

1 **NOTICE OF MOTION AND MOTION**

2 TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on September 14, 2017, at 8:30 a.m., or as soon thereafter
4 as the matter may be heard, in Department M of the Los Angeles Superior Court, 1725 Main
5 Street, Santa Monica, California, Defendants MJJ Productions, Inc., and MJJ Ventures, Inc., will
6 appear through counsel and move this Court for an order pursuant to Code of Civil Procedure
7 section 437c granting summary judgment against Plaintiff Wade Robson on all of his causes of
8 action in this matter on the ground that there is no triable issue of material fact, and that the
9 Defendants are entitled to judgment as a matter of law in their favor on all causes of action
10 because they are all time-barred under Code of Civil Procedure section 340.1(b).

11 Undisputed material facts demonstrate that Plaintiff Wade Robson was over the age of 26
12 when he filed this action against non-perpetrator defendants for damages arising out of allegations
13 of childhood sexual abuse. Subdivision (b)(1) of section 340.1 bars all claims against non-
14 perpetrator defendants for damages arising out of allegations of childhood sexual abuse where the
15 action is “commenced on or after the plaintiff’s 26th birthday.” Code Civ. Proc. § 340.1(b)(1).
16 Subdivision (b)(2) of section 340.1 contains the one and only “narrow exception to the age 26 cut-
17 off” for such claims. *Quarry v. Doe I*, 53 Cal.4th 945, 983 (2012). That “narrow exception” does
18 not apply here because undisputed material facts show that Plaintiff Wade Robson’s claims do not
19 come within its scope. For these reasons, Defendants are entitled to judgment as a matter of law in
20 their favor on the entirety of Plaintiff’s Fourth Amended Complaint, with all purported causes of
21 action alleged therein being dismissed with prejudice and Plaintiff taking nothing in this action.
22 Defendants therefore pray for summary judgment in their favor in this action.

23 In addition and in the alternative, Defendants further move for summary adjudication of
24 the following issues:

25 1. Undisputed material facts demonstrate that Plaintiff filed this action after his 26th
26 birthday and his case is not within the scope of Code of Civil Procedure section 340.1(b)(2)’s
27 “narrow exception to the age 26 cutoff” for the types of claims alleged in this case, because
28 Defendants did not have the requisite degree of control over the alleged perpetrator of the abuse to

1 take reasonable steps, or to implement reasonable safeguards, to avoid acts of unlawful sexual
2 conduct in the future by the alleged perpetrator. All of Plaintiff's purported causes of action fail on
3 this basis.

4 2. Undisputed material facts demonstrate that Plaintiff filed this action after his 26th
5 birthday and his case is not within the scope of Code of Civil Procedure section 340.1(b)(2)'s
6 "narrow exception to the age 26 cutoff" for the types of claims alleged in this case, because
7 Plaintiff cannot show that he was exposed to the alleged perpetrator as an inherent part of the
8 environment created by the relationship between the alleged perpetrator and the Defendants. All of
9 Plaintiff's purported causes of action fail on this basis.

10 3. If the Court finds for some reason that there are genuinely disputed issues of
11 material fact as to whether one or more causes of action are barred by section 340.1(b),
12 Defendants move for summary adjudication of the remaining causes of action.

13 4. If the Court finds for some reason that there are genuinely disputed issues of
14 material fact as to whether the claims against one Defendant are barred by section 340.1(b),
15 Defendants move for summary adjudication as to the claims against the other Defendant.

16 This Motion is without prejudice to any potential motion for judgment on the pleadings
17 based on the fact that Robson's operative complaint does not, and cannot, state facts sufficient to
18 constitute a valid and timely cause of action. This Motion is without prejudice to any potential
19 future motions for summary judgment, or summary adjudication, based on issues not addressed
20 herein including: (i) whether a rational trier of fact could conclude, based on admissible evidence
21 presented by Robson, that Robson can recover on one or more of his alleged causes of action
22 generally; (ii) whether Defendants' alleged acts or omissions were the "legal cause of the [alleged]
23 childhood sexual abuse which resulted in the [alleged] injury to" Robson, *see, e.g.*, Code Civ.
24 Proc. § 340.1(a)(2), (a)(3); (iii) whether Robson can present sufficient facts to support a duty of
25 care in his favor; and (iv) any other appropriate grounds.

26 This Motion is based upon this Notice, the attached Memorandum of Points and
27 Authorities, the Separate Statement of Undisputed Facts, the Request for Judicial Notice, the
28 Compendium of Evidence (containing the Declarations of John Branca and Jonathan P. Steinsapir,

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with exhibits), all pleadings on file in this action, and on such other and further written and oral argument as may be presented at or before the hearing of this matter.

DATED: June 26, 2017

Respectfully Submitted:

KINSELLA WEITZMAN ISER
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By: Howard Weitzman
Howard Weitzman
Attorneys for Defendants
MJJ Productions, Inc. and MJJ Ventures, Inc.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On May 1, 2013, plaintiff Wade Robson petitioned for leave to file a late creditor's claim
4 against the Estate of Michael Jackson (the "Estate") in the probate court overseeing its
5 administration. The petition was based on allegations that Michael Jackson had molested Robson
6 twenty years earlier. Robson took extensive discovery in those proceedings. The parties
7 comprehensively argued the law. And in May 2015, the Court denied the petition with prejudice:
8 The petition was untimely under well-established probate claims filing rules.

9 Robson did not seek review of that ruling by an appellate court. Instead, he attempted to
10 end-run it through this civil suit against MJJ Productions and MJJ Ventures (the "Corporations").
11 These Corporations were owned and controlled by Michael Jackson when he was alive. They are
12 now a part of his Estate. They were established to run aspects of his businesses.

13 Robson was thirty years-old when he filed this case. His claims are all time barred *unless*
14 he can show that they are within the scope of Code of Civil Procedure section 340.1(b)(2), "a
15 narrow exception to the age 26 cutoff" for claims of this nature. *Quarry v. Doe I*, 53 Cal.4th 945,
16 983 (2012). Section 340.1(b)(2) "is targeted at third party defendants who, by virtue of certain
17 specified relationships to the perpetrator (i.e., employee, volunteer, representative, or agent), could
18 have employed safeguards to prevent the sexual assault. It requires the sexual conduct to have
19 arisen through an exploitation of a relationship over which the third party has some control." *Doe*
20 *v. City of Los Angeles*, 42 Cal.4th 531, 544 (2007), quoting *Aaronoff v. Martinez-Senftner*, 136
21 Cal.App.4th 910, 921 (2006). "The child must be exposed to the perpetrator as an inherent part of
22 the environment created by the relationship between the perpetrator and the third party." *Ibid*.

