses,  
18 education, curriculum—in short, the work of the Lord (emphasis added).<sup>10</sup>

19 42. Robert D. Hales’ aforementioned statement during the October 2002 bi-  
20 annual General Conference video broadcast was subsequently published in the LDS  
21 Church’s official magazine, *The Ensign*, in November 2002.<sup>11</sup>

22 43. In video broadcasts and print publications, the LDS Church represented to  
23 Plaintiffs and Class Members that their tithing funds would be used solely for these

24  
25 <sup>9</sup> *Tithing*, LDS Church website, <https://www.churchofjesuschrist.org/study/manual/gospel-topics/tithing?lang=eng> (Last visited Nov. 14, 2023).

26 <sup>10</sup> Robert D. Hales, *Tithing a Test of Faith with Eternal Blessings*, Robert D. Hales, October 2002 bi-  
27 annual General Conference, <https://www.churchofjesuschrist.org/study/general-conference/2002/10/tithing-a-test-of-faith-with-eternal-blessings?lang=eng> (Last visited Nov. 14, 2023).

28 <sup>11</sup> Robert D. Hales, *Tithing a Test of Faith with Eternal Blessings*, *The Ensign*, November 2002,  
<https://www.churchofjesuschrist.org/study/ensign/2002/11/tithing-a-test-of-faith-with-eternal-blessings?lang=eng> (Last visited Nov. 14, 2023).

1 published purposes: to build and maintain temples and meetinghouses, to sustain  
2 missionary work, to educate members, and to care for the poor and needy.

3 44. Never at any time in video broadcasts and print publications did the LDS  
4 Church represent to Plaintiffs and Class Members that their tithing funds would be used  
5 for commercial, for-profit purposes.

6 45. Plaintiffs and Class Members paid tithing in reliance on the LDS Church's  
7 representations that these funds would be used for its published purposes: to build and  
8 maintain temples and meetinghouses, to sustain missionary work, to educate members,  
9 and to care for the poor and needy.

10 **The LDS Church repeatedly represented in video broadcasts and print publications**  
11 **that tithing funds *would not* be used for commercial, for-profit purposes including**  
12 **the financing of City Creek Center.**

13  
14 46. On April 5, 2003, Gordon B. Hinckley, then acting president of the LDS  
15 Church and member of Defendant LDS Corporation, made the following statement  
16 during a bi-annual General Conference video broadcast:

17 I call attention to that which has received much notice in the local press. This is  
18 our decision to purchase the shopping mall property immediately to the south of  
19 Temple Square.

20 \* \* \*

21 But I wish to give the entire Church the assurance that tithing funds have not  
22 and will not be used to acquire this property. Nor will they be used in developing  
23 it for commercial purposes. Funds for this have come and will come from those  
24 commercial entities owned by the Church. These resources, together with the  
25 earnings of invested reserve funds, will accommodate this program.<sup>12</sup>

26 47. Gordon B. Hinckley's aforementioned statement during the April 2003 bi-  
27 annual General Conference video broadcast was subsequently published in the LDS

28 <sup>12</sup> Gordon B. Hinckley, *The Condition of the Church*, Apr. 5, 2003, bi-annual General Conference,  
<https://www.churchofjesuschrist.org/study/general-conference/2003/04/the-condition-of-the-church?lang=eng> (Last visited Nov. 14, 2023).

1 Church's official magazine, *The Ensign*, in May 2003.<sup>13</sup>

2 48. In a press conference on October 8, 2003, H. David Burton, then Presiding  
3 Bishop of the LDS Church and member of Defendant LDS Corporation, made similar  
4 representations regarding financing for the development of City Creek Center, stating  
5 "[n]one of this money comes from the tithing of our faithful members... That is not how  
6 we use tithing funds."<sup>14</sup>

7 49. In December 2003, the LDS Church's official magazine, *The Ensign*,  
8 published an article reiterating the same representation:

9 The Church first announced three years ago it was planning to redevelop the  
10 downtown area to energize the economy of the city that houses its headquarters  
11 and to bolster the area near Temple Square. No tithing funds will be used in the  
12 redevelopment.<sup>15</sup>

13 50. On March 27, 2007, *Deseret News*, a Salt Lake City newspaper owned by  
14 Defendant LDS Corporation, published an article stating:

15 Church officials have not said how much they expect the entire development to  
16 cost, though city officials and others have estimated it could be an investment of  
17 \$1 billion or more.

18 Money for the project is not coming from LDS Church members' tithing  
19 donations. City Creek Center is being developed by Property Reserve Inc., the  
20 church's real-estate development arm, and its money comes from other real-estate  
21 ventures.<sup>16</sup>

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22 <sup>13</sup> Gordon B. Hinckley, *The Condition of the Church*, *The Ensign*, May 2003,  
23 <https://media.ldscdn.org/pdf/magazines/ensign-may-2003/2003-05-00-ensign-eng.pdf?lang=eng> (Last  
24 visited Nov. 14, 2023).

25 <sup>14</sup> Lisa Ann Jackson, *Church to Move Campuses, Invest in Salt Lake City Redevelopment*, *The Ensign*,  
26 December 2003, [https://www.churchofjesuschrist.org/study/ensign/2003/12/news-of-the-church/church-  
27 to-move-campuses-invest-in-salt-lake-city-redevelopment?lang=eng](https://www.churchofjesuschrist.org/study/ensign/2003/12/news-of-the-church/church-to-move-campuses-invest-in-salt-lake-city-redevelopment?lang=eng) (Last visited Nov. 14, 2023).

28 <sup>15</sup> *Church Releases Plans for Downtown Salt Lake*, *The Ensign*, December 2006,  
[https://www.churchofjesuschrist.org/study/ensign/2006/12/news-of-the-church/church-releases-plans-  
for-downtown-salt-lake?lang=eng](https://www.churchofjesuschrist.org/study/ensign/2006/12/news-of-the-church/church-releases-plans-for-downtown-salt-lake?lang=eng) (Last visited Nov. 14, 2023).

<sup>16</sup> Doug Smeath, *Downtown renovation project*, *Deseret News*, Mar. 27, 2007,  
<https://www.deseret.com/2007/3/27/20785879/downtown-renovation-project> (Last visited Nov. 14,  
2023).

1           51. On October 5, 2012, Keith B. McMullin, formerly the second counselor in  
2 the LDS Church’s Presiding Bishopric and a former member of Defendant LDS  
3 Corporation, who at relevant times headed Deseret Management Corp., a company  
4 owned by Defendant LDS Corporation, represented in an interview for *The Salt Lake*  
5 *Tribune* newspaper that tithing funds had not, and would not, be used for commercial  
6 purposes including City Creek Center: “McMullin said not one penny of tithing goes to  
7 the Church’s for-profit endeavors. Specifically, the Church has said no tithing went  
8 toward City Creek Center.”<sup>17</sup>

9           52. In summary, from 2003 to 2012, high-ranking leaders of the LDS Church—  
10 who were also members or former members of Defendant LDS Corporation—repeatedly  
11 represented in video broadcasts and print publications that tithing funds *would not* be  
12 used for commercial, for-profit purposes, including City Creek Center.

13  
14 **An IRS Whistleblower Complaint revealed that \$1.4 billion in never-invested**  
15 **tithing funds were used to finance City Creek Center.**

16           53. In December 2019, David Nielsen, a senior portfolio manager for Defendant  
17 Ensign Peak Advisors (“Ensign Peak” or “EPA”), Defendant LDS Corporation’s  
18 investment division, filed an IRS Whistleblower Complaint alleging that Defendants  
19 used \$1.4 billion in tithing funds to finance City Creek Center, a commercial, for-profit  
20 shopping mall, and that Defendants should lose any tax exempt status because the money  
21 was not used for charitable purposes.<sup>18</sup>

22           54. In his Complaint, David Nielsen stated that EPA cut checks for \$1.4 billion  
23 between 2010 to 2014 to cover construction costs for City Creek Center, noting that  
24  
25  
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27  
28 <sup>17</sup> Caroline Winter, et al., *The Money behind the Mormon message*, Salt Lake City Tribune, Oct. 5, 2012  
<https://archive.sltrib.com/article.php?id=54478720&itype=cmsid> (Last visited Nov. 14, 2023).

<sup>18</sup> David Nielsen, *Letter to an IRS Director*, <http://openargs.com/wp-content/uploads/IRS-Letter-Final.pdf> (Last visited Nov. 14, 2023).

