

LAFFEY, BUCCI & KENT LLP

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Jane Doe #1 (a fictitious name),	:	SUPERIOR COURT OF NEW JERSEY
Jane Doe #2 (a fictitious name),	:	LAW DIVISION
Jane Doe #3 (a fictitious name),	:	MIDDLESX COUNTY
and Jane Doe #4 (a fictitious name)	:	
c/o Laffey, Bucci & Kent LLP	:	
1435 Walnut Street, 7 th Floor	:	
Philadelphia, PA 19102	:	
	:	
Plaintiffs	:	
	:	DOCKET NO.
v.	:	
	:	
Massage Envy Franchising, LLC	:	COMPLAINT AND JURY DEMAND
14350 North 87 th Street, Suite 200	:	
Scottsdale, AZ 85260	:	
and	:	
Piscatawy ME, LLC	:	
1348 Centennial Avenue	:	
Piscataway, NJ 08854	:	
and	:	
Massage Envy Mays Landing	:	
278 Consumer Square	:	
Mays Landing, NJ 08330	:	
and	:	
Massage Envy Spa Short Hills, LLC	:	
726 Morris Turnpike	:	
Short Hills, NJ 07078	:	
and	:	
Massage Envy Closter	:	
51 Vervalen Street	:	
Closter, NJ 07624	:	
and	:	
ABC, Inc. 1 – 10 (fictitious entities)	:	
and	:	
John Does 1 – 10 (fictitious persons)	:	

CIVIL ACTION COMPLAINT

The Plaintiffs, Jane Doe #1, Jane Doe #2, Jane Doe #3, and Jane Doe #4 file this complaint against Defendants, Massage Envy Franchising, LLC, Piscataway ME, LLC, Massage Envy Mays Landing, Massage Envy Spa Short Hills, LLC, Massage Envy Closter, ABC, Inc. 1-10 (fictitious entities), and John Does 1-10 (fictitious persons) alleging as follows:

1. Plaintiff, Jane Doe #1, is an adult female whose name and address is not contained in this Complaint so as to protect her privacy and identity as she incurred injuries and damages of a sensitive nature as a result of the intentional and negligent acts and failures of Defendants outlined below. Information which would or could identify Jane Doe #1 is not contained herein. Plaintiff may be contacted through her counsel as outlined herein.

2. Plaintiff, Jane Doe #2, is an adult female whose name and address is not contained in this Complaint so as to protect her privacy and identity as she incurred injuries and damages of a sensitive nature as a result of the intentional and negligent acts and failures of Defendants outlined below. Information which would or could identify Jane Doe #2 is not contained herein. Plaintiff may be contacted through her counsel as outlined herein.

3. Plaintiff, Jane Doe #3, is an adult female whose name and address is not contained in this Complaint so as to protect her privacy and identity as she incurred injuries and damages of a sensitive nature as a result of the intentional and negligent acts and failures of Defendants outlined below. Information which would or could identify Jane Doe #3 is not contained herein. Plaintiff may be contacted through her counsel as outlined herein.

4. Plaintiff, Jane Doe #4, is an adult female whose name and address is not contained in this Complaint so as to protect her privacy and identity as she incurred injuries and damages of a sensitive nature as a result of the intentional and negligent acts and failures of Defendants

outlined below. Information which would or could identify Jane Doe #3 is not contained herein. Plaintiff may be contacted through her counsel as outlined herein.

5. There exists good cause for Plaintiffs to use a pseudonym due to the harmful effect of the public disclosure of their identity and the harm inflicted by the Defendants to Jane Doe #1, Jane Doe #2, Jane Doe #3 and Jane Doe #4. Plaintiffs' undersigned counsel will provide the identity of Plaintiffs to all Defendants. As such, Defendants suffer no prejudice as a result of concealing Plaintiffs identities in the Complaint and Verification.

6. Defendant, Massage Envy Franchising, LLC (hereinafter referred to as "Massage Envy"), is an Arizona corporation with its principal place of business located in Scottsdale, Arizona. Massage Envy is a massage and spa therapy franchise with approximately 1,179 franchises located across the United States and is the largest employer of massage therapists nationwide. It is also believed and therefore averred that Massage Envy owns, operates, controls, manages, and/or does business as Massage Envy Piscataway, Piscataway ME, LLC, Massage Envy Mays Landing, Massage Envy Spa Short Hills, LLC, Massage Envy Short Hills and Massage Envy Closter.

7. Defendant, Piscataway ME, LLC (hereinafter referred to as "Piscataway"), is a New Jersey corporation with its principal place of business located at 1348 Centennial Avenue, Piscataway, NJ 08854. Piscataway, together with Massage Envy, owns, operates, controls, manages and/or does business as Massage Envy Spa located at 1348 Centennial Avenue, Piscataway, NJ 08854 (hereinafter referred to as "Massage Envy Piscataway"), a day spa that offers massages and other spa services.

8. Defendant, Massage Envy Mays Landing (hereinafter referred to as "Mays Landing"), is a New Jersey corporation with its principal place of business located at 278

Consumer Square, Mays Landing, NJ 08330. Mays Landing, together with Massage Envy, owns, operates, controls, manages and/or does business as Massage Envy Spa located at 278 Consumer Square, Mays Landing, NJ 08330 (hereinafter referred to as “Massage Envy Mays Landing”), a day spa that offers massages and other spa services.

9. Defendant, Massage Envy Spa Short Hills, LLC (hereinafter referred to as “Short Hills”), is a New Jersey corporation with its principal place of business located at 726 Morris Turnpike, Short Hills, NJ 07078. Short Hills, together with Massage Envy, owns, operates, controls, manages and/or does business as Massage Envy Spa located at 726 Morris Turnpike, Short Hills, NJ 07078 (hereinafter referred to as “Massage Envy Short Hills”), a day spa that offers massages and other spa services.

10. Defendant, Massage Envy Closter (hereinafter referred to as “Closter”), is a New Jersey corporation with its principal place of business located at 51 Vervalen Street, Closter, NJ 07624. Closter, along with Massage Envy, owns, operates, controls, manages and/or does business as Massage Envy Spa located at 278 Consumer Square, Mays Landing, NJ 08351 Vervalen Street, Closter, NJ 0762430 (hereinafter referred to as “Massage Envy Closter”), a day spa that offers massages and other spa services.

11. Defendants ABC, Inc. 1-10 are fictitious entities that own, operate, control, manage or do business as Massage Envy Piscataway, Piscataway ME, LLC, Massage Envy Mays Landing, Massage Envy Spa Short Hills, LLC, Massage Envy Short Hills and Massage Envy Closter and/or employed, supervised, controlled and/or oversaw Magdy Mesak, and/or Steffon Davis, and/or Leonard Dittij, and/or “Michael,” and/or which otherwise owed a legal duty to Plaintiffs to prevent the incidents of sexual abuse at Massage Envy locations as is more fully alleged herein.

12. Defendants John Does 1-10 are fictitious persons who own, operate, control, manage or do business as Massage Envy Piscataway, Piscataway ME, LLC, Massage Envy Mays Landing, Massage Envy Spa Short Hills, LLC, Massage Envy Short Hills and Massage Envy Closter and/or employed, supervised, controlled and/or oversaw Magdy Mesak, and/or Steffon Davis, and/or Leonard Dittij, and/or “Michael,” and/or which otherwise owed a legal duty to Plaintiffs to prevent the incidents of sexual abuse at Massage Envy locations as is more fully alleged herein.

INTRODUCTION

13. Massage Envy, the first and by far the largest chain of massage franchises in the country, boasts a billion-dollar business that falsely promises safety in the treatment room for massage and spa services at an affordable price. Massage Envy not only failed to provide basic safety to clients in a most vulnerable setting, but it systemically and intentionally conspired and concealed the rampant problem of massage therapists at Massage Envy franchise locations sexually assaulting customers throughout the country, including within the State of New Jersey. Massage Envy’s policy of telling staff to “not go to police” was singularly designed to continue its profit and protect the brand at the expense of the safety of unsuspecting customers. In furtherance of their conspiracy, the Defendants actively sought to conceal the knowledge and danger of customers being sexually assaulted within their business locations by actively preventing sexual assault reports from being reported to law enforcement and/or state massage therapy boards. According to at least one former employee:

“[The internal review policy] is not in place to protect the client. It’s in place to protect the company. It’s centered around defusing the situation so the client doesn’t call the police. You don’t want cop cars showing up at your location the next day.”

14. Contrary to the CEO's, Joseph C. Magnacca, declaration to the public of a "Commitment to Safety," the Defendants have deceived the public regarding the dangers of its services and its knowledge of therapists' sexual assaults on customers and are, in fact, engaging in a continuous and repeated pattern to keep sexual assault claims "in-house" and from law enforcement, state massage therapy boards, unsuspecting customers and the public at large. According to a former corporate employee, the company's leadership has long feared the media would realize the national scope of the problem. That person recalled executives discussing what would happen "if someone connects the dots of how many sexual assaults have occurred across the country." In at least one risk management training, franchisees were told the goal when investigating claims is "to avoid police and keep membership."

15. Assaults have consisted of rape, digital and oral penetration of the vaginal and anal area, touching of the genitals, touching of the breasts as well as therapists placing their genitals on customers' bodies. As a result, a culture of not only tolerating sexual assaults has occurred at Massage Envy franchise locations, but women continue to be and will in the future be sexually assaulted as a result of the Defendants' inexplicable, deceptive actions. Due to the actions of Defendants' intentional actions to conspire and conceal the assaults, it has deceived hundreds of women into believing they were purchasing a safe service from the Defendants. This lawsuit is about numerous women in the State of New Jersey who have fallen victim to the deceptive practices of the Defendants that resulted in their victimization at the hands of Massage Envy therapists. These women bravely proceed in this Court in a quest to put an end to the cover-up described above and below so that no additional women in the State of New Jersey (or elsewhere) suffer what the Plaintiffs have and will continue to endure for the rest of their lives.