23 Robson can show none of this. The Corporations had no right to control Michael Jackson
24 or his friendship with Robson, or with anyone else. Michael was the Corporations' sole
25 shareholder. Their businesses were based on Michael's unique, personal talents. He was their sole
26 purpose for existence. They could not have imposed "reasonable safeguards" to prevent Michael's
27 access to anything. The sole shareholder of a corporation controls the corporation. It is not the
28 other way around. Likewise, Robson was not "exposed to [Michael Jackson] as an inherent part of

1 the environment created by the relationship between [Michael] and the [Corporations].” A child is
2 exposed to an abusive priest or teacher “as in inherent part of the environment created by the
3 relationship between” priest and Church, or between teacher and school. Here, however, Robson
4 was “exposed” to Michael Jackson as a result of Robson and his family’s repeated attempts to
5 reach out to Michael to cultivate a friendship with him. Robson’s mother testified unequivocally
6 that she trusted Michael to be alone with her son, not because of any relationship between Michael
7 and the Corporations—as, say, a parent may trust a priest to be alone with her child based on the
8 priest’s relationship with the Church imbuing the priest with the imprimatur of the Church. She
9 trusted Michael because she found him to be inherently and instantly trustworthy as a person.

10 In overruling the demurrer to the (superseded) third amended complaint, the Court held
11 that these issues required development of a factual record “in a proceeding beyond a demurrer.”
12 (Sept. 24, 2015 Order at pp. 3-4.) This is a “proceeding beyond a demurrer.” The factual record is
13 sufficiently developed. It is not genuinely disputed in material part. No rational jury can conclude
14 that this case is within the “narrow exception to the age 26 cutoff” of section 340.1(b)(2).

15 II. FACTS

16 A. General Background.

17 Michael Jackson passed away on June 25, 2009. (Statement of Undisputed Facts
18 (“Fact”) 1.)¹ Roughly four years later, Robson filed this civil action against MJJ Productions and
19 MJJ Ventures (as “Doe 2” and “Doe 3”) on May 10, 2013. (Fact 2.) Wade Robson was born on
20 September 17, 1982; he was 30 years old when he filed this action. (Fact 3 [Fourth Amended
21 Complaint (“FAC”) ¶ 10].) He alleges that Michael Jackson molested him between 1990 and 1997
22 when Robson was a minor, and that the Corporations were a legal cause of the molestation. (Fact
23 4.) Robson never filed a creditor’s claim against the Estate of Michael Jackson. Instead, before
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25 ¹ We cite directly to the Statement of Undisputed Facts, but also include citations to
26 supporting evidence in brackets where helpful. All exhibits are consecutively numbered and
27 attached to the Compendium of Evidence in Support of this Motion. They are authenticated in the
28 Declaration of John Branca, and Exhibits 11 through 22 are authenticated in the Declaration of
Jonathan Steinsapir.

1 filing this civil action, he petitioned to file a late creditor's claim against the Estate asking for
2 money to compensate him for the supposed molestation. The petition was denied with prejudice.
3 Robson never sought appellate review of that order. (Steinsapir Decl. ¶ 10, Ex. 18.)

4 In 2005, when Michael Jackson was still alive and Robson was 23 years old, Robson
5 testified in open court before a jury of twelve. In great detail, and even after aggressive cross-
6 examination by a very talented prosecutor, he confirmed *repeatedly* that Michael Jackson had
7 done nothing inappropriate with him. (Ex. 16.) Throughout the years of Robson's adulthood, until
8 the filing of this lawsuit, Robson publicly, prominently, and proudly defended Michael Jackson
9 and attempted to capitalize on his long friendship with Michael Jackson. For just a few examples
10 after Michael's death: Robson performed in and helped choreograph a posthumous tribute to
11 Michael Jackson on MTV's 2009 Video Music Awards (with Michael's talented, younger sister,
12 Janet Jackson); he penned a public tribute to Michael Jackson after his death (still prominently
13 displayed on his talent agent's website) stating that Michael Jackson is "one of the main reasons I
14 believe in the pure goodness of human kind" (Ex. 17); and he unsuccessfully tried to work with
15 the Estate to choreograph Michael Jackson-themed Cirque du Soleil shows, meeting personally
16 with Mr. Branca to pitch himself for the projects. (Branca Decl. ¶ 5.)

17 Notwithstanding this, and the *extraordinary delay* before filing suit, Robson asserts that his
18 action is timely pursuant to Code of Civil Procedure section 340.1. (FAC ¶¶ 1, 5-6, 77, 79.)

19 **B. The Corporations and Michael Jackson.**

20 MJJ Productions was incorporated as a California corporation in 1979 under the name
21 "Michael Jackson Productions, Inc." Its name was changed to "MJJ Productions, Inc." in 1982.
22 (Fact 5 [Branca Decl. ¶¶ 9-10, Exs. 1-4].) Michael Jackson was MJJ Productions' sole shareholder
23 at all times until his death on June 25, 2009. (Fact 6 [Branca Decl. ¶ 10; Ex. 21 ¶ 8].) Michael
24 Jackson utilized MJJ Productions as the corporation that furnished his services as a recording
25 artist. It entered into contracts for his services as a recording artist and holds the copyrights in the
26 sound recordings on the solo albums Michael released as an adult (i.e., from 1979's *Off the Wall*
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28

1 forward). (Fact 7 [Branca Decl. ¶ 14].)²

2 MJJ Ventures was incorporated in California in 1991. (Fact 12 [Branca Decl. ¶ 16; Exs. 6-
3 9].) Michael Jackson was MJJ Ventures' sole shareholder at all times until his death on June 25,
4 2009. (Fact 13 [Branca Decl. ¶ 3; Ex. 22 ¶ 8].) Michael Jackson utilized MJJ Ventures as a partner
5 in, and to provide Michael Jackson's services in, a joint venture between Michael Jackson
6 (through MJJ Ventures) and Sony Music (through affiliated companies). The Joint Venture is a
7 business venture between two entities that came together as a team to create business endeavors in
8 various forms of media. (Fact 14 [Branca Decl. ¶ 20].)

9 During all times relevant to this case until June 1, 1994, Michael Jackson was the sole
10 director of both Corporations. (Facts 8, 15 [Branca Decl. ¶¶ 12, 16; Exs. 3, 9.] On June 1, 1994, as
11 sole shareholder of both Corporations, Michael Jackson increased the size of the Boards of
12 Directors of both Corporations from one director to four directors (and amended the bylaws of the
13 Corporations to permit more than one director). Michael appointed himself, John Branca, Marshall
14 Gelfand (Michael's business manager), and the late Sandy Gallin (Michael's talent manager) as
15 the four directors of both Corporations. They remained the four directors through 1997. (Fact 9, 16
16 [Branca Decl. ¶¶ 12, 18; Exs. 5, 10].) The directors of the Corporations served at the pleasure of
17 Michael Jackson, the sole shareholder of the Corporations, and were subject to removal by him at
18 any time for any reason. (Fact 10, 17 [Branca Decl. ¶¶ 11, 18].) *See also* Corp. Code §§ 303(a),
19 603(a), (d).