1 “EPA paid \$1.4 billion exclusively using tithing dollars on a for-profit mall”:<sup>19</sup>

2  
3 The second unplanned outflow was a series of payments between 2010 and 2014.  
4 EPA paid \$1.4 billion (**Exhibit D**) to shore up cost over-runs (also on the heels of the  
5 financial crisis) in the construction of the opulent City Creek Mall<sup>16</sup>—with an award-  
6 winning retractable roof,<sup>17</sup> luxury storefronts, and a fish-filled river. Raising capital  
7 from the usual sources of project finance would have been untenable.<sup>g</sup> From 2010 to  
8 2014, if EPA were honest in its dealings and comparable to peer foundations, it  
9 should have spent at least \$9.8 billion on its exempt purpose. EPA paid \$1.4 billion  
10 exclusively using tithing dollars<sup>h</sup> on a for-profit mall. Is the religious, educational, or  
11 charitable activity of the mall >95% per IRS requirements? No.<sup>18</sup>

12  
13 55. David Nielsen further stated that “[t]hese checks were cut from the EPA  
14 treasury account, not from any liquidation of allocated capital. Only never-invested  
15 tithing surplus enters the EPA Treasury account”:<sup>20</sup>

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55. David Nielsen explained the reasoning behind Defendants’ use of tithing  
funds to finance City Creek Center:<sup>21</sup>

g All capital has a cost, except when it doesn’t. 100% of EPA’s capital comes from  
tithing in excess of the church’s operating budget together with returns from  
investing that tithing. Rather than raise money from capital markets, at a cost of  
equity, or from banks, at a cost of debt, they raised it from tithing. So, the project’s  
cost of capital was zero. It may never have been economically viable without that free  
capital.

57. David Nielsen further stated that EPA—as the investment arm of Defendant  
LDS Corporation—had not returned any funds to the LDS Church for religious,

<sup>19</sup> *Id.* at p. 7.

<sup>20</sup> *Id.* at p. 7 and footnote h. Note that the acronym “COP” stands for “Corporation of the President” and refers to Defendant LDS Corporation.

<sup>21</sup> *Id.* at p. 7, footnote g.

1 educational, or charitable purposes in twenty-two (22) years.<sup>22</sup> In short, EPA “is the  
2 reserves of reserves” of Defendant LDS Corporation; Defendant LDS Corporation “does  
3 not draw down on it, and it has no mission—no liability stream, no schedule of activities,  
4 no plans for use, and no efforts to even model the future.”<sup>23</sup>

5 58. The IRS Whistleblower Complaint included EPA’s Articles of Incorporation  
6 as an exhibit, which stated, “[EPA’s] property is irrevocably dedicated to religious,  
7 educational, and charitable purposes meeting the requirements for exemption provided by  
8 Section 501c3 of the Internal Revenue Code.”<sup>24</sup>

9 59. Whether LDS Corporation and EPA violated Section 501c3 is a question for  
10 the IRS which will not be addressed in this action; however, Defendant EPA, under the  
11 direction of Defendant LDS Corporation, allegedly violated Defendant EPA’s published  
12 Articles of Incorporation which sets forth that property would be used solely for  
13 “religious, educational, and charitable purposes.”<sup>25</sup>

14  
15 **Defendants, through their agents, intentionally misrepresented financial**  
16 **information to ensure that Plaintiffs and the Class continued to pay tithes to finance**  
17 **the Church’s for-profit, commercial enterprises and in spite of Defendants having**  
18 **amassed a \$100 billion fund.**

19  
20 60. Defendant LDS Corporation is comprised of the First Presidency of the LDS  
21 Church, a governing body which includes the president or “prophet” of the LDS Church  
22 and the two most senior “apostles,” along with the Presiding Bishopric, which is  
23 comprised of three senior leaders entrusted with managing the finances and physical  
24 facilities of the LDS Church.<sup>26</sup>

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27 <sup>22</sup> *Id.* at pp. 2, 3, 8 and 28 footnote jjj.

28 <sup>23</sup> *Id.* at p. 6.

<sup>24</sup> *Id.* at p. 45, Exhibit E.1.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at p. 53, Exhibit I.

1           61. As set forth above, on April 5, 2003, Gordon B. Hinckley, then acting  
2 president and “prophet” of the LDS Church, represented that “tithing funds have not  
3 and will not be used to acquire this property. Nor will they be used in developing it for  
4 commercial purposes” regarding the City Creek Center property.<sup>27</sup>

5           62. At the time of this statement, Gordon B. Hinckley was a member of  
6 Defendant LDS Corporation.

7           63. As set forth above, on October 8, 2003, H. David Burton, then Presiding  
8 Bishop of the LDS Church, stated that “[n]one of this money comes from the tithing of  
9 our faithful members... That is not how we use tithing funds” regarding the financing for  
10 City Creek Center.<sup>28</sup>

11           64. At the time of this statement, H. David Burton was a member of Defendant  
12 LDS Corporation.

13           65. As set forth above, in December 2003, the LDS Church’s official magazine,  
14 *The Ensign*, published an article reiterating that “[n]o tithing funds will be used in the  
15 redevelopment” of City Creek Center.<sup>29</sup>

16           66. As set forth above, on March 27, 2007, *Deseret News*, a Salt Lake City  
17 newspaper owned by Defendant LDS Corporation, published an article stating, “[m]oney  
18 for the project is not coming from LDS Church members’ tithing donations. City Creek  
19 Center is being developed by Property Reserve Inc., the church’s real-estate development  
20 arm, and its money comes from other real-estate ventures.”<sup>30</sup>

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22 <sup>27</sup> Gordon B. Hinckley, *The Condition of the Church*, Apr. 5, 2003, bi-annual General Conference,  
23 [https://www.churchofjesuschrist.org/study/general-conference/2003/04/the-condition-of-the-](https://www.churchofjesuschrist.org/study/general-conference/2003/04/the-condition-of-the-church?lang=eng)  
24 [church?lang=eng](https://www.churchofjesuschrist.org/study/general-conference/2003/04/the-condition-of-the-church?lang=eng) (Last visited Nov. 14, 2023).

25 <sup>28</sup> Lisa Ann Jackson, *Church to Move Campuses, Invest in Salt Lake City Redevelopment*, *The Ensign*,  
26 December 2003, [https://www.churchofjesuschrist.org/study/ensign/2003/12/news-of-the-church/church-](https://www.churchofjesuschrist.org/study/ensign/2003/12/news-of-the-church/church-to-move-campuses-invest-in-salt-lake-city-redevelopment?lang=eng)  
27 [to-move-campuses-invest-in-salt-lake-city-redevelopment?lang=eng](https://www.churchofjesuschrist.org/study/ensign/2003/12/news-of-the-church/church-to-move-campuses-invest-in-salt-lake-city-redevelopment?lang=eng) (Last visited Nov. 14, 2023).

28 <sup>29</sup> *Church Releases Plans for Downtown Salt Lake*, *The Ensign*, December 2006,  
[https://www.churchofjesuschrist.org/study/ensign/2006/12/news-of-the-church/church-releases-plans-](https://www.churchofjesuschrist.org/study/ensign/2006/12/news-of-the-church/church-releases-plans-for-downtown-salt-lake?lang=eng)  
29 [for-downtown-salt-lake?lang=eng](https://www.churchofjesuschrist.org/study/ensign/2006/12/news-of-the-church/church-releases-plans-for-downtown-salt-lake?lang=eng) (Last visited Nov. 14, 2023).

30 <sup>30</sup> Doug Smeath, *Downtown renovation project*, *Deseret News*, Mar. 27, 2007,  
<https://www.deseret.com/2007/3/27/20785879/downtown-renovation-project> (Last visited Nov. 14,  
2023).



1           67. As set forth above, on October 5, 2012, Keith B. McMullin, formerly the  
2 second counselor in the LDS Church’s Presiding Bishopric, was quoted in the *The Salt*  
3 *Lake Tribune* newspaper: “McMullin said not one penny of tithing goes to the Church’s  
4 for-profit endeavors. Specifically, the Church has said no tithing went toward City Creek  
5 Center.”<sup>31</sup>

6           68. At the time of this statement, Keith B. McMullin was a former member of  
7 Defendant LDS Corporation. Critically, Defendant LDS Corporation had already made  
8 payments drawn from the EPA treasury account containing never-invested tithing funds  
9 when this statement was made.<sup>32</sup>

10           69. The intent behind the aforementioned misrepresentations by Defendant LDS  
11 Corporation’s agents was subsequently revealed by the head of EPA, Roger Clarke, in an  
12 interview published on February 8, 2020, in the *The Wall Street Journal*. In that  
13 interview, Roger Clarke reportedly said, “[w]e’ve tried to be somewhat anonymous”  
14 regarding the LDS Church’s investments.<sup>33</sup>

15           70. Roger Clarke further stated that the reason the LDS Church kept silent on its  
16 \$100 billion dollar fund was “[s]o they never wanted to be in a position where people felt  
17 like, you know, they shouldn’t make a contribution.”<sup>34</sup>

18  
19 **A Central District of California case alleges similar facts and legal theories and**  
20 **incorporates a sworn statement by David Nielsen that further evidences Defendants’**  
21 **misrepresentations.**  
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25 <sup>31</sup> Caroline Winter, et al., *The Money behind the Mormon message*, Salt Lake City Tribune, Oct. 5, 2012  
<https://archive.sltrib.com/article.php?id=54478720&itype=cmsid> (Last visited Nov. 14, 2023).