16. Upon information and belief, sexual assaults committed by massage therapists at Massage Envy franchise locations is an epidemic of national scale with at least 180 allegations of sexual assaults by Massage Envy therapists occurring across the country. However, the exact number of sexual assaults by Massage Envy therapists on customers known to the Defendants is believed to be well in excess of 180.

17. Upon information and belief, Massage Envy's incomprehensible policy and procedure of directing franchisees to conceal reports of allegations of sexual assaults involving Massage Envy massage therapists and directing franchisees not to report said allegations to local law enforcement and/or state massage therapy boards enables the assaults to occur on a national level.

18. Upon information and belief, Massage Envy has engaged in directing franchisees in the State of New Jersey not to report allegations of sexual assaults to local law enforcement and/or state massage therapy boards in order to protect the brand and help ensure profits are not adversely affected.

19. Upon information and belief, Massage Envy company protocol in fact encourages employees to handle any allegations of sexual assault by Massage Envy massage therapists "in-house."

20. Upon information and belief, Massage Envy protocol instructs franchisees to put customers who have a complaint in a private room and to avoid admitting to anything or making any promise to do anything more other than to internally investigate the matter, then to create an incident report and send it to the Corporate office in Arizona.

21. As such, upon information and belief, Massage Envy has created a procedure wherein a woman who is sexually victimized is sent out the door of a Massage Envy franchise with only the promise to investigate and take appropriate action.

22. Upon information and belief, in numerous cases involving sexual assaults at Massage Envy franchise locations by Massage Envy massage therapists, Massage Envy therapists were allowed to remain employed and/or were transferred and/or hired/re-hired at other locations, only to go on to sexually assault another, if not multiple, female customers.

23. The sexual assaults described herein occurred after many women specifically requested a female massage therapist, yet were forced to have their massages done by male massage therapists.

24. The sexual assaults described herein occurred on a massage table, on the premises operated and/or controlled by Defendants.

25. The sexual assaults described above and below, including the assault of Plaintiffs, occurred during normal business hours of Defendants and occurred in the course and scope of the performance of duties of Defendants' massage therapists.

26. It is also believed and therefore averred that, consistent with Massage Envy policy and procedure, Massage Envy informed and directed the employee(s) not to report the assault to the New Jersey Board of Massage and Bodywork Therapy and/or law enforcement personnel but rather to handle the matter "in-house."

27. As a result, it is believed and therefore averred that no one from Defendants or any employee(s) of Defendants reported any of the below mentioned assaults to the New Jersey Board of Massage and Bodywork Therapy, law enforcement or anyone outside of Defendants for that matter.

28. Instead, it is believed and therefore averred that Defendants chose not to conduct any meaningful investigation whatsoever into the report of Defendants' employees or agents sexually assaulting Plaintiffs, allowing other potential and future victims to sustain similar abuse or worse like so many other unsuspecting female customers of Massage Envy.

29. Moreover, at no point did anyone from Defendants inform and/or warn any female customers of the known prior assaults committed by Defendants' massage therapists.

30. In fact, employee(s) at Defendants unfathomably *recommended* Defendants' agents or employees to unknowing female customers after they knew Defendants' agents or employees had already sexually assaulted at least one client at that location.

31. At all times relevant hereto, Defendants authorized and entrusted its employees and/or agents to have skin-to-skin contact with Plaintiffs' bodies and to be alone with Plaintiffs while Plaintiffs were undressed and in a vulnerable position.

32. Defendants' agents and/or employees were aided in their commission of the sexual assaults of Plaintiffs described more fully below by virtue of their duties as a massage therapist because Plaintiffs were already undressed in a private room and in a vulnerable position per the protocol of massage clients at Massage Envy franchises.

33. The sexual assault of Plaintiffs described below occurred on a massage table, on the premises operated and/or controlled by Defendants.

34. The sexual assault of Plaintiffs described below occurred during normal business hours of Defendants and occurred in the course and scope of the performance of duties of Defendants' agents and/or employees while they were making skin-to-skin contact with Plaintiffs' bodies.

35. Defendant Massage Envy controls the day to day operations of its franchisees, including, but not limited to, the other Defendants in this case. As such, it is vicariously liable for the acts and/or omissions of its franchisees in this case.

36. Moreover, Defendants have ratified the conduct of massage therapists sexually assaulting women at Massage Envy franchise locations. As such, all Defendants are vicariously liable for the acts of all employees and/or agents at the franchise locations at issue, including, but not limited, the perpetrators who committed the assaults on Plaintiffs.

Jane Doe #1

37. On or about November 19, 2016, Jane Doe #1 was scheduled to receive a massage at Massage Envy Piscataway.

38. Jane Doe #1 had received massage services at this location approximately once a month for approximately six months before she was sexually assaulted.

39. On each occasion when Jane Doe #1 received a massage at this location, she was accompanied by her husband. In fact, when she first inquired about receiving massage services at this location she sought out a couples massage and was surprised to learn that Piscataway and/or Massage Envy did not offer that service. Jane Doe #1 had received couples massages in the past and her husband would be present with her in the room along with a massage therapist for each of them.

40. At all times relevant hereto, the male massage therapist assigned to massage Jane Doe #1 at Massage Envy Piscataway on the date at issue was Magdy Mesak (hereinafter “Mesak”). He was assigned to give massages to multiple female customers in his capacity as an employee and/or agent of Piscataway and/or Massage Envy on the date at issue. When Jane Doe #1 arrived

at Massage Envy Piscataway for her first massage, the staff at Massage Envy Piscataway recommended Mesak to her.

41. At all times relevant hereto, Defendants authorized and/or entrusted Mesak to have skin-to-skin contact with female customers and to be alone with them while the customers were undressed and in a vulnerable position. Mesak was aided in his commission of the sexual assault described more fully above and below by virtue of his duties as a massage therapist because Jane Doe #1 was already undressed in a private room in a vulnerable position per the protocol of Massage Envy franchises, including, but not limited to, Massage Envy Piscataway.

42. The sexual assault described herein occurred on a massage table, on the premises operated and/or controlled by Piscataway and/or Massage Envy.

43. The sexual assault of Jane Doe #1 occurred during normal business hours of Massage Envy Piscataway and occurred in the course and scope of the performance of duties of Mesak while he was making skin-to-skin contact with female customers' bodies, including Jane Doe #1's.

44. At all times relevant herein, Mesak was an employee, agent, and/or servant of Defendants Piscataway and/or Massage Envy. Defendants, Piscataway and Massage Envy, are liable for the harm to Jane Doe #1 resulting from the conduct of their employee, agent and/or servant because Defendants knew or should have known their massage therapist's unfitness and propensities at the time of his hire and prior to his assault on Jane Doe #1.

45. On the date at issue Jane Doe #1 told Mesak that she was sick with the flu and was having trouble breathing. Mesak informed Jane Doe #1 that he could help her with her chest congestion. As was typical, Jane Doe #1 undressed to her underwear and laid on the massage table while covered with a sheet and/or blanket.

46. Prior to the massage on the date at issue, Jane Doe #1 filled out a form utilized by Piscataway and/or Massage Envy where she indicated areas on her body that she did not want contacted during any massage. Those areas included her chest, glutes, and inner thighs.

47. During the massage Mesak began massaging Jane Doe #1's upper chest above her breasts and her stomach. Mesak then began massaging her breasts including her nipples. Jane Doe #1 twice requested that Mesak stop massaging these sensitive and intimate areas of her body. Mesak also massaged the area at the top of Jane Doe #1's underwear. Again, Jane Doe #1 told him to stop massaging that area.

48. Mesak proceeded to have Jane Doe #1 turn on to her side, began massaging her stomach, and again moved up her body and was making contact with her breasts. Jane Doe #1 was forced to again stop the massage and suggest that Mesak only massage her back.

49. Jane Doe #1 then laid on her stomach. Mesak briefly left the room and, upon his return, began massaging her back. Mesak, under the guise of massaging her back, placed his hands underneath Jane Doe #1's underwear and made contact with her buttocks. Jane Doe #1 twice asked him to stop. Mesak then started massaging Jane Doe #1's buttocks outside of her underwear. Finally, Mesak began touching her buttocks again and then touched the area between her legs and made contact with her vaginal area.

50. Jane Doe #1 immediately asked Mesak to leave the room so she could get dressed. Jane Doe #1 then left Massage Envy Piscataway.

Jane Doe #2

51. On or about September 23, 2017, Jane Doe #2 was scheduled to receive a massage at Massage Envy Mays Landing.

52. Jane Doe #2 had not received massage services at this location previously.

53. Jane Doe #2, who has experienced chronic pain and was seeking assistance with a shoulder injury, contacted Massage Envy Mays Landing and inquired about an upper body massage. She was told that full body massages were only available.

54. When Jane Doe #2 arrived at Massage Envy Mays Landing, an individual named Steffon Davis (hereinafter "Davis") was assigned to massage her.

55. At all times relevant hereto, Defendants authorized and/or entrusted Davis to have skin-to-skin contact with female customers and to be alone with them while the customers were undressed and in a vulnerable position. Davis was aided in his commission of the sexual assault described more fully above and below by virtue of his duties as a massage therapist because Jane Doe #2 was already undressed in a private room in a vulnerable position per the protocol of massage clients at Massage Envy franchises, including, but not limited to, Massage Envy Mays Landing.

56. The sexual assault described herein occurred on a massage table, on the premises operated and/or controlled by Mays Landing and/or Massage Envy.

57. The sexual assault of Jane Doe #2 occurred during normal business hours of Massage Envy Mays Landing and occurred in the course and scope of the performance of duties of Davis while he was making skin-to-skin contact with female customers' bodies, including Jane Doe #2's.

58. At all times relevant herein, Davis was an employee, agent, and/or servant of Defendants Mays Landing and/or Massage Envy. Defendants, Mays Landing and Massage Envy, are liable for the harm to Jane Doe #2 resulting from the conduct of their employee, agent and/or servant because Defendants knew or should have known their massage therapist's unfitness and propensities at the time of his hire and prior to his assault on Jane Doe #2.