20 No employee, officer or director of the Corporations (other than Michael Jackson himself)
21 had any right to control Michael Jackson's businesses, personal conduct, or conduct with respect
22 to the Corporations. (Facts 11, 18 [Branca Decl. ¶¶ 12-13, 18-19; Ex. 12 (Levine Depo.) 227:21-
23 228:24; Ex. 13 (Hearne Depo.) 169:18-170:23].) *See also* Corp. Code §§ 303(a), 312, 603(a), (d).
24 Michael Jackson took advice from many people during his life, including attorneys, managers,
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26 ² Contrary to the erroneous allegations in the Fourth Amended Complaint, MJJ
27 Productions never owned the copyrights in the music Michael Jackson wrote—those was owned
28 by Michael Jackson personally through a "d/b/a." (Branca Decl. ¶ 15.)

1 family members, employees, officers and directors of the Corporations, and others. Sometimes, he
2 followed that advice. Sometimes, he did not. (Fact 19 [Branca Decl. ¶ 7].) In the end, Michael
3 Jackson was the final decision maker with regard to—and the *only* person with the right and
4 power to control—Michael Jackson’s own businesses, personal conduct, and conduct with respect
5 to the Corporations. (Facts 11, 18, 19.)

6 **C. Michael Jackson’s Homes.**

7 “The principle that a man’s home is his castle is basic to our system of jurisprudence.”
8 *Lombard v. Louisiana*, 373 U.S. 267, 275 (1963) (Douglas, J., concurring). The principle is also
9 basic common sense.

10 In 1987, Michael Jackson acquired a large ranch in Santa Barbara County. He named it the
11 “Neverland Valley Ranch” (hereafter, “the Ranch”). Michael Jackson held title to the Ranch in his
12 own name from the time he acquired it until the mid- to late-2000s. At *no time* did either of the
13 Corporations hold title to, or otherwise own any interest in, the Ranch. (Fact 20 [Branca Decl.
14 ¶ 22].) At times in the late 1980s and through the 1990s, Michael Jackson owned apartments in
15 Los Angeles where he spent time while in town. At no time did either of the Corporations hold
16 title to, or otherwise own any interest in, those apartments. (Fact 21 [Branca Decl. ¶ 23].)

17 No one connected to the Corporations, other than Michael Jackson, had any right: (a) to
18 control when Michael could come and go to and from the Ranch or his apartments and with
19 whom; (b) to dictate who could and could not visit Michael at the Ranch or his apartments; or (c)
20 to create any sort of “procedures” for when Michael arrived and left the Ranch or his apartments
21 and who could and could not visit him at the Ranch or his apartments. (Fact 22 [Branca Decl. ¶ 24;
22 Ex. 13 (Hearne Depo.) 167:22-169:17; Ex. 14 (Goforth Depo.) 172:19-173:11, 177:10-23].)

23 That Michael Jackson exercised ultimate control over his own life and what went on at his
24 own residences is (unsurprisingly) acknowledged by both Wade Robson and his mother Joy.
25 Wade Robson has described the Ranch as “[REDACTED]
26 [REDACTED].” (Fact 23 [Ex. 19 at p. 25].) In a writing from
27 October 2013, Wade Robson wrote that Michael Jackson “[REDACTED]
28 [REDACTED]

1 [REDACTED].” (Fact 24 [Ex. 20 at p. 3 (emphasis in original)].) Joy Robson explained that Michael
2 Jackson told people who they could and could not talk to at the Ranch. Michael Jackson “didn’t
3 want us talking to the staff [at the Ranch], and he didn’t allow the staff to talk to us.” (Fact 25 [Ex.
4 11 (J. Robson Depo.) 68:8-69:7].) Joy once was “reprimanded” by an “angry” and “furious”
5 Michael Jackson when she did not follow his directions in this regard. (*Ibid.*) According to Joy
6 Robson, Michael Jackson was a controlling person: “If you did anything to upset Michael, he
7 would cut you off. ... So in order to remain his friend, you had to abide by his rules.” (Fact 26
8 [Ex. 11 (J. Robson Depo.) 127:5-10].)

9 **D. Wade Robson and His Family’s Relationships with Michael Jackson.**

10 Wade Robson was born on September 17, 1982 in Australia. (Fact 3.) When he was two
11 years old, his mother, Joy (“Joey”) Robson³, showed him Michael Jackson’s *The Making of*
12 *Thriller*. Robson “was instantly fascinated with the music video and watched it every day. He
13 quickly began to emulate Michael Jackson’s dance moves. Over the next few years, his fascination
14 with Michael Jackson and dancing and emulating him grew into an obsession. Michael Jackson
15 became like an entertainment ‘God’ to [Robson].” (Fact 27 [FAC ¶ 10].)

16 Wade Robson first met Michael Jackson in November 1987 in Australia. Joy entered a
17 five-year-old Wade into a dance contest in Australia sponsored by Target, Pepsi, and CBS
18 Records. Wade won the contest. (Fact 28 [Ex. 11 (J. Robson Depo.) 33:19-34:18].) The prize for
19 winning was that Robson, his mother, and another winner got to meet and speak “very briefly”
20 with Michael after one of his concerts in Australia. (Fact 29 [Ex. 11 (J. Robson Depo.) 33:19-34:6,
21 35:10-36:23].) Robson then danced on stage with Michael at the next night’s concert. (Fact 30
22 [Ex. 11 (J. Robson Depo.) 38:7-10].) The following night, Wade and Joy Robson brought a thank
23 you note to Michael’s hotel room and visited with him there for about an hour and a half. (Fact 31
24 [Ex. 11 (J. Robson Depo) 38:11-22].) After that, Joy Robson sent Michael Jackson letters and

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26 ³ In documents in this case, including in her own emails (e.g., Ex. 15) and in logs created
27 by her own counsel, Joy Robson is almost always referred to as “Joey Robson.” Joey is a
28 nickname that Michael Jackson gave her. She continues to go by the nickname that Michael
Jackson gave her to this day. (Ex. 11 (J. Robson Depo.) 315:2-17.)

1 videos of Wade, but never heard back. (Fact 32 [Ex. 11 (J. Robson Depo.) 40:8-41:16].)