26 <sup>32</sup> David Nielsen, *Letter to an IRS Director*, at p. 8, [http://openargs.com/wp-content/uploads/IRS-Letter-](http://openargs.com/wp-content/uploads/IRS-Letter-Final.pdf)  
[Final.pdf](http://openargs.com/wp-content/uploads/IRS-Letter-Final.pdf) (Last visited Nov. 14, 2023).

27 <sup>33</sup> Ian Lovett and Rachael Levy, *The Mormon Church Amassed \$100 Billion. It Was the Best-Kept*  
28 *Secret in the Investment World*, *The Wall Street Journal*, Feb. 8, 2020, [https://www.wsj.com/articles/the-](https://www.wsj.com/articles/the-mormon-church-amassed-100-billion-it-was-the-best-kept-secret-in-the-investment-world-11581138011)  
[mormon-church-amassed-100-billion-it-was-the-best-kept-secret-in-the-investment-world-11581138011](https://www.wsj.com/articles/the-mormon-church-amassed-100-billion-it-was-the-best-kept-secret-in-the-investment-world-11581138011)  
(Last visited Nov. 14, 2023).

<sup>34</sup> *Id.*

1           71. On March 22, 2021, California resident James Huntsman filed the *Huntsman*  
2 case in the Central District of California alleging similar facts and legal theories as  
3 alleged in the present action.<sup>35</sup>

4           72. James Huntsman is the son of the late businessman and LDS Church leader  
5 Jon Huntsman Sr. and brother of former Utah governor and U.S. presidential candidate  
6 Jon Huntsman Jr.<sup>36</sup>

7           73. The *Huntsman* case is not a putative class action, but an action where an  
8 individual plaintiff is demanding a minimum refund of \$5 million in tithing funds based  
9 on the facts revealed in David Nielsen's IRS Whistleblower Complaint.<sup>37</sup>

10           74. In response to Defendant LDS Corporation's Motion for Summary  
11 Judgment, Plaintiff James Huntsman incorporated a sworn declaration by David Nielsen,  
12 wherein Nielsen set forth additional facts evidencing Defendant LDS Corporation's use  
13 of tithing funds to finance City Creek Center and Defendant LDS Corporation's  
14 deceptive intention to withhold this fact from the members of the LDS Church:<sup>38</sup>

15           8. Based on statements made by EPA senior leadership including in the  
16 meeting described below, over a five-year period, the Council approved EPA's  
17 withdrawal of approximately \$1.4 billion in tithing funds to pay for the commercial  
18 development of the City Creek Mall. The Council likewise approved EPA's withdrawal  
19 of \$600 million in tithing funds to bail out a company called Beneficial Life Insurance  
20 Company.

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25 <sup>35</sup> *Huntsman v. Corporation of the President of the Church of Jesus Christ of Latter-Day Saints*, case no.  
21-cv-02504, Complaint, [Doc. 1].

26 <sup>36</sup> Michelle Boorstein, *He was Mormon royalty. Now his lawsuit against the church is a rallying cry*,  
27 Washington Post, Sept. 9, 2023, <https://www.washingtonpost.com/religion/2023/09/09/he-was-mormon-royalty-now-his-lawsuit-against-church-is-rallying-cry/?=undefined> (Last visited Nov. 14, 2023).

28 <sup>37</sup> *Huntsman*, Complaint, [Doc. 1].

<sup>38</sup> *Huntsman*, Declaration of David A. Nielsen in Support of Plaintiff's Opposition to Defendant's  
Motion for Summary Judgment, ¶¶8-9 [Doc. 37].

9. In March 2013, I attended a meeting led by EPA senior leadership. EPA’s President Roger Clarke, along with Robert Nydegger, gave a presentation in which they described, among other things, the various ways that EPA had been distributing and/or withdrawing its tithing funds, including in connection with the City Creek Mall and Beneficial Life Insurance Company. Mr. Clarke used a presentation that included what is attached as Exhibit “A,” a true and correct copy of a slide from that presentation titled “Ensign Peak & Portfolio Purposes.” This slide presented by Mr. Clarke includes, among other things, “Examples of withdrawals” that include:

“City Creek: \$1,400mm over 5 years”

“Beneficial Life: \$600mm in 2009”

75. An image of Exhibit A appears below:<sup>39</sup>

## Ensign Peak & Portfolio Purposes

**The Role of Ensign Peak Advisors**

- Balance wealth growth and preservation of principal
- Maintain adequate liquidity for Church operations & investment flexibility
- Add incremental return through active management
- Maintain cost-effective & secure operations
- Produce accurate & timely reports
- Provide investment alternatives and education to affiliated entities & presiding councils
- Comply with appropriate legal & regulatory conditions
- Avoid investments or activities that would detract from the mission of the Church

**Purpose of the investment reserve is to support the following:**

- Prophetic initiatives
- Budget supplement
- Backstop the pension plan
- Backstop the taxable entities
- Collateral for Church purposes

**Examples of withdrawals are\*:**

- Conference Center: \$0mm; funded out of budget
- Proliferation of temples: \$0; funded out of budget
- City Creek: \$1,400mm over 5 years
- Beneficial Life: \$600mm in 2009
- Pension / Other: \$0mm; underfunded
- Collateral: ~\$200mm for church entities

*\* The draw on the investment reserves has been relatively small due to the conservative nature of Church finances and operations – i.e. a balanced budget. This is a very strong first line of defense. Furthermore, over the past several years, approximately \$1bn has been granted to EPA on an annual basis.*

<sup>39</sup> *Id.* at Exhibit A.

1           76. In paragraph 10 of his sworn declaration, David Nielsen stated that he  
2 “asked how the Church’s public statements about no tithing funds being used for City  
3 Creek Mall or Beneficial Life could be consistent with Mr. Clarke’s description of how  
4 EPA had made ‘withdrawals’ for ‘City Creek: \$1,400 mm over 5 years’ and ‘Beneficial  
5 Life: \$600mm in 2009’”.<sup>40</sup> Roger Clarke, head of EPA, “responded that two other  
6 Church-affiliated entities (Property Reserve, Inc. and Deseret Management Corporation)  
7 had received from EPA the \$1.4 billion and \$600 million, respectively, paid by EPA for  
8 City Creek Mall and Beneficial Life”.<sup>41</sup>

9           10. Before this March 2013 meeting led by EPA’s President Roger Clarke  
10 described above, I and other employees of EPA with whom I spoke were aware of public  
11 statements by the Church that no tithing funds would be used for City Creek Mall or  
12 other for-profit businesses. When Mr. Clarke made the presentation described above  
13 using Exhibit A, I and possibly other EPA employees present asked how the Church’s  
14 public statements about no tithing funds being used for City Creek Mall or Beneficial  
15 Life could be consistent with Mr. Clarke’s description of how EPA had made  
16 “withdrawals” for “City Creek: \$1,400mm over 5 years” and “Beneficial Life: \$600mm  
17 in 2009.” Mr. Clarke responded that two other Church-affiliated entities (Property  
18 Reserve, Inc. and Deseret Management Corporation) had received from EPA the \$1.4  
19 billion and \$600 million, respectively, paid by EPA for City Creek Mall and Beneficial  
20 Life, and essentially that, as a result, people would not know EPA was the source of this  
21 funding to City Creek Mall and Beneficial Life. Mr. Clarke stated that it was important  
22 that people should not know EPA’s role as the source of the funds.

23           77. Notably, in the last sentence of paragraph 10, David Nielsen stated that  
24 Roger Clarke made clear that Defendants’ intentions were to conceal that EPA was the  
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28 <sup>40</sup> *Id.* at ¶10.

<sup>41</sup> *Id.*

1 source of the funds: “Mr. Clarke stated that it was important that people should not know  
2 EPA’s role as the source of the funds.”<sup>42</sup>

3 78. The transfer of \$1.4 billion of never-invested tithing funds from the EPA  
4 treasury account to Property Reserve, Inc. and Deseret Management Corporation was  
5 nothing more than a shell game to hide from the public and LDS Church members the  
6 source of the funds for the purchase and development of the City Creek Center property.

7 79. Defendant EPA’s funding of these projects explicitly contradicted  
8 statements of high-ranking LDS Church leaders, including the president of the LDS  
9 Church, that the funds were coming from other entities owned by Defendant LDS  
10 Corporation.<sup>43</sup>

11 80. David Nielsen concluded his sworn statement by declaring that “all of  
12 EPA’s funds were tithing funds and were treated by EPA as tithing funds.”<sup>44</sup>

13 11. After that March 2013 meeting described above, Mr. Clarke’s presentation  
14 and the statements on Exhibit A prompted additional discussions among EPA personnel  
15 of whether EPA’s funding of City Creek Mall and Beneficial Life with approximately \$2  
16 billion in EPA tithing funds could somehow be reconciled with the Church’s public  
17 statements that no tithing funds were used for City Creek Mall or Beneficial Life. Again,  
18 all of EPA’s funds were tithing funds and were treated by EPA as tithing funds; every  
19 penny was “the widow’s mite.” Based on Mr. Clarke’s statements described above of  
20 which I have personal knowledge, it appeared the Church’s public statements were  
21 intended to conceal the truth about EPA’s use of tithing funds for City Creek Mall and  
22 Beneficial Life.