59. As the massage progressed Jane Doe #2 became concerned that Davis was not properly trained. Davis did not notify Jane Doe #2 when he would proceed to the next area of Jane Doe #2's body. While Jane Doe #2 was lying face down she felt his erect penis brush against her body.

60. Despite her presenting with a shoulder injury, Davis massaged her legs and worked his way up to her thighs. As Davis massaged one leg he repeatedly rubbed against her vaginal area and ultimately penetrated Jane Doe #2's vagina with his finger. Davis moved Jane Doe #2's underwear so as to achieve this act of penetration.

61. Davis also massaged her other leg and engaged in the same conduct. He repeatedly rubbed against her vaginal area and ultimately penetrated Jane Doe #2's vagina with his finger.

62. During the course of the massage Jane Doe #2 was asked to turn over by Davis and Davis did not keep her properly covered. When Davis replaced the cover he left her breasts exposed. Davis then massaged Jane Doe #2's exposed breasts. Davis was extremely close to Jane Doe #2, such that she could feel him breathing on her neck and his chin touching her forehead. Davis cupped her breast. Davis also took Jane Doe #2's hand and placed it in his lap.

63. As the massage progressed Davis became more physically aggressive. Davis applied significant pressure to Jane Doe #2's back. While Davis was massaging her shoulders he wrapped his hands around her neck choking her, causing her to cough.

64. Jane Doe #2 was terrified during the massage. She froze and was unable to stop Davis from physically or sexually assaulting her. After the massage concluded, Jane Doe #2 left Massage Envy Mays Landing.

65. Upon information and belief, Davis has an extensive criminal history. Upon further information and belief, Davis was never properly licensed by the State of New Jersey.

66. Upon further information and belief, Davis had previously been the subject of a complaint made by a female employee of Massage Envy Mays Landing. Specifically, the manager of Massage Envy Mays Landing, April Pippin, told police that she had received a complaint from a prior customer involving Davis. This prior customer reported to another massage therapist at Massage Envy Mays Landing that Davis had touched her genitals during a massage. Pippin told police this allegedly occurred on July 1, 2016.

67. Despite all of this, Davis was permitted to be alone with vulnerable females and to sexually assault them.

Jane Doe #3

68. On or about January 23, 2015, Jane Doe #3 was scheduled to receive a massage at Massage Envy Short Hills.

69. Jane Doe #3 had received massage services at this location previously.

70. Jane Doe #3, who has experienced chronic back pain, arrived at Massage Envy Short Hills seeking relief.

71. When Jane Doe #3 arrived at Massage Envy Short Hills, an individual named Leonard Drittij (hereinafter "Drittij") was assigned to massage her.

72. At all times relevant hereto, Defendants authorized and/or entrusted Drittij to have skin-to-skin contact with female customers and to be alone with them while the customers were undressed and in a vulnerable position. Drittij was aided in his commission of the sexual assault described more fully above and below by virtue of his duties as a massage therapist because Jane Doe #3 was already undressed in a private room in a vulnerable position per the protocol of massage clients at Massage Envy franchises, including, but not limited to, Massage Envy Short Hills.

73. The sexual assault described herein occurred on a massage table, on the premises operated and/or controlled by Short Hills and/or Massage Envy.

74. The sexual assault of Jane Doe #3 occurred during normal business hours of Massage Envy Short Hills and occurred in the course and scope of the performance of duties of Drittij while he was making skin-to-skin contact with female customers' bodies, including Jane Doe #3's.

75. At all times relevant herein, Drittij was an employee, agent, and/or servant of Defendants Short Hills and/or Massage Envy. Defendants, Short Hills and Massage Envy, are liable for the harm to Jane Doe #3 resulting from the conduct of their employee, agent and/or servant because Defendants knew or should have known their massage therapist's unfitness and propensities at the time of his hire and prior to his assault on Jane Doe #3.

76. During the course of the massage Drittij made conversation with Jane Doe #3. The subjects of the conversation soon turned very personal. In addition to personal and unprofessional conversation, Drittij also made comments that were suggestive and sexual in nature. The conversation made Jane Doe #3 extremely uncomfortable.

77. Despite presenting with chronic back pain and tension in her back, Drittij asked Jane Doe #3 if he could massage her stomach. Jane Doe #3 agreed. As Jane Doe #3 moved from her stomach to her back so as to face upwards, Drittij completely removed the draping cloth covering Jane Doe #3. This left Jane Doe #3 in a state of complete nudity. Jane Doe #3, confused and scared, felt frozen.

78. Drittij then proceeded to move around the massage table so that he was standing near Jane Doe #3's head. Drittij began massaging her stomach and then moved his hands past her waist and started grabbing Jane Doe #3's buttocks. As Drittij engaged in this conduct he pushed

his face into Jane Doe #3's stomach. He continued moving his body and pushing his face toward the area of Jane Doe #3's genitals. At the same time, Drittij's groin was touching the top of Jane Doe #3's head. Drittij was moving his body back and forth, repeatedly making contact with intimate parts of Jane Doe #3's body. Drittij was also repeatedly making contact with Jane Doe #3's body using intimate parts of his own body. Drittij's groin also brushed against Jane Doe #3's shoulder.

79. When Jane Doe #3 reported the assault by Drittij to Massage Envy Short Hills, she was told that if she reported the incident to law enforcement there was "a lot of red tape" and it was unlikely any action would be taken. Jane Doe #3 was dejected by the advice provided by Massage Envy Short Hills and, as a result, did not report to law enforcement.

80. Upon information and belief, Massage Envy Short Hills did not report Drittij to the New Jersey Board of Massage and Bodywork Therapy or law enforcement, thereby allowing Drittij to prey on future massage clients throughout the State and elsewhere.

Jane Doe #4

81. On or about winter of 2015, Jane Doe #4 was scheduled to receive a massage at Massage Envy Closter.

82. Jane Doe #4 had received massage services at this location previously.

83. On the date of the incident, Jane Doe #4 was assigned a massage therapist she knew only as "Michael." Jane Doe #4 never learned further information so as to identify "Michael." Only Defendants know "Michael's" true identity.

84. Jane Doe #4 had previously received a massage from "Michael."

85. At all times relevant hereto, Defendants authorized and/or entrusted "Michael" to have skin-to-skin contact with female customers and to be alone with them while the customers

were undressed and in a vulnerable position. “Michael” was aided in his commission of the sexual assault described more fully above and below by virtue of his duties as a massage therapist because Jane Doe #4 was already undressed in a private room in a vulnerable position per the protocol of massage clients at Massage Envy franchises, including, but not limited to, Massage Envy Closter.

86. The sexual assault described herein occurred on a massage table, on the premises operated and/or controlled by Closter and/or Massage Envy.

87. The sexual assault of Jane Doe #4 occurred during normal business hours of Massage Envy Closter and occurred in the course and scope of the performance of duties of “Michael” while he was making skin-to-skin contact with female customers’ bodies, including Jane Doe #4’s.

88. At all times relevant herein, “Michael” was an employee, agent, and/or servant of Defendants Closter and/or Massage Envy. Defendants, Closter and Massage Envy, are liable for the harm to Jane Doe #4 resulting from the conduct of their employee, agent and/or servant because Defendants knew or should have known their massage therapist’s unfitness and propensities at the time of his hire and prior to his assault on Jane Doe #4.

89. During the massage in question, “Michael” began the massage as he had during the one previous massage Jane Doe #4 had received from him. However, during the course of this second massage, “Michael” sexually assaulted Jane Doe #4.

90. As the massage progressed, “Michael,” without explanation or apparent purpose, began massaging Jane Doe #4’s breasts. This made Jane Doe #4 uncomfortable and she felt violated. Jane Doe was unsure how to respond.

91. “Michael” then proceeded to ask Jane Doe #4 to turn over and lie on her stomach. “Michael” began massaging Jane Doe underneath the draping sheet in the area of her inner thighs

and buttocks. As “Michael” continued to massage her in this area of Jane Doe #4’s body he reached toward her vagina with his finger. “Michael” then penetrated Jane Doe #4’s vagina with his finger. Jane Doe #4 was shocked, felt violated, and was unsure what to do. The massage concluded and Jane Doe #4 left Massage Envy Closter.

92. Jane Doe #4 ultimately returned to Massage Envy Closter intending to confront “Michael” about what he had done to her. However, Jane Doe #4 was told that Michael had “resigned.” Jane Doe #4 asked why he had resigned or where he now works, however Massage Envy Closter employees refused to answer her questions. Jane Doe #4 later called a manager at Massage Envy Closter to inquire as to why “Michael” had resigned or where he now worked. The manager refused to answer Jane Doe #4’s questions.

Massage Envy’s Failures and Strategies

93. Defendant, Massage Envy, owed a duty to female customers, including Jane Doe #1, Jane Doe #2, Jane Doe #3, and Jane Doe #4, to provide a reasonably safe environment for them, to ensure their safety, and to provide reasonably necessary supervision and oversight for their safety and welfare while at Massage Envy franchise locations, including Massage Envy Piscataway, Massage Envy Mays Landing, Massage Envy Short Hills, and Massage Envy Closter. Defendant, Piscataway, owed the same duty to female customers at Massage Envy Piscataway. Mays Landing, owed the same duty to female customers at Massage Envy Mays Landing. Defendant, Short Hills, owed the same duty to female customers at Massage Envy Short Hills. Defendant, Closter, owed the same duty to female customers at Massage Envy Closter.

94. As set forth in this Complaint, Defendants failed to fulfill their legal duty to provide a reasonably safe environment for female customers at Massage Envy franchise locations,

including Massage Envy Piscataway, Massage Envy Mays Landing, Massage Envy Short Hills and Massage Envy Closter

95. Defendant, Massage Envy, had a duty to take reasonable steps to ensure that massage therapists at Massage Envy franchise locations were psychologically fit to provide massage therapy services to female customers at their franchise locations, including Massage Envy Piscataway, Massage Envy Mays Landing, Massage Envy Short Hills, and Massage Envy Closter. Defendant, Piscataway, owed the same duty to female customers at Massage Envy Piscataway. Defendant, Mays Landing, owed the same duty to female customers at Massage Envy Mays Landing. Defendant, Short Hills, owed the same duty to female customers at Massage Envy Short Hills. Defendant, Closter, owed the same duty to female customers at Massage Envy Closter.