2 In January 1990, the Robson family visited the United States where Wade and his older
3 sister, Chantal, were both performing at Disneyland with the Johnny Young Talent School. (Fact
4 33 [Ex. 11 (J. Robson Depo) 41:20-42:4, 43:14-20].) Before leaving Australia, Joy Robson tried to
5 obtain contact information for Michael. After the family arrived in the United States, Joy
6 eventually got in touch with Norma Staikos, Michael's personal assistant at MJJ Productions at the
7 time. (Fact 34 [Ex. 11 (J. Robson Depo) 42:5-43:13].) Through Staikos, Michael invited the
8 Robson family to visit him at Record One studios in Sherman Oaks where the Robsons showed
9 Michael photographs and videos of young Wade Robson performing. (Fact 35 [Ex. 11 (J. Robson
10 Depo) 44:10-16, 45:25-46:18].) Michael then invited the family to the Ranch for the weekend.
11 (Fact 36 [Ex. 11 (J. Robson Depo) 46:13-15, 48:5-16].) At some point on that trip to the Ranch,
12 Wade *alleges* that he was first molested by Michael Jackson. (Fact 37 [FAC ¶ 15].)

13 In May 1990, Joy and Wade Robson returned to the United States to participate in a photo
14 shoot with Michael Jackson for L.A. Gear. (Fact 38 [Ex. 11 (J. Robson Depo.) 57:15-23].) The
15 Robsons' trip, and the photo shoot, were paid for by L.A. Gear. (Ex. 11 (J. Robson Depo.) 57:24-
16 59:12.) The two again travelled to the United States to visit Michael in February 1991. (Fact 39
17 [Ex. 11 (J. Robson Depo.) 103:17-104:1].) Then in September 1991, Joy Robson decided to move
18 to the United States with Wade and Chantal. (Fact 40 [Ex. 11 (J. Robson Depo.) 113:11-21].) She
19 began considering the move in or before November 1990. And it had been Wade's father, Dennis,
20 who first brought up the possibility of moving from Australia to the United States, when the
21 family had visited the United States in 1990. (Ex. 11 (J. Robson Depo.) 83:1-15.)

22 Joy Robson decided to move to the United States to pursue Wade's career in the
23 entertainment industry. (Fact 41 [Ex. 11 (J. Robson Depo.) 113:22-25].) Joy had hoped that
24 Michael would be able to help them with Wade's career, but she quickly learned that Michael was
25 far too busy to help them. She had to do most of the work to get Wade's career off the ground.
26 (Fact 42 [Ex. 11 (J. Robson Depo.) 115:3-117:20, 122:24-123:2].) Joy had asked Michael Jackson
27 to sponsor their immigration to the United States. (Fact 43 [Ex. 11 (J. Robson Depo.) 128:20-
28 129:8].) By the time of her move to the United States, Joy Robson was already good friends with

1 Michael Jackson. She testified that she would have remained friends with him regardless of
2 whether he had sponsored her immigration to the United States or not. (Fact 44 [Ex. 11 (J. Robson
3 Depo.) 138:15-139:25].) Joy explained to Wade in November 2012 (after Wade changed his story
4 and told her that Michael had molested him) that “[b]eing around Michael had never been about
5 furthering your career for me after we arrived in the States.” (Fact 45 [Ex 11 (J. Robson Depo.)
6 302:14-304:2, 307:9-308:10; Ex. 15 (email from Joy stating same to Wade)].)

7 Joy Robson was aware that Wade Robson (and Chantal on a few occasions) slept in
8 Michael’s room and bed during the 1990s. She had no concerns about that. Joy never had
9 apprehensions about this because “you just automatically trusted him [Michael]. He was just one
10 of those people I -- I just felt -- I felt like there was never anything that gave me concern at the
11 time.” (Fact 46 [Ex. 11 (J. Robson Depo) 53:15-54:13, 56:20-57:8, 62:5-18].) When allegations
12 were made in 1993 that Michael had molested a boy, Joy Robson firmly believed that Michael was
13 innocent. (Fact 47 [Ex. 11 (J. Robson Depo.) 170:8-171:8].) Joy Robson *never* mentioned the
14 Corporations when explaining why she trusted Michael Jackson to spend time alone with Wade
15 Robson. Indeed, when asked about the respective businesses of MJJ Productions and MJJ
16 Ventures, she knew little about them. She said that she understood that they were Michael
17 Jackson’s companies, and that “some of the things that *Michael did* went through Ventures, and
18 some went through Productions. I’m not sure how they separated that.” (Fact 48 [Ex. 11 (J.
19 Robson Depo.) 133:12-134:9 (emphasis added)].)

20 Until a few years ago, Wade Robson always told his mother that he had never been
21 molested by Michael Jackson. His mother always believed him completely. In her words, Wade
22 Robson “should have won an Oscar. He was very convincing” (Ex. 11 (J. Robson Depo.) 160:11-
23 21.) His mother always believed him until he changed his story and filed this lawsuit for money.

24 III. ARGUMENT

25 A. Legal Standards on Summary Judgment Motions Generally.

26 The Court “shall” grant a motion for summary judgment when “the papers submitted show
27 that there is no triable issue as to any material fact and that the moving party is entitled to
28 judgment as a matter of law.” Code Civ. Proc. § 437c(c). When looking at the evidence on a

1 motion for summary judgment, the Court must construe the evidence in a light most favorable to
2 the non-moving party. “Despite this review in plaintiff’s favor, plaintiff’s evidence remains
3 subject to careful scrutiny. [A court] can find a triable issue of material fact if, and only if, the
4 evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party
5 opposing the motion in accordance with the applicable standard of proof.” *Falcon v. Long Beach*
6 *Genetics, Inc.*, 224 Cal.App.4th 1263, 1271 (2014) (internal citation and punctuation omitted).

7 **B. Section 340.1(b)(2): “The Narrow Exception to the Age 26 Cutoff.”**

8 Robson seeks to recover money damages based on allegations that he was sexually abused
9 by Michael Jackson when Robson was a minor in the 1990s. Historically, the limitations period
10 for such claims was the (former) general one-year personal injury statute of limitations. That
11 statute “was [then] tolled until one year after the time the plaintiff reached the age of majority, that
12 is, until the age of 19.” *Quarry*, 53 Cal.4th at 961. Robson was 30 years old when he filed this
13 action (Fact 3), so he does not fall within the historical statute of limitations for personal injury
14 actions. Instead, Robson invokes Code of Civil Procedure section 340.1, an extended statute of
15 limitations for certain civil claims based on allegations of childhood sexual abuse.

16 Section 340.1 recognizes two categories of claims within its scope: (1) claims “against any
17 person for committing an act of childhood sexual abuse”; and (2) claims against “any person or
18 entity” whose negligent or intentional acts were a “legal cause of the childhood sexual abuse.”
19 Code Civ. Proc. § 340.1(a). The former category of claims, under subdivision (a)(1), are referred
20 to in the case law and Legislative history as claims against the “direct perpetrator.” The latter
21 category, under subdivisions (a)(2) and (a)(3), are referred to as “claims against third party
22 defendants.” *Quarry*, 53 Cal.4th at 966. For claims against the direct perpetrator, the limitations
23 period is the later of: (1) plaintiff’s 26th birthday; or (2) within three years of when the plaintiff
24 discovers, or reasonably should have discovered, that he or she suffered psychological or other
25 injuries as an adult, caused by the childhood sexual abuse. Code Civ. Proc. § 340.1(a).