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23  
24 <sup>42</sup> *Id.*

25 <sup>43</sup> Gordon B. Hinckley, *The Condition of the Church*, Apr. 5, 2003, bi-annual General Conference,  
26 <https://www.churchofjesuschrist.org/study/general-conference/2003/04/the-condition-of-the-church?lang=eng> (Last visited Nov. 14, 2023); *see also* Doug Smeath, *Downtown renovation project*.  
27 Deseret News, Mar. 27, 2007, <https://www.deseret.com/2007/3/27/20785879/downtown-renovation-project> (Last visited Nov. 14, 2023).

28 <sup>44</sup> *Huntsman*, Declaration of David A. Nielsen in Support of Plaintiff’s Opposition to Defendant’s  
Motion for Summary Judgment, ¶11 [Doc. 37].

1 **Defendants’ representations induced Plaintiffs and Class Members to continue**  
2 **paying tithes and frustrated Plaintiffs’ and Class Members’ reasons for paying**  
3 **tithes.**

4 81. Plaintiff Gene Judson has been a member of the LDS Church since 1967,  
5 and Plaintiff Michelle Judson has been a member since 1971.

6 82. From 2003 to 2020, Plaintiffs collectively paid approximately \$40,000 in  
7 tithing to the LDS Church.

8 83. While living in California, Plaintiffs routinely watched the LDS Church’s bi-  
9 annual General Conference and/or read the LDS Church’s official magazine, *The Ensign*  
10 wherein Defendant LDS Corporation made misrepresentations that tithing funds *were not*  
11 being used for commercial, for-profit purposes and in particular, *were not* being used to  
12 finance the purchase of land and development of City Creek Center in Salt Lake City,  
13 Utah as set forth above.

14 84. In making their annual tithing payments to the LDS Church, Plaintiffs relied  
15 on their understanding (supported by the repeated representations by high-ranking LDS  
16 Church leaders) that tithing funds *would only* be used for the LDS Church’s published  
17 purposes: to educate its members, conduct missionary work, build and maintain  
18 meetinghouses and temples, and perform charitable work including care for the poor and  
19 needy.

20 85. Plaintiffs continued to rely on representations made by high-ranking LDS  
21 Church leaders in print publications and video broadcasts that tithing funds *would not* be  
22 used for commercial, for-profit purposes, including the financing of City Creek Center.

23 86. The misrepresentations made by Defendants through their agents and  
24 employees—including the president of the LDS Church and other high-ranking LDS  
25 Church leaders who were also members of Defendant LDS Corporation—that tithing  
26 funds *would not* be used to finance City Creek Center or other commercial, for-profit  
27 purposes were false, intentional, and made to induce Plaintiffs and Class Members to pay  
28 tithing funds in spite of Defendants having amassed a \$100 billion fund.

1 87. Plaintiffs and Class Members would not have paid ten percent (10%) of their  
2 incomes as tithing had they known that their contributions would be used for a  
3 commercial, for-profit purpose as opposed to the LDS Church’s published purposes for  
4 tithing funds: to educate its members, conduct missionary work, build and maintain  
5 meetinghouses and temples, and to care for the poor and needy.

6 88. Plaintiffs and Class Members are entitled to compensation for tithing funds  
7 paid as gifts to Defendants because, as donors, their intent was induced by fraud.

8 89. Plaintiffs’ and Class Members’ gifts, in the form of tithing funds must be  
9 rescinded.

10 90. Importantly, Plaintiffs and Class Members relied on Defendants as  
11 fiduciaries to distribute their donated tithing funds to the poor and needy.

12 91. Defendants’ failure to distribute their donated tithing funds to the poor and  
13 needy meant that Plaintiff and Class Members were unable to fulfill their intentions, in  
14 part, for donating tithing funds. As a result, millions of dollars in charitable donations  
15 never reached people in need.

16 92. Plaintiffs’ and Class Members’ reasons for membership in Defendant LDS  
17 Corporation’s organization have been frustrated as a result of Defendants’ failure to use  
18 tithing funds for the LDS Church’s published purposes, including care for the poor and  
19 needy.

20 93. Plaintiffs’ and Class Members’ payment of tithing has resulted in  
21 Defendants receiving and retaining an unjust benefit which must be disgorged.

22 **Plaintiff discovers Defendants’ fraud**

23 94. On May 14, 2023, the iconic CBS News program *60 Minutes* aired an  
24 interview with IRS Whistleblower David Nielsen titled, “Mormon Whistleblower:  
25 Church’s Investment Firm Masquerades as Charity”, wherein he discussed the facts set  
26 forth in the aforementioned IRS Whistleblower Complaint.<sup>45</sup>

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<sup>45</sup> *Mormon whistleblower: Church’s investment firm masquerades as charity*, 60 Minutes, May 14,  
2023, [https://www.youtube.com/watch?v=k3\\_Fhq7sEHo&t=6s](https://www.youtube.com/watch?v=k3_Fhq7sEHo&t=6s) (Last visited Nov. 14, 2023).

1           95. Plaintiffs watched the *60 Minutes* interview with David Nielsen, and learned  
2 for the first time the specific details comprising the fraudulent scheme perpetuated by  
3 Defendants.

## 4                           **TOLLING OF THE STATUTE OF LIMITATIONS**

### 5           **Discovery Rule Tolling**

6           96. Plaintiffs and Class Members could not have discovered through reasonable  
7 diligence that Defendants had used tithing funds for a commercial, for-profit purpose—  
8 the financing of City Creek Center—which was contrary to Defendant LDS  
9 Corporation’s representations, within the time period of any applicable statutes of  
10 limitation.

11           97. Plaintiffs and Class Members did not know, and could not have reasonably  
12 known, of Defendants’ fraud until in or around May 14, 2023 when *60 Minutes*, a  
13 nationally broadcasted and well-known news program, aired the interview with IRS  
14 Whistleblower David Nielsen. Therefore, Plaintiffs’ claims and the claims of all Class  
15 Members did not accrue until they discovered that Defendants had used tithing funds for  
16 a commercial, for-profit purpose—to finance City Creek Center—contrary to Defendant  
17 LDS Corporation’s repeated representations and the LDS Church’s published purposes.

### 18           **Fraudulent Concealment Tolling**

19           98. Throughout the time period relevant to this action, Defendants concealed  
20 from and failed to disclose to Plaintiffs and the other Class Members Defendants’ use of  
21 \$1.4 billion in tithing funds for a commercial, for-profit purpose—the financing of City  
22 Creek Center. Defendants kept Plaintiffs and the other Class Members ignorant of vital  
23 information essential to the pursuit of their claims, and as a result, neither Plaintiffs nor  
24 the other Class members could have discovered Defendants’ fraud, even upon reasonable  
25 exercise of diligence.

26           99. Prior to the date of this Complaint, Defendants knew they had used tithing  
27 funds to support non-charitable, profit-generating endeavors—including \$1.4 billion in  
28 tithing funds to finance City Creek Center while representing to Plaintiff and Class



1 Members they had not—but made no effort to reveal this information. In doing so,  
2 Defendants concealed from or failed to notify Plaintiff and the other Class members  
3 about the improper use of tithes, including but not limited to the use of \$1.4 billion in  
4 tithing funds to finance City Creek Center.

5 100. Plaintiffs and the other Class Members justifiably relied on Defendants to  
6 disclose that they had used \$1.4 billion in tithing funds for a commercial, for-profit  
7 purpose, as such facts were hidden and not discoverable through reasonable efforts by  
8 Plaintiffs and the other Class Members.

9 101. Thus, the running of all applicable statutes of limitation have been tolled and  
10 suspended with respect to any claims that the Plaintiffs and the other Class Members  
11 have sustained as a result of Defendants’ fraud by virtue of the fraudulent concealment  
12 doctrine.

13  
14 **Estoppel**

15 102. Defendants were under a continuous duty to disclose to Plaintiffs and the  
16 other Class Members that they had used tithing funds, for a commercial, for-profit  
17 purpose—including \$1.4 billion for the financing of City Creek Center—contrary to  
18 Defendant LDS Corporation’s representations and the LDS Church’s published purposes.  
19 Defendants actively concealed this fact, and Plaintiffs and the other Class Members  
20 reasonably relied upon Defendants’ knowing and active concealment of these facts.  
21 Defendants are accordingly estopped from relying on any statute of limitations in defense  
22 of this action. For these same reasons, Defendants are estopped from relying upon *any*  
23 limitations in defense of this action.