96. As set forth in this Complaint, Defendant, Massage Envy, failed to fulfill their legal duty to ensure that massage therapists were psychologically fit to provide massage therapy services to female customers at their franchise locations, including Massage Envy Piscataway, Massage Envy Mays Landing, Massage Envy Short Hills, and Massage Envy Closter. Defendant, Piscataway, failed the same duty to female customers at Massage Envy Piscataway. Defendant, Mays Landing, failed the same duty to female customers at Massage Envy Mays Landing. Defendant, Short Hills, failed the same duty to female customers at Massage Envy Short Hills. Defendant, Closter, failed the same duty to female customers at Massage Envy Closter.

97. As a result, upon information and belief, numerous women nationwide, including throughout the State of New Jersey, have been sexually assaulted by massage therapists at Massage Envy franchise locations and Defendants did not report these assaults to police or to other public

authorities, including, but not limited to, assault(s) pertaining to Mesak, Davis, Drittij, and “Michael.”

98. As a result of Defendants’ negligent, careless, reckless, and intentional acts and omissions, numerous women, including Plaintiffs, were sexually assaulted by depraved predators who exploited their position as massage therapists to violate innocent and unsuspecting women.

99. As set forth in this Complaint, Defendants failed to take reasonable steps to ensure that massage therapists at Massage Envy locations, including Massage Envy Piscataway, Massage Envy Mays Landing, Massage Envy Short Hills, and Massage Envy Closter, were psychologically fit to provide massage therapy services to unsuspecting, vulnerable female customers. As a direct result of Defendants’ tortious acts and omissions, Plaintiffs suffered the injuries set forth in this Complaint.

100. In fact, Defendants knowingly permitted massage therapists to be employed, retained, rehired, and/or assigned who they knew and/or had reason to know, were psychologically unfit to provide massage therapy services to unsuspecting, vulnerable female customers. As a direct result of Defendants’ acts, Plaintiffs suffered the injuries set forth in this Complaint.

101. Defendants employed, retained, transferred, re-hired and/or assigned massage therapists who it knew or should have known were sexual predators and/or mentally ill.

102. Defendants failed to take reasonable steps to ensure that massage therapists at their Massage Envy franchise locations were psychologically fit to provide massage therapy services to unsuspecting, vulnerable female customers. These failures included the following:

- a. Failure to investigate the backgrounds of massage therapists in the employ or service of the Defendants;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;

- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to formulate, effectuate, and enforce policies to prevent and/or minimize the risk of sexual assaults to female customers by agents, servants, and/or employees of the Defendants;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault;
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities; and
- i. Failure to have in place standards for reporting acts of sexual misconduct to public officials and/or state massage therapy boards.

103. Defendants had a duty to take reasonable steps to ensure that massage therapists whose duties placed them in close proximity to unsuspecting female customers were psychologically fit to perform those duties without jeopardizing the safety of said women.

104. Defendants had a duty to take reasonable steps to supervise the actions of their massage therapists while providing services to female customers at Massage Envy franchises.

105. Defendants failed to take reasonable steps to ensure that Mesak, Davis, Drittij, and “Michael” were psychologically fit to provide massage therapy services to female customers at Massage Envy franchise locations, including Massage Envy Piscataway, Massage Envy Mays Landing, Massage Envy Short Hills, and Massage Envy Closter, after the Defendants knew, and/or should have known, of the dangers posed by Mesak, Davis, Drittij, and “Michael.” As a direct result of the Defendants’ acts, Plaintiffs suffered the injuries set forth in this Complaint.

106. Defendants' wrongdoing, however, did not stop there. Upon information and belief, Defendants employed deliberate strategies to conceal known sexual assaults by massage therapists in the employ or service of Defendants. These strategies included the following:

- a. Conducting sham investigations which were designed to avoid establishing culpability of massage therapists accused of sexual assault;
- b. Failing to interview witnesses or persons who possessed, or may have possessed, information which might tend to establish the guilt of an accused massage therapist;
- c. Routinely transferring, assigning and/or re-hiring massage therapists suspected of sexually assaulting female customers to and/or at other Massage Envy locations;
- d. Purposefully failing to inform customers of the acts of sexual misconduct and/or allegations of same, despite circumstances which gave rise to a duty to disclose such information and in fact, recommending massage therapists who were known to have assaulted female customers;
- e. Knowingly harboring sexual predators that were suspected and/or accused of sexual misconduct;
- f. Purposefully refusing to notify law enforcement and/or state massage therapy board officials when there existed reasonable grounds to believe that a massage therapist had engaged in improper sexual conduct with a female customer; and
- g. Directing local franchisees not to report allegations of sexual abuse.

107. Defendants outrageously employed these strategies knowing that they exposed female customers, including Plaintiffs, to a significant risk of serious physical and psychological harm, including a significant risk of sexual assault. Defendants' actions were willful, malicious, wanton, outrageous, abhorrent, abominable, revolting, vile, and unconscionable because Defendants were motivated by a desire to protect themselves at the expense of female customers who would foreseeably be sexually assaulted.

Causes of Action

COUNT I – VICARIOUS LIABILITY
PLAINTIFFS v. ALL DEFENDANTS

108. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

109. Mesak, Davis, Drittij, and “Michael” engaged in unpermitted, harmful and offensive sexual conduct and contact upon the person of Plaintiffs in violation of New Jersey State law. Said conduct was undertaken while Mesak, Davis, Drittij, and “Michael” were employees and agents of Defendants, while in the course and scope of employment with Defendants, and/or were ratified by Defendants.

110. Prior to the assault alleged above, upon information and belief, Defendants knew, had reason to know, or were otherwise on notice of the unlawful sexual conduct of Mesak, Davis, Drittij, and “Michael,” and/or other massage therapists at franchise locations nationwide. Defendants failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by Mesak, Davis, Drittij, and “Michael,” including, but not limited to, preventing or avoiding placement of Mesak, Davis, Drittij, and “Michael” in functions or environments in which contact with female customers in vulnerable positions was an inherent part of those functions or environments. Furthermore, at no time during the periods of time alleged did the Defendants have in place a system or procedure to supervise and/or monitor employees, representatives or agents to ensure they did not sexually assault female customers at franchise locations.

111. Moreover, incidents of sexual predators and/or mentally ill individuals in Massage Envy’s service or employment were neither isolated nor unusual.

112. Upon information and belief, Massage Envy has, for years, failed to reprimand, punish, report, or otherwise sanction massage therapists which it knew or had reason to know were sexual predators and/or mentally ill, including, but not limited to, Mesak, Davis, Drittij, and “Michael.”

113. Massage Envy’s knowing acquiescence and silence with respect to the known, or reasonably knowable, activities of sexual predators and/or mentally ill individuals, including, but not limited to, Mesak, Davis, Drittij, and “Michael,” constituted a course of conduct through which acts of sexual perversion and the violation of female customers were condoned, approved, and effectively authorized.

114. Through its failure to timely reprimand and sanction the acts referenced herein, and for all of the other reasons set forth in this Complaint including, without limitation, its failure to take the steps necessary to prevent the occurrence of such reprehensible acts, Defendants ratified said actions and, accordingly, are vicariously liable for the actions of Mesak, Davis, Drittij, and/or “Michael.”

115. As a result of the above-described conduct, Plaintiffs have suffered and continue to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Plaintiffs’ daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

116. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the reasons outlined above and such violations directly and proximately caused Plaintiffs injuries and damages, also outlined above.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT II - NEGLIGENCE
JANE DOE #1 v. MASSAGE ENVY

117. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

118. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of Mesak's dangerous and exploitive propensities and/or that Mesak was an unfit agent. It was foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to Jane Doe #1, they would be vulnerable to sexual assaults by massage therapists, including Mesak.

119. Prior to the sexual assault of Plaintiff, as set forth in this Complaint, Defendants knew that there were more than 180 allegations of sexual assaults by Massage Envy therapists occurring across the country.

120. Defendants knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Mesak, were likely to commit further acts of sexual assault.

121. Defendants owed to the public in general, and to Jane Doe #1 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state

massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ.

122. Defendants owed to the public in general, and to Jane Doe #1 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

123. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #1 of her entitlement to safe care and protection, the Defendants owed to Jane Doe #1 a duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

124. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #1 of her normal opportunities for protection, the Defendants owed to Jane Doe #1 a duty to control the acts of its agents, servants, and/or employees.

125. At all times relevant hereto, Defendants did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

126. Despite actual knowledge of multiple instances in which sexual predators were employed, transferred, re-hired and/or assigned to positions within Massage Envy franchise locations and despite the foreseeable risk that said sexual predators would engage in repeated acts of sexual perversion and assault, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify, and deal with sexual predators.

127. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants.

128. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators in the employ and/or service of Defendants.

129. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to state boards of massage therapy the presence of sexual predators in the employ and/or service of Defendants.

130. As set forth in this Complaint, Defendants failed to fulfill its legal duty to protect Jane Doe #1 and other female customers from the depraved and vile acts of its massage therapists, including Mesak.

131. As set forth in this Complaint, Defendants failed to take reasonable steps to ensure that massage therapists at Massage Envy franchise locations were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of

sexual assault; and

- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or state boards of massage therapy.

132. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendants, as set forth above and herein, further consisted of:

- a. permitting massage therapists, including Mesak, to sexually assault female customers, including Jane Doe #1;
- b. permitting massage therapists, including Mesak, to engage in illegal sexual conduct with female customers, including Jane Doe #1, on the premises of Massage Envy franchise locations, including Massage Envy Piscataway, during operating hours;
- c. permitting Mesak to violate New Jersey criminal statutes N.J.S.A. 2C:14-2 and 2C:14-3;
- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Jane Doe #1;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendants, including Jane Doe #1, and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Jane Doe #1;
- g. creating an environment that facilitated sexual assault by Mesak on Jane Doe #1;
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Mesak;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
- j. failing to warn Jane Doe #1 of the risk of harm posed by Mesak after Defendants knew or should have known of such risk;
- k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;

- l. failing to warn Jane Doe #1 of the risk of harm that Jane Doe #1 may suffer as a result of contact with Mesak;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of Jane Doe #1;
- n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, state board of massage therapy and/or other authorities of sexual assaults by massage therapists;
- o. failing to report sexual assaults by massage therapists, including Mesak, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. failing to properly supervise and/or discipline its employees;
- r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- s. negligently managing and/or operating Massage Envy franchise locations, including Massage Envy Piscataway.

133. Defendant Massage Envy, having advertised and promoted itself as having a “zero tolerance” policy relating to sexual misconduct by massage therapists, explicitly and/or implicitly represented to the public in general, and to Plaintiff in particular, that the massage therapists, including Mesak, in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

134. Defendants made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

135. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

136. Defendants failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) sexual predators in its service and employ.

137. Defendants failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

138. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Jane Doe #1 daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

139. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #1 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT III - NEGLIGENCE
JANE DOE #2 v. MASSAGE ENVY

140. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

141. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of Davis's dangerous and exploitive propensities and/or that Davis was an unfit agent. It was foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to Jane Doe #2, they would be vulnerable to sexual assaults by massage therapists, including Davis.

142. Prior to the sexual assault of Plaintiff, as set forth in this Complaint, Defendants knew that there were more than 180 allegations of sexual assaults by Massage Envy therapists occurring across the country.

143. Defendants knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Davis, were likely to commit further acts of sexual assault.

144. Defendants owed to the public in general, and to Jane Doe #2 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ.

145. Defendants owed to the public in general, and to Jane Doe #2 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

146. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #2 of her entitlement to safe care and protection, the Defendants owed to Jane Doe #2 a duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

147. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #2 of her normal opportunities for protection, the Defendants owed to Jane Doe #2 a duty to control the acts of its agents, servants, and/or employees.

148. At all times relevant hereto, Defendants did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

149. Despite actual knowledge of multiple instances in which sexual predators were employed, transferred, re-hired and/or assigned to positions within Massage Envy franchise locations and despite the foreseeable risk that said sexual predators would engage in repeated acts of sexual perversion and assault, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify, and deal with sexual predators.

150. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants.

151. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators in the employ and/or service of Defendants.

152. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to state boards of massage therapy the presence of sexual predators in the employ and/or service of Defendants.

153. As set forth in this Complaint, Defendants failed to fulfill its legal duty to protect Jane Doe #2 and other female customers from the depraved and vile acts of its massage therapists, including Davis.

154. As set forth in this Complaint, Defendants failed to take reasonable steps to ensure that massage therapists at Massage Envy franchise locations were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or state boards of massage therapy.

155. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendants, as set forth above and herein, further consisted of:

- a. permitting massage therapists, including Davis, to sexually assault female customers, including Jane Doe #2;
- b. permitting massage therapists, including Davis, to engage in illegal sexual conduct with female customers, including Jane Doe #2, on the premises of Massage Envy franchise locations, including Massage Envy Mays Landing, during operating hours;
- c. permitting Davis to violate New Jersey criminal statutes N.J.S.A. 2C:14-2 and 2C:14-3;

- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Jane Doe #2;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendants, including Jane Doe #2, and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Jane Doe #2;
- g. creating an environment that facilitated sexual assault by Davis on Jane Doe #2;
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Davis;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
- j. failing to warn Jane Doe #2 of the risk of harm posed by Davis after Defendants knew or should have known of such risk;
- k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;
- l. failing to warn Jane Doe #2 of the risk of harm that Jane Doe #2 may suffer as a result of contact with Davis;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of Jane Doe #2;
- n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, state board of massage therapy and/or other authorities of sexual assaults by massage therapists;
- o. failing to report sexual assaults by massage therapists, including Davis, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. failing to properly supervise and/or discipline its employees;
- r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- s. negligently managing and/or operating Massage Envy franchise locations, including Massage Envy Mays Landing.

156. Defendant Massage Envy, having advertised and promoted itself as having a “zero tolerance” policy relating to sexual misconduct by massage therapists, explicitly and/or implicitly represented to the public in general, and to Plaintiff in particular, that the massage therapists, including Davis, in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

157. Defendants made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

158. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

159. Defendants failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) sexual predators in its service and employ.

160. Defendants failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

161. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Jane Doe #2 daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

162. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #2 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT IV - NEGLIGENCE
JANE DOE #3 v. MASSAGE ENVY

163. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

164. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of Drittij's dangerous and exploitive propensities and/or that Drittij was an unfit agent. It was foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to Jane Doe #3, they would be vulnerable to sexual assaults by massage therapists, including Drittij.

165. For years prior to the sexual assault of Plaintiff, as set forth in this Complaint, Defendants knew that there were more than 180 allegations of sexual assaults by Massage Envy therapists occurring across the country.

166. Defendants knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Drittij, were likely to commit further acts of sexual assault.

167. Defendants owed to the public in general, and to Jane Doe #3 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ.

168. Defendants owed to the public in general, and to Jane Doe #3 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

169. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #3 of her entitlement to safe care and protection, the Defendants owed to Jane Doe #3 a duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

170. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #3 of her normal opportunities for protection, the Defendants owed to Jane Doe #3 a duty to control the acts of its agents, servants, and/or employees.

171. At all times relevant hereto, Defendants did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

172. Despite actual knowledge of multiple instances in which sexual predators were employed, transferred, re-hired and/or assigned to positions within Massage Envy franchise locations and despite the foreseeable risk that said sexual predators would engage in repeated acts of sexual perversion and assault, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify, and deal with sexual predators.

173. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants.

174. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators in the employ and/or service of Defendants.

175. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to state boards of massage therapy the presence of sexual predators in the employ and/or service of Defendants.

176. As set forth in this Complaint, Defendants failed to fulfill its legal duty to protect Jane Doe #3 and other female customers from the depraved and vile acts of its massage therapists, including Drittij.

177. As set forth in this Complaint, Defendants failed to take reasonable steps to ensure that massage therapists at Massage Envy franchise locations were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of

sexual assault; and

- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or state boards of massage therapy.

178. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendants, as set forth above and herein, further consisted of:

- a. permitting massage therapists, including Drittij, to sexually assault female customers, including Jane Doe #3;
- b. permitting massage therapists, including Drittij, to engage in illegal sexual conduct with female customers, including Jane Doe #3, on the premises of Massage Envy franchise locations, including Massage Envy Short Hills, during operating hours;
- c. permitting Drittij to violate New Jersey criminal statutes N.J.S.A. 2C:14-3;
- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Jane Doe #3;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendants, including Jane Doe #3, and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Jane Doe #3;
- g. creating an environment that facilitated sexual assault by Drittij on Jane Doe #3;
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Drittij;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
- j. failing to warn Jane Doe #3 of the risk of harm posed by Drittij after Defendants knew or should have known of such risk;
- k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;
- l. failing to warn Jane Doe #3 of the risk of harm that Jane Doe #3 may suffer as a result of contact with Drittij;

- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of Jane Doe #3;
- n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, state board of massage therapy and/or other authorities of sexual assaults by massage therapists;
- o. failing to report sexual assaults by massage therapists, including Drittij, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. failing to properly supervise and/or discipline its employees;
- r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- s. negligently managing and/or operating Massage Envy franchise locations, including Massage Envy Short Hills.

179. Defendant Massage Envy, having advertised and promoted itself as having a “zero tolerance” policy relating to sexual misconduct by massage therapists, explicitly and/or implicitly represented to the public in general, and to Plaintiff in particular, that the massage therapists, including Drittij, in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

180. Defendants made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

181. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

182. Defendants failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) sexual predators in its service and employ.

183. Defendants failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

184. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Jane Doe #3 daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

185. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #3 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT V - NEGLIGENCE
JANE DOE #4 v. MASSAGE ENVY

186. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

187. Defendants, by and through their agents, servants and employees, knew or reasonably should have known of "Michael's" dangerous and exploitive propensities and/or that "Michael" was an unfit agent. It was foreseeable that if Defendants did not adequately exercise or

provide the duty of care owed to female customers in their care, including, but not limited to Jane Doe #4, they would be vulnerable to sexual assaults by massage therapists, including “Michael.”

188. Prior to the sexual assault of Plaintiff, as set forth in this Complaint, Defendants knew that there were more than 180 allegations of sexual assaults by Massage Envy therapists occurring across the country.

189. Defendants knew, and/or should have known, that those individuals who had sexually assaulted female customers, including “Michael,” were likely to commit further acts of sexual assault.

190. Defendants owed to the public in general, and to Jane Doe #4 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ.

191. Defendants owed to the public in general, and to Jane Doe #4 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

192. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #4 of her entitlement to safe care and protection, the Defendants owed to Jane Doe #4 a duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

193. Having been in the care of Defendants at the time under circumstances such as to deprive Jane Doe #4 of her normal opportunities for protection, the Defendants owed to Jane Doe #4 a duty to control the acts of its agents, servants, and/or employees.

194. At all times relevant hereto, Defendants did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

195. Despite actual knowledge of multiple instances in which sexual predators were employed, transferred, re-hired and/or assigned to positions within Massage Envy franchise locations and despite the foreseeable risk that said sexual predators would engage in repeated acts of sexual perversion and assault, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify, and deal with sexual predators.

196. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants.

197. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators in the employ and/or service of Defendants.

198. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to state boards of massage therapy the presence of sexual predators in the employ and/or service of Defendants.

199. As set forth in this Complaint, Defendants failed to fulfill its legal duty to protect Jane Doe #4 and other female customers from the depraved and vile acts of its massage therapists, including "Michael."

200. As set forth in this Complaint, Defendants failed to take reasonable steps to ensure that massage therapists at Massage Envy franchise locations were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or state boards of massage therapy.

201. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendants, as set forth above and herein, further consisted of:

- a. permitting massage therapists, including "Michael," to sexually assault female customers, including Jane Doe #4;
- b. permitting massage therapists, including "Michael," to engage in illegal sexual conduct with female customers, including Jane Doe #4, on the premises of Massage Envy franchise locations, including Massage Envy Cluster, during operating hours;
- c. permitting "Michael" to violate New Jersey criminal statutes N.J.S.A. 2C:14-2 and 2C:14-3;
- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Jane Doe #4;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendants, including Jane Doe #4, and, in the alternative,

- failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Jane Doe #4;
 - g. creating an environment that facilitated sexual assault by “Michael” on Jane Doe #4;
 - h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including “Michael”;
 - i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
 - j. failing to warn Jane Doe #4 of the risk of harm posed by “Michael” after Defendants knew or should have known of such risk;
 - k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;
 - l. failing to warn Jane Doe #4 of the risk of harm that Jane Doe #4 may suffer as a result of contact with “Michael;”
 - m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of Jane Doe #4;
 - n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, state board of massage therapy and/or other authorities of sexual assaults by massage therapists;
 - o. failing to report sexual assaults by massage therapists, including “Michael,” to authorities;
 - p. violating its own policies and/or by-laws regarding sexual assaults by staff;
 - q. failing to properly supervise and/or discipline its employees;
 - r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
 - s. negligently managing and/or operating Massage Envy franchise locations, including Massage Envy Closter.

202. Defendant Massage Envy, having advertised and promoted itself as having a “zero tolerance” policy relating to sexual misconduct by massage therapists, explicitly and/or implicitly represented to the public in general, and to Plaintiff in particular, that the massage therapists,

including “Michael,” in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

203. Defendants made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

204. At all times relevant hereto, Defendants did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

205. Defendants failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) sexual predators in its service and employ.

206. Defendants failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

207. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Jane Doe #4 daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

208. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the

reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #4 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT VI-NEGLIGENCE
JANE DOE #1 v. PISCATAWAY ME, LLC

209. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

210. Defendant, by and through its agents, servants and employees, knew or reasonably should have known of Mesak's dangerous and exploitive propensities and/or that Mesak was an unfit agent. It was foreseeable that if Defendant did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to Plaintiff, they would be vulnerable to sexual assaults by Mesak.

211. Defendant owed to the public in general, and to Jane Doe #1 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ, including Mesak.

212. Defendant owed to the public in general, and to Jane Doe #1 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ, including Mesak.

213. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her entitlement to safe care and protection, Defendant owed to Jane Doe #1 a

duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

214. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her normal opportunities for protection, the Defendant owed to Jane Doe #1 a duty to control the acts of its agents, servants, and/or employees.

215. At all times relevant hereto, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

216. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants, including Mesak.

217. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators, including Mesak, in the employ and/or service of Defendant.

218. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to the state board of massage therapy the presence of sexual predators, including Mesak, in the employ and/or service of Defendants.

219. As set forth in this Complaint, Defendant failed to fulfill its legal duty to protect Jane Doe #1 and other female customers from the depraved and vile acts of its massage therapist, Mesak.

220. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at Massage Envy Piscataway were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

221. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendant, as set forth above and herein, further consisted of:

- a. permitting Mesak to sexually assault female customers, including Jane Doe #1;
- b. permitting Mesak to engage in illegal sexual conduct with female customers, including Jane Doe #1, on the premises of Massage Envy Piscataway, during operating hours;
- c. permitting Mesak to violate New Jersey criminal statutes New Jersey criminal statutes N.J.S.A. 2C:14-2 and 2C:14-3;
- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Plaintiff;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendant, including Jane Doe #1, and, in the alternative,

- failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Plaintiff;
 - g. creating an environment that facilitated sexual assault by Mesak on Plaintiff;
 - h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Mesak;
 - i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
 - j. failing to warn Jane Doe #1 of the risk of harm posed by Mesak after Defendant knew or should have known of such risk;
 - k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;
 - l. failing to warn Jane Doe #1 of the risk of harm that Jane Doe #1 may suffer as a result of contact with Mesak;
 - m. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of Jane Doe #1;
 - n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, the state board of massage therapy and/or other authorities of sexual assaults by massage therapists, including Mesak;
 - o. failing to report sexual assaults by massage therapists, including Mesak, to authorities;
 - p. violating its own policies and/or by-laws regarding sexual assaults by staff;
 - q. failing to properly supervise and/or discipline its employees;
 - r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
 - s. negligently managing and/or operating Massage Envy Piscataway.

222. Defendant explicitly and/or implicitly represented to the public in general, and to Jane Doe #1 in particular, that the massage therapists, including Mesak, in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

223. Defendant made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

224. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

225. Defendant failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to the state massage therapy board) sexual predators in its service and employ.

226. Defendant failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

227. Defendant negligently, carelessly, and/or intentionally failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Mesak as a sexual predator.

228. As a result of the above-described conduct, Jane Doe #1 has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

229. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the

reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #1 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT VII-NEGLIGENCE
JANE DOE #2 v. MESSAGE ENVY MAYS LANDING

230. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

231. Defendant, by and through its agents, servants and employees, knew or reasonably should have known of Davis's dangerous and exploitive propensities and/or that Davis was an unfit agent. It was foreseeable that if Defendant did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to Plaintiff, they would be vulnerable to sexual assaults by Davis.

232. Defendant owed to the public in general, and to Jane Doe #2 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ, including Davis.

233. Defendant owed to the public in general, and to Jane Doe #2 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ, including Davis.

234. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her entitlement to safe care and protection, Defendant owed to Jane Doe #2 a

duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

235. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her normal opportunities for protection, the Defendant owed to Jane Doe #2 a duty to control the acts of its agents, servants, and/or employees.

236. At all times relevant hereto, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

237. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants, including Davis.

238. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators, including Davis, in the employ and/or service of Defendant.

239. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to the state board of massage therapy the presence of sexual predators, including Davis, in the employ and/or service of Defendants.

240. As set forth in this Complaint, Defendant failed to fulfill its legal duty to protect Jane Doe #2 and other female customers from the depraved and vile acts of its massage therapist, Davis.

241. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at Massage Envy Mays Landing were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

242. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendant, as set forth above and herein, further consisted of:

- a. permitting Davis to sexually assault female customers, including Jane Doe #2;
- b. permitting Davis to engage in illegal sexual conduct with female customers, including Jane Doe #2, on the premises of Massage Envy Mays Landing, during operating hours;
- c. permitting Davis to violate New Jersey criminal statutes New Jersey criminal statutes N.J.S.A. 2C:14-2 and 2C:14-3;
- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Plaintiff;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendant, including Jane Doe #2, and, in the alternative,

- failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Plaintiff;
 - g. creating an environment that facilitated sexual assault by Davis on Plaintiff;
 - h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Davis;
 - i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
 - j. failing to warn Jane Doe #2 of the risk of harm posed by Davis after Defendant knew or should have known of such risk;
 - k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;
 - l. failing to warn Jane Doe #2 of the risk of harm that Jane Doe #2 may suffer as a result of contact with Davis;
 - m. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of Jane Doe #2;
 - n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, the state board of massage therapy and/or other authorities of sexual assaults by massage therapists, including Davis;
 - o. failing to report sexual assaults by massage therapists, including Davis, to authorities;
 - p. violating its own policies and/or by-laws regarding sexual assaults by staff;
 - q. failing to properly supervise and/or discipline its employees;
 - r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
 - s. negligently managing and/or operating Massage Envy Mays Landing.

243. Defendant explicitly and/or implicitly represented to the public in general, and to Jane Doe #2 in particular, that the massage therapists, including Davis, in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

244. Defendant made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

245. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

246. Defendant failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to the state massage therapy board) sexual predators in its service and employ.

247. Defendant failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

248. Defendant negligently, carelessly, and/or intentionally failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Davis as a sexual predator.

249. As a result of the above-described conduct, Jane Doe #2 has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

250. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the

reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #2 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT VIII-NEGLIGENCE
JANE DOE #3 v. MASSAGE ENVY SPA SHORT HILLS, LLC

251. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

252. Defendant, by and through its agents, servants and employees, knew or reasonably should have known of Drittij's dangerous and exploitive propensities and/or that Drittij was an unfit agent. It was foreseeable that if Defendant did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to Plaintiff, they would be vulnerable to sexual assaults by Drittij.

253. Defendant owed to the public in general, and to Jane Doe #3 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ, including Drittij.

254. Defendant owed to the public in general, and to Jane Doe #3 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ, including Drittij.

255. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her entitlement to safe care and protection, Defendant owed to Jane Doe #3 a

duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

256. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her normal opportunities for protection, the Defendant owed to Jane Doe #3 a duty to control the acts of its agents, servants, and/or employees.

257. At all times relevant hereto, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

258. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants, including Drittij.

259. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators, including Drittij, in the employ and/or service of Defendant.

260. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to the state board of massage therapy the presence of sexual predators, including Drittij, in the employ and/or service of Defendants.

261. As set forth in this Complaint, Defendant failed to fulfill its legal duty to protect Jane Doe #3 and other female customers from the depraved and vile acts of its massage therapist, Drittij.

262. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at Massage Envy Short Hills were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

263. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendant, as set forth above and herein, further consisted of:

- a. permitting Drittij to sexually assault female customers, including Jane Doe #3;
- b. permitting Drittij to engage in illegal sexual conduct with female customers, including Jane Doe #3, on the premises of Massage Envy Short Hills, during operating hours;
- c. permitting Drittij to violate New Jersey criminal statutes New Jersey criminal statutes N.J.S.A. 2C:14-3;
- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Plaintiff;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendant, including Jane Doe #3, and, in the alternative,

- failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Plaintiff;
 - g. creating an environment that facilitated sexual assault by Drittij on Plaintiff;
 - h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Drittij;
 - i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
 - j. failing to warn Jane Doe #3 of the risk of harm posed by Drittij after Defendant knew or should have known of such risk;
 - k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;
 - l. failing to warn Jane Doe #3 of the risk of harm that Jane Doe #3 may suffer as a result of contact with Drittij;
 - m. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of Jane Doe #3;
 - n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, the state board of massage therapy and/or other authorities of sexual assaults by massage therapists, including Drittij;
 - o. failing to report sexual assaults by massage therapists, including Drittij, to authorities;
 - p. violating its own policies and/or by-laws regarding sexual assaults by staff;
 - q. failing to properly supervise and/or discipline its employees;
 - r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
 - s. negligently managing and/or operating Massage Envy Short Hills.