26 In contrast, claims against third party defendants must be filed before a plaintiff’s 26th
27 birthday. There is *no* extension for delayed discovery of the injuries resulting from the abuse. *Id.*
28 § 340.1(b)(1). There is *one and only one* “narrow exception to the age 26 cutoff” for claims

1 against third party defendants. *Quarry*, 53 Cal.4th at 983. That is section 340.1(b)(2). Under that
2 provision, an entity is subject to the longer three-year, delayed discovery limitations period *if* the
3 entity was *both* on notice of past “unlawful sexual conduct by an employee, volunteer,
4 representative, or agent” *and* the entity “failed to take reasonable steps, and to implement
5 reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by that person,
6 including, but not limited to, preventing or avoiding placement of that person in a function or
7 environment in which contact with children is an inherent part of that function or environment.”
8 Code Civ. Proc. § 340.1(b)(2).

9 The Corporations are “entities” and not “persons” within the meaning of section 340.1.
10 *Boy Scouts of Am. Nat. Found. v. Superior Court*, 206 Cal.App.4th 428, 448 (2012). Thus, they
11 can only be sued under subdivisions (a)(2) and (a)(3) of section 340.1, i.e., as “third party
12 defendants.” *See generally ibid.* Robson was 30 years old when he filed this action (Fact 3), so he
13 missed “the age 26 cutoff” for such claims. *Quarry*, 53 Cal.4th at 968. This suit is therefore time-
14 barred as a matter of law, *unless* Robson has sufficient evidence from which a rational trier of fact
15 could conclude that his claims are within the scope of section 340.1(b)(2), the one and only
16 “special *exception* to the age 26 cutoff.” *Ibid.* (emphasis in original).

17 **C. Robson Has the Burden to Show Compliance With § 340.1(b)(2).**

18 It is “the plaintiff’s burden ... to establish an exception to the limitations period.” *Fuller v.*
19 *First Franklin Fin. Corp.*, 216 Cal.App.4th 955, 962 (2013).

20 As the Supreme Court has explained, “the placement and quantum of the burden of proof
21 at trial [are] crucial for purposes of summary judgment.” *Aguilar v. Atlantic Richfield Co.*, 25
22 Cal.4th 826, 853 (2001). Because Robson has the burden of proof to show that his case is within
23 the “narrow exception to the age 26 cutoff” of section 340.1(b)(2), the Corporations need *not*
24 “conclusively negate any” fact necessary to Robson proving that his case comes within the scope
25 of that section. *Ibid.* Rather, the Corporations need only meet “an initial burden of production to
26 make a *prima facie* showing of the nonexistence of any triable issue of material fact” with respect
27 to section 340.1(b)(2). *Id.* at 850. Stated differently, the Corporations must only show that Robson
28 cannot submit sufficient evidentiary support for at least one fact necessary to come within the

1 “narrow exception” of section 340.1(b)(2). *Id.* at 853-54.

2 As shown below, the evidence submitted in support of this Motion is more than sufficient
3 to meet that “initial burden of production.” Thus, in opposing this Motion, “the burden [will] shift
4 to [Robson] ... to show that a triable issue of one or more material facts exists as to” whether he
5 can meet the requirements of section 340.1(b)(2). *Aguilar*, 25 Cal.4th at 849. To meet that burden,
6 Robson must present “substantial responsive evidence” showing that a triable issue of material
7 fact exists. *Sangster v. Paetkau*, 68 Cal.App.4th 151, 162-63 (1998). Robson cannot meet that
8 burden: “Responsive evidence that gives rise to no more than mere speculation cannot be regarded
9 as substantial, and is insufficient to establish a triable issue of material fact.” *Id.* at 163. And
10 regardless of the burden of proof, the undisputed facts compel a finding that this case is *not* within
11 the “narrow exception to the age 26 cutoff” of section 340.1(b)(2). *Quarry*, 53 Cal.4th at 983.

12 **D. Robson Cannot Meet His Burden To Show Compliance With § 340.1(b)(2).**

13 Section 340.1(b)(2) was enacted in 2002, “in the wake of public exposure of sexual abuse
14 by priests against children that had been condoned and covered up by the Catholic Church for so
15 many years.” *Quarry*, 55 Cal.4th at 988. The Supreme Court has explained that the section “is
16 targeted at third party defendants who, by virtue of certain specified relationships to the
17 perpetrator (i.e., employee, volunteer, representative, or agent), could have employed safeguards
18 to prevent the sexual assault. It requires the sexual conduct to have arisen through an exploitation
19 of a relationship over which the third party has some control.” *Doe*, 42 Cal.4th at 544, quoting
20 *Aaronoff*, 136 Cal.App.4th at 921. “In other words, the perpetrator’s access to the victim must
21 arise out of the perpetrator’s employment with, representation of, agency to, etc., the third party,
22 and the third party must be in such a relationship with the perpetrator as to have some control over
23 the perpetrator. The child must be exposed to the perpetrator as an inherent part of the
24 environment created by the relationship between the perpetrator and the third party.” *Ibid.*

25 Applying the language from the cases to the allegations here, Robson needs to present
26 sufficient evidence from which a rational trier of fact could conclude that the Corporations had the
27 requisite degree of control over Michael Jackson, such that they could have employed safeguards
28 to prevent alleged sexual abuse by him. Robson needs to present sufficient evidence to support a

1 finding that there is a “necessary relationship between [the Corporations] and [Michael Jackson
2 so] that the former was in a position to exercise some control over the latter” such that the
3 Corporations could have prevented the alleged abuse. *Doe*, 42 Cal.4th at 544.

4 Robson must *also* present evidence that Michael Jackson’s “access to [Robson] must
5 [have] arise[n] out of [Michael’s] employment with, representation of, agency to, etc., the
6 [Corporations]”; and that Robson was “expos[ed] to [Michael] as an inherent part of the
7 environment created by the relationship between [Michael] and [the Corporations].” *Aaronoff*, 136
8 Cal.App.4th at 921.

9 Robson has evidence of none of this. No such evidence exists.

10 **1. The Corporations Lacked the Requisite Degree of Control Over**
11 **Michael Jackson to Come Within the Scope of Section 340.1(b)(2).**

12 Section 340.1(b)(2)’s “enumeration of the necessary relationship between the
13 nonperpetrator defendant and the perpetrator implies that the former was in a position to exercise
14 some control over the latter.” *Doe*, 42 Cal.4th at 544. Robson cannot make that showing in this
15 case. The Corporations could not exercise *any* degree of control over Michael Jackson, their sole
16 shareholder, particularly under the circumstances here, where Michael Jackson controlled both
17 Corporations as a matter of law and fact.