24  
25 **CLASS ACTION ALLEGATIONS**

26 103. Pursuant to Fed. R. Civ. P. 23, Plaintiffs bring this action on behalf of  
27 themselves and on behalf of a Nationwide Class, defined as:  
28

1 **Nationwide Class**

2 All persons within the United States (including its  
3 Territories and the District of Columbia) who paid tithing  
4 to the LDS Church from a time to be determined but no  
5 later than April 5, 2003 through the present.

6 104. In the alternative to the Nationwide Class, and pursuant to Fed. R. Civ. P.  
7 23(5), Plaintiffs seek to represent the following State Class as well as any subclasses or  
8 issue classes as Plaintiffs may propose and/or the Court may designate at the time of  
9 class certification:

10 **California Class**

11 All persons and entities within the State of California  
12 who paid tithing to the LDS Church from a time to be  
13 determined but no later than April 5, 2003 through the  
14 present.

15 105. Excluded from all classes are Defendants, as well as Defendants'  
16 employees, affiliates, officers, and directors, and the judge and court staff to whom this  
17 case is assigned.

18 106. Plaintiffs reserve the right to modify and/or add to the Nationwide Class  
19 and/or State Class prior to class certification.

20  
21 **Fed. R. Civ. P. 23(a) Prerequisites**

22 107. **Numerosity.** Both the Nationwide Class and State Class are so numerous  
23 that joinder of all members is impracticable. Although the precise number of Class  
24 Members is unknown and is within the exclusive control of Defendants, upon  
25 information and belief, Defendants' wrongful conduct as set forth above was directed at  
26 millions of Class Members in the United States, including tens of thousands in the State  
27 of California.

1           108. **Commonality.** The claims of Plaintiffs and the Nationwide Class and State  
2 Class involve common questions of fact and law that will predominate over any  
3 individual issues. These common questions include, but are not limited to:

4           a. Whether Defendant LDS Corporation represented to Plaintiffs and the Class  
5 that tithing funds were only used for the LDS Church's published purposes;

6           b. Whether Defendant LDS Corporation represented to Plaintiffs and the Class  
7 that tithing funds *would not* be used for any commercial, for-profit purpose including the  
8 financing of City Creek Center;

9           c. Whether Defendants knew or should have known that representations to  
10 Plaintiffs and the Class that tithing funds would only be used for the LDS Church's  
11 published purposes were false at the time these representations were made;

12           d. Whether Defendants knew or should have known that representations to  
13 Plaintiffs and the Class that tithing funds *would not* be used for a commercial, for-profit  
14 purpose—including the financing of City Creek Center—were false at the time the  
15 representations were made;

16           e. Whether Defendant LDS Corporation's representations constitute material  
17 facts that reasonable Class Members would have considered in deciding to pay tithing;

18           f. Whether Defendants used tithing funds for commercial, for-profit purposes,  
19 including the financing of City Creek Center;

20           g. Whether the funds to finance City Creek Center were drawn from EPA's  
21 accounts containing uninvested tithing funds and/or tithing funds comingled with  
22 earnings from principal;

23           h. Whether \$1.4 billion of never-invested tithing funds, or tithing funds  
24 comingled with earnings from principal, were transferred from EPA to Property Reserve,  
25 Inc. and/or Deseret Management Corporation;

26           i. Whether this transfer of \$1.4 billion of never-invested tithing funds, or  
27 tithing funds comingled with earnings from principal, from EPA to Property Reserve,  
28 Inc. and/or Deseret Management Corporation was deliberately concealed from Plaintiff

1 and the Class;

2 j. Whether Defendant LDS Corporation's representations that tithing funds  
3 *would not* be used for a commercial, for-profit purpose, including the financing of City  
4 Creek Center, were made to intentionally deceive Plaintiff and the Class resulting in  
5 continued tithing donations to Defendants;

6 k. Whether Defendants' conduct violates California consumer protection  
7 statutes and other laws as asserted herein;

8 l. Whether Plaintiff and the Class are entitled to equitable relief, including but  
9 not limited to, restitution; and

10 m. Whether Plaintiff and the Class are entitled to damages and other monetary  
11 relief and, if so, in what amount.

12 109. **Typicality.** Plaintiffs' claims are typical of a Nationwide Class or State  
13 Class members' claims. As described herein, Plaintiffs and the Class paid ten percent  
14 (10%) of their incomes, known as tithing, based in part on Defendant LDS Corporation's  
15 representations that tithing funds would be used for the LDS Church's published  
16 purposes, which were and are to build and maintain temples and meetinghouses, to  
17 sustain missionary work, to educate members, and to perform charitable work including  
18 care for the poor and needy, and that tithing funds *would not* be used for commercial,  
19 for-profit purposes, including the financing of City Creek Center.

20 110. Plaintiffs and Class Members have incurred similar losses based on the same  
21 legal theories, and the factual basis for Defendants' wrongful conduct is common to all  
22 class members and is representative of wrongful conduct resulting in harm common to all  
23 Nationwide Class or State Class Members.

24 111. **Adequacy.** Plaintiffs will fully and adequately represent and protect the  
25 interests of the Nationwide Class or State Class because they share common interests  
26 with Class Members as a result of Defendants' wrongful conduct.  
27  
28

1 112. Plaintiffs have retained counsel with extensive litigation experience and the  
2 ability to successfully prosecute this case on behalf of Plaintiffs and the Class. Plaintiffs  
3 and Plaintiffs' counsel are committed to vigorously prosecuting this action on behalf of  
4 the Members of Classes.

5  
6 **Fed. R. Civ. P. 23(b) Requirements**

7 113. Defendants have acted or refused to act on grounds generally applicable to  
8 all the members of the Class, thereby making final injunctive relief or declaratory relief  
9 concerning the Class as a whole appropriate.

10 114. **Predominance.** Questions of law and fact common to the Nationwide Class  
11 or State Class predominate over questions affecting individual members. A class action  
12 is superior to other available methods for the fair and efficient adjudication of this  
13 controversy. Individual damages on the matter can be readily calculated from records  
14 maintained by the Defendants. Therefore, the questions of individual damages will not  
15 predominate over legal and factual questions common to the Nationwide Class or State  
16 Class.

17 115. **Superiority.** Defendants' wrongful conduct treated LDS members as a class  
18 to be uniformly deceived. A class action is thus superior to all other available methods  
19 for the fair and efficient adjudication of this controversy. Plaintiffs and Class Members  
20 have suffered economic harm as a result of Defendants' unlawful and wrongful conduct,  
21 which was directed toward Class Members as a whole rather than specifically or uniquely  
22 against any individual Class Members. While individual damages in this case are not  
23 insubstantial, there are still significant economies of scale that can be realized by  
24 handling this case on a class wide basis, inuring to the benefit of all Class Members and  
25 maximizing their recoveries. Furthermore, piecemeal litigation of these individual claims  
26 in different courts around the country raises the possibility of inconsistent outcomes.

27 116. **Declaratory and Equitable Relief.** Class wide declaratory and equitable  
28 relief is appropriate under Rule 23(b)(1) and/or (b)(2) because Defendants have acted on

1 grounds that apply generally to the Class, and inconsistent adjudications with respect to  
2 Defendants’ liability would establish incompatible standards and substantially impair or  
3 impede the ability of Class Members to protect their interests. Class wide relief and  
4 Court supervision under Rule 23 assures fair, consistent, and equitable treatment and  
5 protection of all Class Members, and uniformity and consistency in Defendants’  
6 discharge of their duties to perform corrective action.

7 **CAUSES OF ACTION**

8 **COUNT I**

9 **(Fraudulent Misrepresentation on behalf of the Nationwide Class or State Class)**

10 117. Plaintiffs incorporate by reference all material facts in this Complaint as if  
11 fully set forth herein.

12 118. Plaintiffs bring this Count on behalf of themselves and the Nationwide Class  
13 or Statewide Class.

14 119. As alleged above in ¶¶30-102, Defendant LDS Corporation made false  
15 statements of material fact that tithing funds *would only* be used for the LDS Church’s  
16 published purposes and *would not* be used for a commercial, for-profit purpose—the  
17 financing of City Creek Center.

18 120. Plaintiffs and the Class have pleaded their claim of fraudulent  
19 misrepresentation with specificity in ¶¶30-102 pursuant to Rule 9(b).

20 121. Defendant LDS Corporation made misrepresentations of material fact to  
21 Plaintiffs and the Class that tithing funds *would not* be used for commercial, for-profit  
22 purposes including the financing of City Creek Center in video broadcasts and print  
23 publications:

24 a. on April 5, 2003, Gordon B. Hinckley, then acting president of the  
25 LDS Church and member of Defendant LDS Corporation, stated during the LDS  
26 Church’s video-broadcasted bi-annual April 2003 General Conference that tithing  
27 funds *would not* be used to acquire the property or develop City Creek Center and  
28 that the funds for financing City Creek Center would come from “commercial  
entities”:

1 But I wish to give the entire Church the assurance that tithing funds have  
2 not and will not be used to acquire this property. Nor will they be used in  
3 developing it for commercial purposes. Funds for this have come and will  
4 come from those commercial entities owned by the Church. These  
5 resources, together with the earnings of invested reserve funds, will  
6 accommodate this program.