264. Defendant explicitly and/or implicitly represented to the public in general, and to Jane Doe #3 in particular, that the massage therapists, including Drittij, in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

265. Defendant made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

266. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

267. Defendant failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to the state massage therapy board) sexual predators in its service and employ.

268. Defendant failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

269. Defendant negligently, carelessly, and/or intentionally failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Drittij as a sexual predator.

270. As a result of the above-described conduct, Jane Doe #3 has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

271. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the

reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #3 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT IX-NEGLIGENCE
JANE DOE #4 v. MASSAGE ENVY CLOSTER

272. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

273. Defendant, by and through its agents, servants and employees, knew or reasonably should have known of "Michael's" dangerous and exploitive propensities and/or that "Michael" was an unfit agent. It was foreseeable that if Defendant did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to Plaintiff, they would be vulnerable to sexual assaults by "Michael."

274. Defendant owed to the public in general, and to Jane Doe #4 in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities and/or to state massage therapy boards) individuals who it knew, or should have known, were sexual predators in its service and employ, including "Michael."

275. Defendant owed to the public in general, and to Jane Doe #4 in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ, including "Michael."

276. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her entitlement to safe care and protection, Defendant owed to Jane Doe #4 a

duty to aid and/or protect her and to control the actions of third parties, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

277. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her normal opportunities for protection, the Defendant owed to Jane Doe #4 a duty to control the acts of its agents, servants, and/or employees.

278. At all times relevant hereto, Defendant did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) sexual predators.

279. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators in the employ and/or service of Defendants, including “Michael.”

280. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities sexual predators, including “Michael.” in the employ and/or service of Defendant.

281. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to the state board of massage therapy the presence of sexual predators, including “Michael,” in the employ and/or service of Defendants.

282. As set forth in this Complaint, Defendant failed to fulfill its legal duty to protect Jane Doe #4 and other female customers from the depraved and vile acts of its massage therapist, “Michael.”

283. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at Massage Envy Closter were psychologically fit to provide massage therapy services to female customers. These failures included the following:

- a. Failure to investigate the background of massage therapists in its employ or service;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists suspected of sexual assault and/or those known to be sexual predators;
- c. Failure to reasonably and properly investigate allegations of sexual assault;
- d. Failure to properly train and instruct investigators;
- e. Failure to have in place standards of acceptable and unacceptable conduct;
- f. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- g. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

284. Moreover, the negligent, reckless, intentional, outrageous, deliberately and recklessly indifferent and unlawful conduct of Defendant, as set forth above and herein, further consisted of:

- a. permitting "Michael" to sexually assault female customers, including Jane Doe #4;
- b. permitting "Michael" to engage in illegal sexual conduct with female customers, including Jane Doe #4, on the premises of Massage Envy Closter, during operating hours;
- c. permitting "Michael" to violate New Jersey criminal statutes New Jersey criminal statutes N.J.S.A. 2C:14-2 and 2C:14-3;
- d. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Plaintiff;
- e. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendant, including Jane Doe #4, and, in the alternative,

- failing to implement and comply with such procedures which had been adopted;
- f. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including Plaintiff;
 - g. creating an environment that facilitated sexual assault by “Michael” on Plaintiff;
 - h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including “Michael;”
 - i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in New Jersey;
 - j. failing to warn Jane Doe #4 of the risk of harm posed by “Michael” after Defendant knew or should have known of such risk;
 - k. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in New Jersey;
 - l. failing to warn Jane Doe #4 of the risk of harm that Jane Doe #4 may suffer as a result of contact with “Michael;”
 - m. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of Jane Doe #4;
 - n. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, the state board of massage therapy and/or other authorities of sexual assaults by massage therapists, including “Michael”;
 - o. failing to report sexual assaults by massage therapists, including “Michael,” to authorities;
 - p. violating its own policies and/or by-laws regarding sexual assaults by staff;
 - q. failing to properly supervise and/or discipline its employees;
 - r. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
 - s. negligently managing and/or operating Massage Envy Closter.

285. Defendant explicitly and/or implicitly represented to the public in general, and to Jane Doe #4 in particular, that the massage therapists, including “Michael,” in its employ and service were not only psychologically fit but were therapists who could be entrusted with the safety and well-being of female customers.

286. Defendant made these explicit and implied representations knowing that they were false and/or having reason to believe that they were false, and with the expectation that they would be relied upon by female customers making decisions regarding their engagement of massage/spa services.

287. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures with respect to the removal and/or supervision of individuals in its employ or service who were suspected of being sexual predators.

288. Defendant failed to reasonably identify, remove, and/or report (to law enforcement authorities and/or to the state massage therapy board) sexual predators in its service and employ.

289. Defendant failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

290. Defendant negligently, carelessly, and/or intentionally failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) "Michael" as a sexual predator.

291. As a result of the above-described conduct, Jane Doe #4 has suffered and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, embarrassment, loss of self-esteem, disgrace, humiliation and loss of enjoyment of life; was prevented and will continue to be prevented from performing Plaintiff's daily activities and obtaining the full enjoyment of life; has sustained and will continue to sustain loss of earnings and earning capacity; and/or has incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

292. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the

reasons outlined above and such violations directly and proximately caused Plaintiff's injuries and damages, also outlined above.

WHEREFORE, Jane Doe #4 demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT X
NEGLIGENT PERFORMANCE OF UNDERTAKING TO RENDER SERVICES
PLAINTIFFS v. ALL DEFENDANTS

293. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

294. Defendants undertook, for consideration, the provision of massage therapy services to the Plaintiffs pursuant to Restatement (Second) Torts § 323.

295. Defendants should have recognized as necessary the protection of the Plaintiffs' person and physical/mental well-being.

296. The Plaintiffs suffered severe and permanent harm as described above as a result of Defendants' failure to exercise reasonableness in the performance of undertaking to provide massage therapy services to her.

297. Defendants' failure to exercise such care increased the risk of harm to the Plaintiffs and/or the Plaintiffs were harmed because of their reliance upon Defendants' undertaking to provide massage therapy services to them.

298. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the

reasons outlined above and such violations directly and proximately caused Plaintiffs injuries and damages, also outlined above.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT XI - NEGLIGENCE PER SE
PLAINTIFFS v. ALL DEFENDANTS

299. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

300. Defendants' involving, permitting, and/or failing to prevent indecent contact between Mesak and Jane Doe #1 and/or Davis and Jane Doe #2 and/or Drittij and Jane Doe #3 and/or "Michael" and Jane Doe #4 constitute per se violations of N.J.S.A. 2C:14-2 and/or 2C:14-3.

301. As a direct result of the aforementioned conduct, Plaintiffs suffered severe and permanent harm as described above.

302. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the reasons outlined above and such violations directly and proximately caused Plaintiffs injuries and damages, also outlined above.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT XII - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
PLAINTIFFS v. ALL DEFENDANTS

303. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

304. Defendants, by and through their contact with Plaintiffs, as described above, negligently and/or recklessly committed multiple acts of extreme and outrageous conduct which caused severe emotional, psychological, and psychiatric injuries, distress, and harm to Plaintiffs, which also manifested in physical injuries to Plaintiffs as set forth above in an extreme, outrageous and harmful manner.

305. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the reasons outlined above and such violations directly and proximately caused Plaintiffs injuries and damages, also outlined above.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT XIII - NEGLIGENT MISREPRESENTATION
PLAINTIFFS v. ALL DEFENDANTS

306. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

307. Defendants negligently misrepresented material facts to Plaintiffs, namely that Mesak and/or Davis and/or Drittij and/or “Michael” were fit to render adequate, competent and appropriate massage therapy services to Plaintiffs and that Mesak and/or Davis and/or Drittij

and/or “Michael” were not dangerous to Plaintiffs.

308. Defendants made these misrepresentations under circumstances and at a time when they knew or should have known of the falsity of these representations.

309. Defendants made these representations with a reckless disregard for the truth or falsity of such statements and/or with an intent to induce Plaintiff to act on the representations, which, in turn, exposed Plaintiffs to harm.

310. Plaintiffs’ justifiable reliance on Defendants’ misrepresentations resulted directly in injury to Plaintiffs as described above and such injuries and damages were legally caused by the justifiable reliance upon Defendants’ misrepresentations.

311. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, were negligent for the reasons outlined above and such violations directly and proximately caused Plaintiffs injuries and damages, also outlined above.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

**COUNT XIV - VIOLATION OF NEW JERSEY CONSUMER
FRAUD ACT, N.J.S.A. § 56:8-1
PLAINTIFFS v. ALL DEFENDANTS**

312. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

313. Defendants’ business acts and practices alleged herein constitute unconscionable

commercial practice, and/or deception, and/or fraud, and/or false pretense, and/or false promise, and/or misrepresentation, and/or the knowing concealment, suppression, or omission of material facts under the New Jersey Consumer Fraud Act, § 56:8-1, *et seq.* (hereinafter “NJCFA”).

314. At all relevant times, the New Jersey Plaintiffs were “persons” within the meaning of the NJCFA. N.J.S.A. §§ 56:8-1 and 56:8-2.

315. Defendants’ conduct, as set forth herein, constitutes an “advertisement” or “sale” within the meaning of the of the NJCFA. N.J.S.A. §§ 56:8-1 and 56:8-2.