18 As sole shareholder, Michael Jackson *had sole legal control* over all corporate activities.
19 A California corporation is controlled by its Board. Corp. Code § 300(a). In turn, the Board is
20 controlled by the shareholders. When there is only one shareholder, the shareholder controls the
21 Board entirely. Directors are elected “by unanimous written consent of all shares” (*id.* § 603(d)),
22 and “[a]ny or all of the directors may be removed without cause if the removal is approved by the
23 outstanding shares.” *Id.* § 303(a).

24 Michael Jackson was the sole shareholder of the Corporations. (Facts 6, 13.) He therefore
25 *exercised complete control* over the Boards of both Corporations (which, for much of the time
26 period, consisted *only* of him). He was *the only person who could* exercise that control over both
27 Corporations. The Corporations could not have exercised control over Michael Jackson,
28 particularly with respect to the alleged bad acts in this case, which have no real connection to the

1 Corporations at all. *Coit Drapery Cleaners v. Sequoia Ins. Co.*, 14 Cal.App.4th 1595, 1601-02
2 (1993) (“the trial court properly found that there was no way Coit, the corporate entity, could have
3 disciplined or supervised its president, chairman of the board, and major shareholder.”).

4 And as a matter of fact, no one associated with the Corporations *did* control Michael
5 Jackson with respect to his activities relating to the Corporations (or any other activities). No
6 employee, officer, or director of the Corporations (other than Michael Jackson himself) had any
7 right to control Michael Jackson’s businesses, personal conduct, or conduct at, and access to, his
8 own homes. (Facts 11, 18, 22.) *See also* Corp. Code §§ 303(a), 312, 603(a), (d). Michael Jackson
9 took advice from various people—such as employees, officers and directors of the Corporations,
10 family members, attorneys, and others. Sometimes he followed that advice and sometimes he did
11 not. (Fact 19.) But Michael Jackson himself was the ultimate decision maker with regard to—and
12 the only person with the right to control—his own businesses (including the Corporations and his
13 other businesses), homes, and personal conduct. (Facts 11, 18, 19, 22.)

14 Because the Corporations had neither the right nor ability to control Michael Jackson, there
15 are no “reasonable steps” or “reasonable safeguards” that the Corporations could have
16 “implemented” here. Code Civ. Proc. § 340.1(b)(2). The most Robson has ever asserted is that
17 certain employees of the Corporations *should have tried* to prevent the alleged abuse, or should
18 not have “allowed” Michael Jackson to be alone with children. The question under section
19 340.1(b)(2), however, is *not* whether employees of the Corporations could conceivably have
20 challenged Michael, the issue is whether the Corporations had a “right to control” Michael
21 Jackson such that they could have imposed “reasonable steps” or “reasonable safeguards” to avoid
22 future abuse. *Joseph v. Johnson*, 178 Cal.App.4th 1404, 1412 (2009). Section 340.1(b)(2) does not
23 impose a duty upon corporate employees to police the lives of their superiors. Rather, it merely
24 provides that persons or entities with a “right to control” another person must take “reasonable
25 steps” to prevent abuse if they have knowledge of past abuse. *Doe*, 42 Cal.4th at 544.

26 The decision in *Joseph v. Johnson* illustrates the point. There, a woman, Johnson, was sued
27 by plaintiffs—all over the age of 26—for negligence in connection with the plaintiffs’ alleged
28 molestation by the woman’s husband, Caesar. *Joseph*, 178 Cal.App.4th at 1408-09. The trial court

1 sustained a demurrer without leave to amend for failure to allege the requirements of section
2 340.1(b)(2). The Court of Appeal affirmed (except as to one claim where the woman was
3 allegedly liable as a direct perpetrator such that compliance with section 340.1(b)(2) was
4 unnecessary). *Id.* at 1409, 1412, 1415. Johnson babysat plaintiffs when they were minors.
5 Plaintiffs were allegedly molested when Johnson “allowed” her husband to be alone with them.
6 Precisely as Robson does here with employees of the Corporations, plaintiffs theorized that
7 Johnson could have taken steps to ensure that her husband was not alone with the plaintiffs,
8 contending “that ‘Johnson readily could have controlled Caesar’s conduct with plaintiffs by not
9 allowing him to be alone with plaintiffs while babysitting.’” *Id.* at 1412 (brackets removed).

10 The Court of Appeal flatly rejected that this was the type of “control” contemplated by
11 section 340.1(b)(2) and the case law interpreting it: “Plaintiffs’ only allegation with respect to
12 control is that Johnson could have controlled Caesar’s conduct ‘by not allowing him to be alone
13 with plaintiffs while babysitting.’ But the fact that Johnson might not have permitted Caesar to be
14 alone with the plaintiffs does not mean that she had the *right to control* his behavior.” *Ibid.*
15 (emphasis added and brackets removed).

16 The same reasoning applies here. The fact that, hypothetically, some employees
17 conceivably could have objected to Michael being alone with Robson—despite the fact that
18 Robson’s own mother was perfectly fine with it (Fact 46)—“does not mean that [those employees]
19 had the *right to control* [Michael’s] behavior.” *Ibid.* (emphasis added). The same result should be
20 reached here: Judgment should be entered in the Corporations’ favor. Indeed, in *Joseph*, the Court
21 of Appeal *sustained a demurrer without leave to amend*. In plain English, the Court of Appeal
22 held that there was *no conceivable set of facts* by which a jury could conclude that a wife had the
23 “right to control” her husband. Certainly, if one spouse cannot, as a matter of law, *conceivably*
24 have a right to control the other spouse, corporate employees cannot possibly have a “right to
25 control” the sole shareholder of the Corporations who, as a matter of fact and law, controlled the
26 Corporations and their Boards, and thus had a right to control those employees’ conduct.

27 Robson has no answer for *Joseph v. Johnson*. His ridiculous allegations in the latest
28 complaint that the Corporations were “likely the most sophisticated public child sexual abuse

1 procurement and facilitation organization the world has known” add nothing to the equation.
2 Besides being unsupported by *any actual evidence*, the allegations are legally irrelevant. The
3 Court in *Joseph v. Johnson* specifically found that there *were* sufficient allegations that Johnson
4 could be sued as a “direct perpetrator” (and reversed the trial court on that point), because
5 plaintiffs alleged she had acted as a purposeful “child procurer” for her husband. *Id.* at 1414-15.
6 That notwithstanding, the Court still held that she could *not* be sued as a “third party defendant”
7 under section 340.1(b)(2), as she had no “right to control” her husband. *Id.* at 1412. Thus,
8 regardless of whether the Corporations were “procurers,” they still had no “right to control”
9 Michael Jackson. *See Boy Scouts*, 206 Cal.App.4th at 445 (entities cannot be sued “in the capacity
10 of perpetrators ... whether as aiders and abettors or as child procurers” as a matter of law).