7 b. in May 2003, Gordon B. Hinckley's aforementioned statement made  
8 on April 5, 2003 during the April 2003 bi-annual General Conference video  
9 broadcast was published in the LDS Church's official magazine, *The Ensign*;

10 c. in a press conference on October 8, 2003, H. David Burton, then  
11 Presiding Bishop of the LDS Church and member of Defendant LDS Corporation,  
12 stated in regard to the financing of City Creek Center, "[n]one of this money  
13 comes from the tithing of our faithful members...That is not how we use tithing  
14 funds";

15 d. in December 2003, the LDS Church's official magazine, *The Ensign*,  
16 published an article on City Creek Center, stating, "[n]o tithing funds will be used  
17 in the redevelopment";

18 e. on March 27, 2007, *Deseret News*, a Salt Lake City newspaper owned  
19 by Defendant LDS Corporation, published an article stating:

20 Church officials have not said how much they expect the entire development  
21 to cost, though city officials and others have estimated it could be an  
22 investment of \$1 billion or more. Money for the project is not coming from  
23 LDS Church members' tithing donations.

24 and

25 f. on October 5, 2012, Keith B. McMullin, formerly the second  
26 counselor in the LDS Church's Presiding Bishopric and former member of  
27 Defendant LDS Corporation, represented during an interview for *The Salt Lake*  
28 *Tribune* newspaper that tithing funds had not, and would not, be used for

1 commercial purposes including City Creek Center: “McMullin said not one  
2 penny of tithing goes to the Church’s for-profit endeavors. Specifically, the  
3 Church has said no tithing went toward City Creek Center.”

4 122. Defendants represented that the aforementioned facts, which were  
5 important, were true.

6 123. The representations were false because Defendants knew the funds to  
7 finance City Creek Center would be withdrawn from the EPA treasury account—a  
8 source that contained never-invested tithing funds.

9 124. Defendants knew the representations were false when Defendants made the  
10 representations, or Defendants made the representations recklessly and without regard  
11 for their truth.

12 125. Defendants’ intentional misrepresentations contradicted the LDS Church’s  
13 published purposes for tithing funds, which were and are to educate its members,  
14 conduct missionary work, build and maintain meetinghouses and temples, and to perform  
15 charitable work including care for the poor and needy.

16 126. Defendants had an intent to defraud Plaintiffs and the Class and to induce  
17 reliance on Defendant LDS Corporation’s misrepresentations. Defendants knew that  
18 Plaintiffs and the Class would not have paid tithing, or would have been less likely to  
19 pay tithing, had Plaintiffs and the Class known that their tithing funds were not being  
20 used for the LDS Church’s published purposes.

21 127. Defendants knew that Plaintiffs and the Class would not have paid tithing,  
22 or would have been less likely to pay tithing, had Plaintiffs and the Class known that  
23 their tithing funds were being used for commercial, for-profit purposes, including the  
24 financing of City Creek Center.

25 128. Plaintiffs and the Class reasonably relied on Defendant LDS Corporation’s  
26 misrepresentations because Defendants were in a superior position over Plaintiffs and the  
27 Class to know how tithing funds were being used; Plaintiffs and the Class were not  
28 aware and could not have determined that tithing funds were being used for a



1 commercial, for-profit purpose; and Plaintiffs and the Class looked toward Defendants as  
2 fiduciaries to administer tithing funds according to the LDS Church's published  
3 purposes, including care for the poor and needy.

4 129. As a result, Plaintiffs and the Class were damaged by paying ten percent  
5 (10%) of their incomes as tithing when Plaintiffs and the Class would not have paid  
6 tithing, or would have been less likely to pay tithing, had they known that Defendants  
7 *were not* using tithing for the LDS Church's published purposes.

8 130. Defendants are liable to Plaintiffs and Class Members for damages in an  
9 amount to be proven at trial.

10 131. Defendants acted with malice and fraud, and with intent to defraud Plaintiffs  
11 and Class members for the purpose of enriching themselves at Plaintiffs' and Class  
12 members' detriment; therefore, Defendants' conduct warrants substantial punitive and  
13 exemplary damages in an amount to be determined at trial.

## 14 COUNT II

### 15 **(Fraudulent Concealment on behalf of the Nationwide Class or State Class)**

16 132. Plaintiffs incorporate by reference all material facts in this Complaint as if  
17 fully set forth herein.

18 133. Plaintiffs bring this Count on behalf of themselves and the Nationwide Class  
19 or Statewide Class.

20 134. As alleged above in ¶¶30-102, Defendants concealed material facts under  
21 circumstances that created a duty to disclose by using tithing funds for a commercial,  
22 for-profit purpose—the financing of City Creek Center—when Defendant LDS  
23 Corporation made repeated representations to Plaintiffs and the Class that tithing funds  
24 would *only* be used for the LDS Church's published purposes.

25 135. Defendants concealed a material fact because Defendants knew the funds to  
26 finance City Creek Center would be withdrawn, or already had been withdrawn, from the  
27 EPA treasury account—a source that contained never-invested tithing funds.

28

1           136. Defendants’ intentional misrepresentations and actual knowledge that their  
2 use of tithing funds contradicted the LDS Church’s published purposes for tithing funds,  
3 which were and are to educate its members, conduct missionary work, build and  
4 maintain meetinghouses and temples, and to perform charitable work including care for  
5 the poor and needy, and created confusion about the use of tithing funds.

6           137. Defendants’ silence on these points was intended to induce a false belief  
7 among Plaintiff and the Class and to induce reliance. Defendants knew that Plaintiffs  
8 and the Class would not have paid tithing, or would have been less likely to pay tithing,  
9 had Plaintiffs and the Class known that their tithing funds were not being used for the  
10 LDS Church’s published purposes.

11           138. Defendants knew that Plaintiffs and the Class would not have paid tithing,  
12 or would have been less likely to pay tithing, had Plaintiffs and the Class known that  
13 their tithing funds were being used for commercial, for-profit purposes, including the  
14 financing of City Creek Center.

15           139. Defendants knew that Plaintiffs and the Class would not have paid tithing,  
16 or would have been less likely to pay tithing, had Plaintiffs and the Class known that  
17 Defendants had amassed billions of dollars in cash surplus. As set forth above, on  
18 February 8, 2020, *The Wall Street Journal* reported that the head of Defendant EPA,  
19 Roger Clarke, stated, “[w]e’ve tried to be somewhat anonymous” regarding the LDS  
20 Church’s investments, and the reason Defendants kept silent on the \$100 billion dollar  
21 fund was “[s]o they never wanted to be in a position where people felt like, you know,  
22 they shouldn’t make a contribution.”

23           140. Plaintiffs and the Class could not have discovered the truth through  
24 reasonable inquiry or inspection because Defendants were in a superior position over  
25 Plaintiffs and the Class to know how tithing funds were being used and Plaintiffs and the  
26 Class could not have discovered the transactions made by Defendant EPA. Therefore,  
27 Plaintiffs and the Class were not aware and could not have determined that tithing funds  
28 were being used for a commercial, for-profit purpose.

1 141. Plaintiffs and the Class reasonably relied on the Defendants' concealment as  
2 a representation that Defendants had not used never-invested tithing funds to finance  
3 City Creek Center.

4 142. This concealed information was such that Plaintiffs and the Class would  
5 have acted differently had they been aware. As set forth above, Plaintiffs and the Class  
6 would not have paid tithing, or would have been less likely to pay tithing, had Plaintiff  
7 and the Class known that their tithing funds were being used for commercial, for-profit  
8 purposes—including the financing of City Creek Center—and not for the LDS Church's  
9 published purposes.

10 143. As a result of their reliance on Defendants' concealment, Plaintiffs and the  
11 Class were damaged by paying ten percent (10%) of their incomes as tithing when  
12 Plaintiffs and the Class would not have paid tithing, or would have been less likely to  
13 pay tithing, had they known that Defendants *were not* using tithing for the LDS Church's  
14 published purposes.

15 144. Defendants are liable to Plaintiffs and Class Members for damages in an  
16 amount to be proven at trial.

17 145. Defendants acted with malice and fraud, and with intent to defraud Plaintiffs  
18 and Class members for the purpose of enriching themselves at Plaintiffs' and Class  
19 Members' detriment; therefore, Defendants' conduct warrants substantial punitive and  
20 exemplary damages in an amount to be determined at trial.

21 **COUNT III**

22 **(Negligent Misrepresentation on behalf of the Nationwide Class or State Class)**

23 146. Plaintiffs incorporate by reference all material facts in this Complaint as if  
24 fully set forth herein.