316. The practices of Defendants, described above, violate the NJCFA for, *inter alia*, one or more of the following reasons:

- a. Defendants engaged in unconscionable commercial practices in failing to reveal material facts and information about their knowledge and/or number of incidents and/or allegations of sexual assault or exploitation by massage therapists at Massage Envy franchise locations and/or dangers associated with their massage therapists, which did, or tended to, mislead the New Jersey Plaintiffs about facts that could not reasonably be known by the consumer;
- b. Defendants caused New Jersey Plaintiffs to suffer a probability of confusion and a misunderstanding of legal rights, obligations, and/or remedies by and through its conduct;

317. Defendants’ actions impact the public interest because the New Jersey Plaintiffs were injured in exactly the same way as thousands of others purchasing massages as a result of and pursuant to Defendants’ generalized course of deception.

318. Had the New Jersey Plaintiffs known of the defective nature of Defendant’s business, employees and/or agents, namely, the number of incidents or allegations of sexual assaults or exploitation of Massage Envy customers by Massage Envy massage therapists and/or Massage Envy’s policies concerning reporting of same, they would not have purchased massages at Massage Envy.

319. The foregoing acts, omissions and practices proximately caused New Jersey

Plaintiffs to suffer actual damages in the form of, *inter alia*, paying for massages where they were sexually assaulted or exploited by Massage Envy massage therapists, and are entitled to recover such damages, together with all other appropriate damages, attorneys' fees and costs of suit.

320. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, engaged in the foregoing acts, omissions and practices and proximately caused New Jersey Plaintiffs to suffer actual damages in the form of, *inter alia*, paying for massages where they were sexually assaulted or exploited by Massage Envy massage therapists, and are entitled to recover such damages, together with all other appropriate damages, attorneys' fees and costs of suit.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT XV - FRAUDULENT CONCEALMENT
PLAINTIFFS v. ALL DEFENDANTS

321. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

322. As set forth above, Defendants concealed and/or suppressed material facts concerning the safety of their customers. Defendants knew that employees and/or agents, namely, massage therapists at franchise locations, were sexually assaulting and exploiting customers, but Defendants concealed those material facts. Defendants recklessly assigned these sexual predators masked as massage therapists to consumers in the United States, even though Defendants knew, or should have known, at the time of the scheduling of appointments, that employees and/or agents

were sexually assaulting and/or exploiting customers. Plaintiffs had no knowledge of these issues at the time that they scheduled/attended their massages at Massage Envy or purchased services at Massage Envy franchise locations.

323. Defendants made material omissions and/or affirmative misrepresentations regarding the safety of their business, employees and/or agents in massaging customers, including Plaintiffs.

324. Defendants each knew these representations were false when they were made.

325. Defendants intended for customers, including Plaintiffs, to rely on their representations and/or omissions.

326. Plaintiffs, in fact relying on the false representations, purchased massages that were, in fact, defective, unsafe, and unreliable, because Defendants knew their employees and/or agents were sexually assaulting customers yet, concealed this information from the public, including Plaintiffs.

327. Defendants had a duty to disclose these safety issues to Plaintiffs, the public, and the New Jersey Board of Massage and Bodywork Therapy, but failed to do so.

328. Defendants had a duty to disclose the true facts about the safety of its business and customers because Defendants had superior knowledge and access to those facts, and the facts were not known to or reasonably discoverable to Plaintiffs. Defendants knew that Plaintiffs had no knowledge of Defendants' massage therapists sexually assaulting and exploiting customers and dangers within their company that may result in sexual assaults or exploitation by massage therapists, and Plaintiffs did not have an equal opportunity to discover the facts to inform them of those defects. Indeed, Plaintiffs trusted Defendants not to sell them massage services that were dangerous, criminal, and defective or that violated New Jersey law.

329. Defendants had a duty to disclose to Plaintiffs that the massage services were defective, unsafe, and dangerous because Plaintiffs relied on Defendants' representations that Plaintiffs would be safe during the massages that they purchased.

330. The aforementioned concealment was material, because if it had been disclosed, Plaintiffs would not have bought massage services at Massage Envy.

331. The aforementioned representations were also material because they were facts that would typically be relied on by a person purchasing massage services. Defendants each knew or recklessly disregarded that their representations and/or statements on the safety of the Plaintiffs and general public were false.

332. By misrepresenting and/or failing to disclose these material facts, Defendants intended to induce Plaintiffs to purchase massages at Massage Envy.

333. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, engaged in the foregoing acts, omissions and practices and intended to induce Plaintiffs to purchase massages at Massage Envy.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit, punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

COUNT XVI – CIVIL CONSPIRACY
PLAINTIFFS v. ALL DEFENDANTS

334. Plaintiffs incorporate the averments of the preceding paragraphs as if each was set forth herein at length.

335. As outlined above and upon information and belief, Defendants knowingly and

willfully conspired and agreed among themselves to misrepresent to and conceal from the public and its customers, including, but not limited to Plaintiffs, incidents and allegations of massage therapists sexually assaulting and exploiting customers at franchise locations and/or that there was a danger to all of Defendants' customers that there was a problem of women being sexually assaulted at their Massage Envy franchise locations by its massage therapists. This conspiracy continues to this day.

336. Defendant Massage Envy, and other defendants named herein, and other Massage Envy franchisees, conspired to keep incidents and allegations of massage therapists sexually assaulting and exploiting customers at franchise locations and/or that there was a danger to customers of being sexually assaulted at its franchise locations by massage therapists from the public and its customers, including, but not limited to Plaintiffs.. Instead of informing the public, Plaintiffs and/or all of Defendants' customers about the number of incidents/allegations of and/or problem of customers being sexually assaulted at its franchise locations by massage therapists, Defendant Massage Envy, and other defendants named herein, and other Massage Envy franchisees intentionally and falsely told Plaintiffs and all of Defendants' customers that safety is at the core of their company's mission, that it has a zero tolerance policy towards sexual assaults committed by their massage therapists, that they protect their customers, that they carefully select and thoroughly train their massage therapists, that they are dedicated to providing a comfortable and professional environment, that Plaintiffs and all of Defendants' customers can be confident they will have a positive experience, that they bring joy into Plaintiffs and all of Defendants' customers' lives, and that they make the best of everybody, among other intentionally false statements to Plaintiffs and all of Defendants' customers.

337. In furtherance of said conspiracy and agreement, Defendants engaged in fraudulent

representations, omissions and concealment of facts, acts of cover-up and statements calculated to obtain Plaintiffs and all of Defendants' customers as massage customers in their Massage Envy franchise locations for the benefit of Defendants and as set forth in detail in the foregoing paragraphs.

338. All of the actions of Defendants set forth in the preceding paragraphs were in violation of the rights of Plaintiffs and committed in furtherance of the aforementioned conspiracies and agreements. Moreover, each of the aforementioned Defendants lent aid and encouragement and knowingly financed, ratified and adopted the acts of the other. As a proximate result of the wrongful acts herein alleged, Plaintiffs have suffered significant damage as outlined above.

339. These acts constituted malicious conduct which was carried on by said Defendants with willful and conscious disregard for Plaintiffs' rights with the intention of willfully concealing incidents of sexual assault and exploitation by Massage Envy therapists on customers and/or the problem of customers being sexually assaulted or exploited at its franchise locations by massage therapists and was despicable conduct that subjected Plaintiffs to cruel and unjust hardship so as to justify an award of exemplary and punitive damages. Accordingly, punitive damages should be awarded against Defendants to punish them and deter other such persons from committing such wrongful and malicious acts in the future.

340. In the alternative, Defendants ABC, Inc. 1-10 (fictitious entities) and/or John Does 1-10 (fictitious persons), through its servants, agents, or employees, engaged in the foregoing acts, omissions and practices and intended to induce Plaintiffs to purchase massages at Massage Envy.

WHEREFORE, Plaintiffs demands judgment against Defendants, jointly and severally with all other defendants and individually and collectively for damages, interest, cost of suit,

punitive damages and such other remedies as this Honorable Court deems equitable, just and proper.

LAFFEY, BUCCI & KENT, LLP

BY:

A handwritten signature in black ink, appearing to be "B. Kent", written over a horizontal line.

BRIAN D. KENT

JEFFREY F. LAFFEY

M. STEWART RYAN

Attorneys for Plaintiffs, Jane Doe #1, Jane Doe #2, Jane Doe #3, and Jane Doe #4

DATED: August 29, 2018

JURY DEMAND

Plaintiff hereby demand a trial by jury as to all issues.

**DEMAND FOR COMPLIANCE WITH
N.J. COURT RULES 1:5-1(a) AND 4:17-4(c)**

TAKE NOTICE that the undersigned attorney, counsel for Plaintiff, hereby demands, pursuant to the provisions of R.1:5-1(a) and 4:17-4(c), that each party serving pleadings or interrogatories and receiving responses thereto shall serve copies of all such pleadings, interrogatories, and responses thereto upon the undersigned, and further

TAKE NOTICE that this is a continuing demand.

DESIGNATION OF TRIAL COUNSEL

Brian D. Kent, Esquire is hereby designated trial counsel for Plaintiffs, Jane Doe #1, Jane Doe #2, Jane Doe #3 and Jane Doe #4.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to New Jersey Court Rule 4:10-2(b) demand is made that defendant(s) disclose to plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide plaintiffs' attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe and umbrella policies.

DEMAND FOR ANSWERS TO INTERROGATORIES

Demand is hereby made for fully responsive answers to Form C and Form C1 Interrogatories appearing in Appendix II to the Rules of Court.

RULE 4:5-1 CERTIFICATION

I, Brian D. Kent, of full age, do certify that I am the attorney for the plaintiff herein and that to my knowledge there are no other actions or arbitrations pending as a result of the incidents described in the foregoing Complaint.

LAFFEY, BUCCI & KENT, LLP

BY:



BRIAN D. KENT
JEFFREY F. LAFFEY
M. STEWART RYAN
Attorneys for Plaintiffs, Jane Doe #1, Jane
Doe #2, Jane Doe #3, and Jane Doe #4

DATED: August 29, 2018