11 Robson’s attempt to separate the Corporations from Michael—such that the Corporations
12 could “control” Michael with respect to his (alleged) most personal dealings—makes no sense.
13 The Corporations were owned by Michael Jackson. Michael Jackson controlled the Boards of
14 Directors. The officers and directors thus served at the pleasure of Michael Jackson. *See, e.g.*,
15 Corp. Code §§ 303(a), 312(b). But the Corporations could have controlled Michael? How? What
16 human being at the Corporations could have actually done that? “A corporation is simply a form
17 of organization used by human beings to achieve desired ends. ... Corporations, ‘separate and
18 apart from’ the human beings who own, run, and are employed by them, cannot do anything at
19 all.” *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751, 2768 (2014). Under the circumstances
20 of this case, where Robson’s mother had no objections to Robson and Michael being alone (Fact
21 46), what “reasonable steps” should the Corporations have taken? What “reasonable safeguards”
22 were the Corporations to impose? Robson has no answer to these questions. And there are none.

23 **2. Robson Was Not Exposed to Michael as Part of the Environment**
24 **Created by the Relationship Between Michael and the Corporations.**

25 Setting aside the control issue, in order for section 340.1(b)(2) to apply, Robson must also
26 show that he was “expos[ed] to [Michael Jackson] as an inherent part of the environment created
27 by the relationship between [Michael Jackson] and [the Corporations].” *Aaronoff*, 136 Cal.App.4th
28 at 921. This requirement of section 340.1(b)(2) that the abuse must arise “as an inherent part of the

1 environment created by the relationship between [Michael Jackson] and [the Corporations]" fits
2 neatly with the same requirement in negligent supervision, retention, and hiring cases. Those torts
3 apply "in factual settings where the plaintiff's injury occurred in the workplace, or the contact
4 between the plaintiff and the employee was generated by the employment relationship." *Mendoza*
5 *v. City of Los Angeles*, 66 Cal.App.4th 1333, 1339-40 (1998).

6 Here, Robson was not "expos[ed] to [Michael] as an inherent part of the environment
7 created by the relationship between [Michael Jackson] and [the Corporations]." *Aronoff*, 136
8 Cal.App.4th at 921. Robson was exposed to Michael because Robson had been fascinated by him
9 since his mother showed him *The Making of Thriller* when he was two years old. (Fact 27.) That
10 had nothing to do with the Corporations. Robson then met Michael Jackson when he was five
11 years old, because his mother entered him into a dance contest sponsored by Target, Pepsi, and
12 CBS Records. (Fact 28.) That had nothing to do with the Corporations. Robson then lost touch
13 with Michael when his mother's letters to Michael went unanswered. (Fact 32.)

14 Robson reestablished contact with Michael in 1990, when his family visited the United
15 States and his mother again reached out to Michael. (Facts 34-35.) That had nothing to do with the
16 Corporations (other than the fact that Robson's mother first reached Michael's personal assistant
17 who worked for MJJ Productions). Although much is made by Robson of the fact that Michael
18 Jackson, through MJJ Ventures, sponsored his family's immigration to the United States, Joy
19 Robson asked Michael to do that. (Fact 43.) She was already good friends with Michael by then.
20 She was clear that she would have remained friends with him, whether or not he sponsored the
21 family. (Fact 44.) When the family left Australia, Joy was clear that "[b]eing around Michael had
22 never been about furthering [Wade's] career for me after we arrived in the States." (Fact 45.)

23 In this regard, the case is analogous to the Court of Appeal's decision in *Aronoff*, where
24 the Court sustained a demurrer without leave to amend against a complaint by a daughter against
25 her parents and her parents' businesses. There, plaintiff alleged that her father and mother both
26 worked at and owned defendant car dealerships. *Aronoff*, 136 Cal.App.4th at 917. The plaintiff
27 also had been hired by her parents to work at the car dealerships when she was eight years old, and
28 continued to work there at least through the time she was thirteen. *Ibid*. The complaint alleged that

1 the father molested the plaintiff from when she was four years old until she was thirteen years old,
2 including during business hours at the car dealerships where both were employed. *Id.* at 917.

3 Allegedly, plaintiff's mother, Gloria, knew about and witnessed the abuse by plaintiff's
4 father, James, but took no steps to prevent it. *Ibid.* The complaint in *Aaronoff* alleged that "Gloria
5 was fully aware of the extent and scope of the depraved pattern of sexual abuse carried out by
6 James against plaintiff, and hence was his aider, abettor and co-conspirator in carrying out and
7 concealing the sexual abuse and molestation. Furthermore, Gloria was an officer and employee of
8 [defendant car dealership corporations] and had a duty to take reasonable safeguards to prevent
9 employees and/or agents of those businesses from committing acts of unlawful sexual conduct
10 against minors." *Ibid.* The trial court sustained a demurrer without leave to amend. The Court of
11 Appeal affirmed, holding that the abuse simply did not arise out of the business relationship such
12 that the business, or the mother in her capacity as an officer of the business, could be liable for
13 abuse that allegedly took place on the business's premises. *Id.* at 921-23

14 Just as in *Aaronoff*, the Corporations are, at best, incidental to the alleged abuse. Like
15 *Aaronoff*, the alleged abuse predated any fleeting conduct or interactions with the Corporations,
16 and the Corporations had nothing to do with the alleged abuse. Joy Robson could not have been
17 more clear that the reason she trusted Michael Jackson was based on her own trust in him as a
18 person. She "just automatically trusted [Michael]. He was just one of those people I -- I just felt --
19 I felt like there was never anything that gave me concern at the time." (Fact 46 [Ex. 11 (J. Robson
20 Depo.) 53:15-54:13, 56:20-57:8, 62:5-18].) She did not trust Michael because of his relationship
21 with the Corporations (about which she knows hardly anything). (Fact 48.) No rational jury could
22 conclude that Robson was "exposed to [Michael] as an inherent part of the environment created by
23 the relationship between [Michael] and the [Corporations]." *Aaronoff*, 136 Cal.App.4th at 921.
24 Robson's exposure to Michael was a result of Michael's fame, and the Robson family's resulting
25 pursuit of a friendship with him, *not* as a result of Michael's relationship to the Corporations.