25 147. Plaintiffs bring this Count on behalf of themselves and the Nationwide Class  
26 or Statewide Class.

27 148. In the alternative to Plaintiffs' claims for fraudulent misrepresentation set  
28 forth in Count I and fraudulent concealment set forth in Count II above, Plaintiffs allege

1 a claim of negligent misrepresentation.

2 149. As alleged above, Defendant LDS Corporation made false statements of  
3 material fact that Defendant LDS Corporation was careless or negligent in ascertaining  
4 the truth of the statements when making them.

5 150. Defendant LDS Corporation made misrepresentations of material fact to  
6 Plaintiffs that tithing funds *would not* be used for commercial, for-profit purposes  
7 including the financing of City Creek Center in video broadcasts and print publications,  
8 as detailed herein *supra*.

9 151. Defendant LDS Corporation made these misrepresentations without  
10 reasonable ground for believing them to be true because the funds would be withdrawn,  
11 or already had been withdrawn, from the EPA treasury account—a source that contained  
12 never-invested tithing funds.

13 152. Defendants made these misrepresentations with the intent to induce  
14 Plaintiffs' and the Class's reliance on the facts misrepresented.

15 153. Defendants knew that Plaintiffs and the Class would not have paid tithing,  
16 or would have been less likely to pay tithing, had Plaintiffs and the Class known that  
17 their tithing funds *were not* being used for the LDS Church's published purposes.

18 154. Defendants knew that Plaintiffs and the Class would not have paid tithing,  
19 or would have been less likely to pay tithing, had Plaintiffs and the Class known that  
20 their tithing funds were being used for commercial, for-profit purposes, including the  
21 financing of City Creek Center.

22 155. Defendants knew that Plaintiffs and the Class would not have paid tithing,  
23 or would have been less likely to pay tithing, had Plaintiffs and the Class known that  
24 Defendants had amassed billions of dollars in cash surplus.

25 156. Plaintiff and the Class justifiably relied on the truth of Defendant LDS  
26 Corporation's statements because Defendants were in a superior position over Plaintiff  
27 and the Class to know how tithing funds were being used; Plaintiff and the Class were  
28 not aware and could not have determined that tithing funds were being used for

1 commercial, for-profit purposes, and Plaintiff and the Class looked toward Defendants as  
2 fiduciaries to administer tithing funds according to the LDS Church's published  
3 purposes, including care for the poor and needy.

4 157. As a result, Plaintiffs and the Class were damaged by paying ten percent  
5 (10%) of their incomes as tithing when Plaintiff and the Class would not have paid  
6 tithing had they known that Defendants were not using tithing for the LDS Church's  
7 published purposes.

8 158. As a direct and proximate result of Defendant LDS Corporation's negligent  
9 misrepresentations, Plaintiff and the Class have been damaged in an amount to be  
10 determined at trial, including compensatory damages and all damages allowed by law.

#### 11 COUNT IV

#### 12 (Negligence on behalf of the Nationwide Class or State Class)

13 159. Plaintiffs incorporate by reference all material facts in this Complaint as if  
14 fully set forth herein.

15 160. Plaintiffs bring this Count on behalf of themselves and the Nationwide Class  
16 or Statewide Class.

17 161. In the alternative to Plaintiffs' claims for fraudulent misrepresentation set  
18 forth in Count I and fraudulent concealment set forth in Count II above, Plaintiffs allege a  
19 claim of negligence.

20 162. Defendants voluntarily undertook the duties and responsibilities of a  
21 charitable organization at all times relevant herein, including, without limitation, when  
22 soliciting donations (or tithings) from Plaintiffs and the Class for a non-commercial, not-  
23 for-profit charitable purpose. Defendants had a common law duty to prevent foreseeable  
24 harm to others, including Plaintiffs and the Class, who were the foreseeable and probable  
25 victims of Defendants' unlawful practices. Defendants also had a duty to Plaintiffs and  
26 the Class arising from the voluntary undertaking of the duties and responsibilities of a  
27 charitable organization, which created a duty on the part of these Defendants to exercise  
28 due care in the performance of those duties and responsibilities, including, without

1 limitation, to (1) refrain from making false representations that the tithings would be  
2 used for a non-commercial, not-for-profit charitable purpose when that is not the fact and  
3 (2) ensure that the tithings were used for the specific charitable purposes for which they  
4 were solicited.

5 163. Defendants breached the duty of care that they owed to Plaintiffs and the  
6 Class by committing the actions set forth above. These actions also violate Cal. Gov.  
7 Code §12599.6 (prohibiting false representations that proceeds will be used for charitable  
8 purposes when that is not the fact) and Cal. Pen. Code §532d (prohibiting both  
9 intentional and negligent false statement of fact regarding the solicitation of donations).  
10 Plaintiff and the Class fall within the class of persons whom these statutes are intended to  
11 protect. “[V]iolation of a criminal statute can be used to establish a breach of the  
12 standard of care or other element of an ordinary tort cause of action. (See 5 Witkin,  
13 Summary of Cal. Law (10th ed. 2005) Torts, § 11, p. 55.; *Animal Legal Defense Fund v.*  
14 *Mendes*, 160 Cal.App.4th 136, 141 (Cal. Ct. App. 2008)). Insofar as Defendants’ actions  
15 violate these statutes, and the violation was a substantial factor in bringing about the  
16 harm to Plaintiffs and the Class who are part of the class of persons that the statutes are  
17 intended to protect, Plaintiffs and the Class are entitled to a presumption of negligence,  
18 i.e., negligence per se, pursuant to common law and Cal. Evid. Code § 669.

19 164. Defendants’ negligence was a substantial factor in causing harm to Plaintiffs  
20 and the Class.

21 165. As a result of Defendants’ negligence, Plaintiffs and the Class were  
22 damaged by paying ten percent (10%) of their incomes as tithing when Plaintiffs and the  
23 Class would not have paid tithing had they known that Defendants were not using tithing  
24 for the LDS Church’s published purposes.

25 166. As a direct and proximate result of Defendant LDS Corporation’s  
26 negligence, Plaintiffs and the Class have been damaged in an amount to be determined at  
27 trial, including compensatory damages and all damages allowed by law.  
28

**COUNT V**

**(Breach Of Fiduciary Duty on behalf of the Nationwide Class or State Class)**

1  
2  
3 167. Plaintiffs incorporate by reference all material facts in this Complaint as if  
4 fully set forth herein.

5 168. Plaintiffs bring this Count on behalf of themselves and the Nationwide Class  
6 or Statewide Class.

7 169. Plaintiffs and the Class placed confidence in the integrity of Defendants that  
8 Defendants would use tithing funds for the LDS Church's published purposes.  
9 Defendants accepted and assumed that confidence, resulting in Defendants having a  
10 fiduciary duty to Plaintiffs and the Class wherein Defendants could not take advantage of  
11 Plaintiffs' and the Class's generosity without their consent.

12 170. Defendants had a fiduciary duty to Plaintiffs and the Class to use tithing  
13 funds according to the LDS Church's published purposes: to build and maintain temples  
14 and meetinghouses, to sustain missionary work, to educate members, and to perform  
15 charitable work including care for the poor and needy.

16 171. Importantly, Plaintiffs and Class Members relied on Defendants as  
17 fiduciaries to distribute their donated tithing funds to the poor and needy in accordance  
18 with their intentions.

19 172. Defendants breached that fiduciary duty by using tithing funds for a  
20 commercial, for-profit purpose, including using \$1.4 billion for the financing of City  
21 Creek Center.

22 173. As a direct and proximate result of Defendants' breach, Plaintiffs and the  
23 Class have been damaged because Plaintiff and the Class paid ten percent (10%) of their  
24 incomes as tithing believing Defendants would use tithing funds for the LDS Church's  
25 published purposes, including care for the poor and needy.

26 174. Defendants' breach meant that Plaintiffs and the Class were not able to  
27 fulfill their intentions for donating tithing funds and millions of dollars in charity never  
28 reached persons in need.

1 175. As a direct and proximate result of Defendants' breach of fiduciary duty,  
2 Plaintiffs and the Class have been damaged in an amount to be determined at trial,  
3 including compensatory damages and all damages allowed by law.

4 **COUNT VI**

5 **(Unjust Enrichment on behalf of the Nationwide Class or State Class)**

6 176. Plaintiffs incorporate by reference all material facts in this Complaint as if  
7 fully set forth herein.

8 177. Plaintiffs bring this Count on behalf of themselves and the Nationwide Class  
9 or Statewide Class.

10 178. Plaintiffs and the Class conferred a benefit on Defendants by paying ten  
11 percent (10%) of their incomes as tithing funds to the LDS Church, which Defendants  
12 received.

13 179. Defendants received a benefit by accepting Plaintiffs' and the Class's tithing  
14 funds.