26 This case is nothing like the cases where a child is exposed to an abuser as "an inherent
27 part of the environment created by the relationship between the perpetrator and the" the third
28 party. *Ibid.* This is nothing like a situation where a child is exposed to an abusive teacher or priest,

1 “as an inherent part of the environment created by the relationship between” the teacher and the
2 school, or the priest and the Church. This is nothing like a case where a parent trusts a child to be
3 alone with a perpetrator because of the trust inherent in the perpetrator’s relationship to the third
4 party. When a perpetrator is a priest, the priest’s relationship with a Church *inherently* creates a
5 reason to trust the priest. Parents *should* be entitled to assume that a Church would not allow a bad
6 priest to be alone with children. When a perpetrator is a teacher, the teacher’s relationship with a
7 school *inherently* creates a reason to trust the teacher. Parents *should* be entitled to assume that a
8 school would not hire abusive teachers (or, at least, not allow them to be alone with children).

9 Stripped of its attempt to dress up his arguments in the language of section 340.1(b)(2),
10 what Robson is really arguing is that the *alleged* acts of Michael Jackson in his bedroom can be
11 imputed to the Corporations as acts of the Corporations. But California courts have consistently
12 held that corporations are *not* vicariously liable for alleged sexual abuse by their officers or
13 employees. *Quarry*, 53 Cal.4th at 962 n.4. In so holding, these courts conclude that the alleged
14 sexual abuse by a corporate officer or employee are outside the scope of employment by the
15 corporation. ⁴ Here, any relationship between the Corporations and the alleged abuse is even more
16 tenuous than in the vicarious liability cases. The Corporations did not, and could not, “control”
17 Michael such that they could have taken steps to prevent the alleged abuse. *See Joseph*, 178
18 Cal.App.4th at 1412; *Aaronoff*, 136 Cal.App.4th at 92.

19 “An employer is not charged with guaranteeing the safety of anyone his employee might
20 incidentally meet while on the job against injuries inflicted *independent* of the performance of
21 work-related functions.” *Federico v. Superior Court*, 59 Cal.App.4th 1207, 1215 (1997) (emphasis

22 _____
23 ⁴ Along with the cases cited in *Quarry*, there are many other cases rejecting vicarious
24 liability for acts of sexual abuse. *E.g.*, *C.A. v. William S. Hart Union High School District*, 53
25 Cal.4th 861,865 (2012); *Lisa M. v. Henry Mayo Newhall Memorial Hospital*, 12 Cal.4th 291,306
26 (1995); *John R. v. Oakland Unified School District*, 48 Cal.3d 438,452-53 (1989); *K.G. v. County*
27 *of Riverside*, 106 Cal.App.4th 1374, 1380-83 (2003); *Richelle L. v. Roman Catholic Archbishop of*
San Francisco, 106 Cal.App.4th 257, 282 n.15 (2003); *Doe I v. City of Murrieta*, 102 Cal.App.4th
28 899, 906-10 (2002); *John Y v. Chaparral Treatment Center, Inc.*, 101 Cal.App.4th 565, 576
(2002); *Maria D. v. Westec Residential Security, Inc.*, 85 Cal.App.4th 125, 146-49 (2000); *Mark*
K. v. Roman Catholic Archbishop of Los Angeles, 67 Cal.App.4th 603, 610 (1998).

1 added). Yet that is precisely what Robson is trying to do. He is latching on to the thinnest of reeds
2 to try to hold that the Corporations were somehow guarantors of the safety of anyone and
3 everyone who ever came into contact with the Corporations' sole shareholder, Michael Jackson.
4 Nothing in California law generally, or in section 340.1(b)(2) specifically, supports him.

5 **E. The Real Bar to This Action Is the Probate Claims Filing Deadlines.**

6 Robson has argued in the past that it would be an "absurd result" if an alleged molester
7 could avoid liability by creating a corporation to facilitate his abuse, and that the Corporations are
8 somehow asserting that Michael was "too high in their hierarchy" to render them liable here.

9 These contentions ignore the actual context of this case. Michael Jackson's death, and
10 Robson's failure to file a timely creditor's claim, are *the only reasons* this case was ever filed
11 against the Corporations at all. If Michael Jackson were alive (or if a timely creditor's claim had
12 been filed), Robson could just sue Michael personally (or the Estate directly) for intentional torts.

13 The only issues in such a case would be whether Robson could prove his abuse allegations.
14 There would be no reason to debate the finer points of section 340.1(b)(2). That provision is
15 inapplicable to claims against the alleged perpetrator. There would be no reason to name the
16 Corporations as defendants. That would be a waste of time. In the unlikely event that Robson
17 could prove his abuse allegations against Michael Jackson (or the Estate), he would obtain a
18 money judgment enforceable directly against Michael Jackson (or the Estate). Such a judgment
19 could be executed against all of Michael Jackson's (or the Estate's) assets, *including* the stock of
20 the Corporations along with other assets. Robson's assertions about the "absurdity" of allowing a
21 molester to avoid liability by creating a corporation is nonsense. A molester cannot avoid liability
22 by creating a corporation. If a victim obtains a judgment against a molester, the molester's stock in
23 the corporations (and by extension, the corporations' assets) would be subject to such a judgment.

24 When this context is provided, it is clear that the true obstacle to Robson's case is not the
25 failure to adopt an illogical interpretation of section 340.1(b)(2). The true obstacle to Robson's
26 case is as simple as it is unfortunate: Michael Jackson is deceased. Michael Jackson will never be
27 able to answer these accusations. Michael Jackson left this world forever on June 25, 2009, four
28 years before Robson emerged with his new story. The probate claims filing requirements, and the

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1 one-year post-death statute of limitations, are the true obstacles to Robson’s case.
2 “Our Legislature has devoted a great deal of attention to striking the right balance between
3 redress and repose in defining the statute of limitations period for childhood sexual abuse and,
4 toward this end, amended the pertinent statute in 1990, 1994, 1998, 1999, and 2002.” *Doe v.*
5 *Roman Catholic Archbishop*, 247 Cal.App.4th 953, 967 (2016). “If the Legislature had intended
6 for section 340.1 ... to override the claims requirement ... for actions by minors alleging sexual
7 abuse, it would have said so.” *V.C. v. Los Angeles Unified School Dist.*, 139 Cal.App.4th 499, 511
8 (2006). But it did not. *See Bradley v. Breen*, 73 Cal.App.4th 798, 805 (1999). Courts have “neither
9 the authority nor the inclination to substitute [their] judgment for that of the Legislature on such
10 policy matters.” *Id.* at 805-06.

11 If there is to be *sui generis* exceptions to the probate claims filing scheme and the one-year
12 post death statute of limitations for actions against a decedent’s estate for child sexual abuse, that
13 exception should be made by the Legislature after public notice and debate, and not by a private
14 litigant contorting the words of section 340.1(b)(2) beyond any and all rational meaning.

15 **IV. CONCLUSION**

16 The Corporations respectfully request that the Court grant this motion for summary
17 judgment and enter a final judgment in their favor.

18 DATED: June 23, 2017

Respectfully Submitted:

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