15 180. Defendants received and retained unjust benefits from Plaintiffs and the  
16 Class, and inequity has resulted because Plaintiffs and the Class paid tithing based on  
17 Defendant LDS Corporation's fraudulent misrepresentations that Plaintiffs' and the  
18 Class's tithing funds *were not* being used for commercial, for-profit purposes when in  
19 fact, Defendants had used tithing funds for commercial, for-profit purposes, including  
20 \$1.4 billion to finance City Creek Center.

21 181. It is unjust, inequitable, and unconscionable for Defendants to retain these  
22 benefits because as donors, Plaintiffs and the Class had intentions that were induced by  
23 fraud and Plaintiffs' and the Class's reasons for being members in the LDS Church have  
24 been frustrated because Defendants did not use Plaintiffs' and the Class's tithing for the  
25 LDS Church's published purposes.

26 182. Defendants concealed their fraud and deception, and therefore Plaintiffs and  
27 the Class were not aware of Defendants' fraudulent conduct.

28



1 183. Defendants knowingly accepted the unjust benefits of their fraudulent  
2 conduct.

3 184. As a result of Defendants' misconduct, the fruits of Defendants' unjust  
4 enrichment should be disgorged and returned to Plaintiff and the other Class Members in  
5 an amount to be proven at trial.

6 **COUNT VII**

7 **(Violation Of California Consumers Legal Remedies Act, Cal. Civ. Code §**  
8 **1750, et seq., on behalf of the State Class)**

9 185. Plaintiffs incorporate by reference all material facts in this Complaint as if  
10 fully set forth herein.

11 186. Plaintiffs bring this Count on behalf of themselves and the Statewide Class.

12 187. Defendant LDS Corporation committed an unlawful business practice by  
13 repeatedly representing to Plaintiffs and Class Members that tithing funds would not be  
14 used for a commercial, for-profit purpose, when in fact Defendants used \$1.4 billion in  
15 tithing funds for a commercial, for-profit purpose—financing City Creek Center.

16 188. Defendants' unlawful practice happened in the course of trade or commerce  
17 through Defendant LDS Corporation's repeated misrepresentation during the  
18 aforementioned video broadcasts and print publications.

19 189. Plaintiffs and other statewide Class Members were damaged by Defendants'  
20 unlawful practice by paying ten percent (10%) of their incomes as tithing.

21 190. Defendants' conduct constitutes unlawful practices as defined by the  
22 California Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et seq. ("CLRA").

23 191. Plaintiffs and the other statewide Class Members seek equitable relief, an  
24 award of attorneys' fees and costs, and punitive damages under Cal. Civ. Code § 1750, et  
25 seq. and any other just and proper relief available under the CLRA.

**COUNT VIII**

**(Violation of California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et seq., on behalf of State Class)**

192. Plaintiffs incorporate by reference all material facts in this Complaint as if fully set forth herein.

193. California’s Unfair Competition Law Cal. Bus. & Prof. Code § 17200, et seq. (“UCL”) defines “unfair business competition” to include any “unlawful, unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal. Bus. Prof. Code § 17200. A business act or practice is “unfair” under the UCL if it offends an established public policy or is immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers, and that unfairness is determined by weighing the reasons, justifications and motives of the practice against the gravity of the harm to the alleged victims. A business act or practice is “fraudulent” under the UCL if it is likely to deceive members of the consuming public. A business act or practice is “unlawful” under the UCL if it violates any other law or regulation.

194. The UCL imposes strict liability. Plaintiffs need not prove that Defendants intentionally or negligently engaged in unlawful, unfair, or fraudulent business practices – but only that such practices occurred.

195. Plaintiffs bring this Count on behalf of themselves and the Statewide Class.

196. In violation of the UCL, Defendants LDS Corporation committed an unfair, unlawful and fraudulent business practice by repeatedly representing to Plaintiffs and Class Members that tithing funds would not be used for a commercial, for-profit purpose, when in fact Defendants used \$1.4 billion in tithing funds for a commercial, for-profit purpose—financing City Creek Center. This conduct also violated Cal. Gov. Code § 12599.6 (falsely representing proceeds will be used for charitable purposes when that is not the fact), Cal. Pen. Code § 532d (false statement of fact re solicitation of donations), Cal. Civ. Code § 1750 et seq. (California Consumer Legal Remedies Act), and Cal. Civ. Code § 1710 (deceit).

1 197. Plaintiffs and other statewide Class Members were damaged by Defendants’  
2 unlawful practice by paying ten percent (10%) of their incomes as tithing.

3 198. Plaintiffs and the other statewide Class Members seek equitable relief and  
4 restitution and any other just and proper relief available under the UCL.

5 **COUNT IX**

6 **(Civil Conspiracy)**

7 199. Plaintiffs incorporate by reference all preceding paragraphs as if fully set  
8 forth herein.

9 200. As detailed herein, Defendants LDS Corporation and EPA combined,  
10 collaborated, and conspired to shield from Plaintiffs, the Class, and the general public  
11 that Defendants were using funds donated by church members and intended to be used  
12 for charitable and religious purposes for economic, profit-generating ventures that had  
13 nothing to do with the LDS Church’s charitable and religious ventures.

14 201. Defendants LDS Corporation and EPA, through their agents, employees,  
15 and representatives, had a meeting of the minds that the use of these funds would be  
16 concealed, and developed a mechanism to so conceal it as detailed herein.

17 202. Representatives of Defendants LDS Corporation and EPA took numerous  
18 affirmative steps in furtherance of their conspiracy, including but not limited to the  
19 misrepresentations and concealment referenced herein.

20 203. As a direct and proximate result of Defendants’ conspiracy and the  
21 unlawful, deceptive, and fraudulent conduct stemming therefrom, Plaintiffs and the Class  
22 have sustained damages in an amount to be proven at trial.

23 204. By virtue of Defendants’ conspiracy to defraud the Class, they are jointly  
24 and severally liable for the harm flowing from the conspiracy.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs pray that this case be certified and maintained as a class  
3 action pursuant to the proposed Nationwide Class or Statewide Class, and respectfully  
4 requests that this Court:

5 A. Determine that the claims alleged herein may be maintained as a class action  
6 under Rule 23 of the Federal Rules of Civil Procedure, and issue an order  
7 certifying the Nationwide Class and/or the Statewide Class as defined above;

8 B. Appoint Plaintiffs as the representatives of the Class and their counsel as  
9 Class counsel;

10 C. Award damages, including compensatory and exemplary damages, to  
11 Plaintiffs and all other Class Members;

12 D. Award Plaintiffs and Class Members actual damages sustained;

13 E. Award Plaintiffs and Class Members such additional damages, over and  
14 above the amount of their actual damages, which are authorized and warranted by  
15 law;

16 F. Create a constructive trust for the benefit of Class Members comprising all  
17 inequitably obtained monies and/or proceeds derived therefrom;

18 G. Grant equitable relief and restitution to Plaintiffs and Class Members and  
19 require Defendants to disgorge inequitable gains;

20 H. Award Plaintiffs and Class Members punitive damages;

21 I. Award Plaintiffs and Class Members their reasonable attorneys' fees and  
22 reimbursement of all costs for the prosecution of this action; and  
23  
24  
25  
26  
27  
28

1 J. Award such other relief as this Court deems just and appropriate.  
2

3 Dated: January 29, 2024

LAVELY & SINGER, P.C.

4 By: /s/ David B. Jonelis  
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6 DAVID B. JONELIS  
7 djonelis@lavelysinger.com  
8 2049 Century Park East, Suite 2400  
9 Los Angeles, CA 90067  
10 Telephone: (310) 556-3501  
11 Facsimile: (310) 556-3615

EAGAN LAW CORPORATION

12 By: /s/ Todd S. Eagan  
13

14 TODD S. EAGAN  
15 teagan@eaganlawcorp.com  
16 401 Wilshire Blvd., 12<sup>th</sup> FL.  
17 Santa Monica, CA 90401  
18 Telephone: (310) 304-3302  
19 Facsimile: (310) 304-3305

20 *Attorneys for Plaintiffs and the Class*  
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**DEMAND FOR JURY TRIAL**

Plaintiffs GENE JUDSON and MICHELLE JUDSON, individually and on behalf of the other members of a Nationwide Class or Statewide Class, demand a trial by jury.

Dated: January 29, 2024

LAVELY & SINGER, P.C.

By: /s/ David B. Jonelis

DAVID B. JONELIS  
djonelis@lavelysinger.com  
2049 Century Park East, Suite 2400  
Los Angeles, CA 90067  
Telephone: (310) 556-3501  
Facsimile: (310) 556-3615

EAGAN LAW CORPORATION

By: /s/ Todd S. Eagan

TODD S. EAGAN  
teagan@eaganlawcorp.com  
401 Wilshire Blvd., 12<sup>th</sup> FL.  
Santa Monica, CA 90401  
Telephone: (310) 304-3302  
Facsimile: (310) 304-3305

*Attorneys for Plaintiffs and the Class*