

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

JANE DOE #1 (R.G.) individually; JANE DOE #2
(B.P.) individually; JANE DOE #3 (N.B.) individually;
JANE DOE #4 (D.W.) individually;
JANE DOE #5 (T.G.) individually; JANE DOE #6
(R.M.) individually; JANE DOE #7 (A.J) individually;
JANE DOE #8 (B.L) individually;
JANE DOE #9 (A.K) individually; JANE DOE #10
(S.G) individually; JANE DOE #11 (D.H) individually;

Plaintiffs,

v.

MESSAGE ENVY FRANCHISING, LLC, a Foreign
for Profit Corporation; JK KRN ENTERPRISES, INC.,
a Florida for Profit Corporation d/b/a MESSAGE
ENVY; VICALEX, LLC, a Florida Limited Liability
Company d/b/a MESSAGE ENVY; CB
INVESTMENTS LLC a Florida for Profit Corporation
d/b/a MESSAGE ENVY; MHL MESSAGE FOR
HEALTHY LIVING, LLC a Florida Limited Liability
Company d/b/a MESSAGE ENVY; TRIPLE
DOUBLE, USA LLC, a Florida Limited Liability
Company d/b/a MESSAGE ENVY; NAMASTE
LIFESTYLE, INC., a Florida for Profit Corporation
d/b/a MESSAGE ENVY; SOUTHEAST CAUSEWAY
INVESTMENTS, LLC, a Florida Limited Liability
Company d/b/a MESSAGE ENVY; SPANISH RIVER
ENVY LLC, a Florida Limited Liability Company,
d/b/a MESSAGE ENVY; SUMMIT REGENCY, LLC,
a Florida Limited Liability Company, d/b/a
MESSAGE ENVY;

Defendants,

Case No.:

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COMPLAINT

Plaintiffs, JANE DOE #1 (R.G.) individually; JANE DOE #2 (B.P.) individually; JANE
DOE #3 (N.B.) individually; JANE DOE #4 (D.W.) individually; JANE DOE #5 (T.G.)

individually; JANE DOE #6 (R.M.) individually; JANE DOE #7 (A.J) individually; JANE DOE #8 (B.L) individually; JANE DOE #9 (A.K) individually; JANE DOE #10 (S.G) individually; JANE DOE #11 (D.H) individually; hereby sues Defendants MASSAGE ENVY FRANCHISING, LLC, a Foreign for Profit Corporation; JK KRN ENTERPRISES, INC., a Florida for Profit Corporation d/b/a MASSAGE ENVY; VICALEX, LLC, a Florida Limited Liability Company d/b/a MASSAGE ENVY; CB INVESTMENTS LLC a Florida for Profit Corporation d/b/a MASSAGE ENVY; MHL MASSAGE FOR HEALTHY LIVING, LLC a Florida Limited Liability Company d/b/a MASSAGE ENVY; TRIPLE DOUBLE, USA LLC, a Florida Limited Liability Company d/b/a MASSAGE ENVY; NAMASTE LIFESTYLE, INC., a Florida for Profit Corporation d/b/a MASSAGE ENVY; SOUTHEAST CAUSEWAY INVESTMENTS, LLC, a Florida Limited Liability Company d/b/a MASSAGE ENVY; SPANISH RIVER ENVY LLC, a Florida Limited Liability Company, d/b/a MASSAGE ENVY; SUMMIT REGENCY, LLC, a Florida Limited Liability Company, d/b/a MASSAGE ENVY (jointly referred to hereinafter as “DEFENDANTS”), and states the following:

INTRODUCTION

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 Florida. 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.”

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.”

Assaults have consisted of rape, digital and oral penetration of the vaginal area as well as touching of the breasts. 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 Florida 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 Florida (or elsewhere) suffer what the Plaintiffs have and will continue to endure for the rest of their lives.

GENERAL ALLEGATIONS

1. This is an action for damages in excess of fifteen thousand dollars (\$15,000.00), exclusive of costs and interest.

2. JANE DOE #1 (R.G.) individually, at all times material hereto was a resident of Palm Beach County, Florida. JANE DOE #1 (R.G.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victims like JANE DOE #1 (R.G.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victims to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

3. JANE DOE #2 (B.P.) individually, at all times material hereto was a resident of Palm Beach County, Florida. JANE DOE #2 (B.P.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victims like JANE DOE #2 (B.P.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victims to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

4. JANE DOE #3 (N.B.) individually, at all times material hereto was a resident of Palm Beach County, Florida. JANE DOE #3 (N.B.) is an acronym being used to protect against

the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #3 (N.B.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

5. JANE DOE #4 (D.W.) individually, at all times material hereto was a resident of Pinellas County, Florida. JANE DOE #4 (D.W.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #4 (D.W.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

6. JANE DOE #5 (T.G.) individually, at all times material hereto was a resident of Pasco County, Florida. JANE DOE #5 (T.G.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #5 (T.G.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

7. JANE DOE #6 (R.M.) individually, at all times material hereto was a resident of Sarasota County, Florida. JANE DOE #6 (R.M.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault

victims like JANE DOE #6 (R.M.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

8. JANE DOE #7 (A.J) individually, at all times material hereto was a resident of Broward County, Florida. JANE DOE #7 (A.J.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #7 (A.J.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

9. JANE DOE #8 (B.L) individually, at all times material hereto was a resident of Broward County, Florida. JANE DOE #8 (B.L.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #8 (B.L.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

10. JANE DOE #9 (A.K) individually, at all times material hereto was a resident of Duval County, Florida. JANE DOE #9 (A.K.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #9 (A.K.) is to be maintained out of the public record to protect her

privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

11. JANE DOE #10 (S.G) individually, at all times material hereto was a resident of Palm Beach County, Florida. JANE DOE #10 (S.G.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #10 (S.G.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

12. JANE DOE #11 (D.H) individually, at all times material hereto was a resident of Palm Beach County, Florida. JANE DOE #11 (D.H.) is an acronym being used to protect against the disclosure in the public record of Plaintiff's identity due to her status as a victim of sexual assault from which this case arises. Under applicable laws and public policy, the identify of sexual assault victums like JANE DOE #11 (D.H.) is to be maintained out of the public record to protect her privacy, encourage similiarly situated victiums to seek redress in civil and criminal courts and ultimately to protect the public from recidivist sex offenders.

13. MASSAGE ENVY FRANCHISING, LLC; at all material times was a Foreign for Profit Corporation with offices in Palm Beach County, Florida.

14. 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 900 franchises located across the United States and is the largest employer of massage therapists nationwide.

15. JK KRN ENTERPRISES, INC., a Florida For-Profit Corporation, operates a massage envy parlor at 11021 Southern Blvd, Ste 100, Royal Palm Beach, FL 33411.

16. VICALEX, LLC, a Florida Limited Liability Company operates a massage envy parlor at 851 Village Blvd, Ste 503, West Palm Beach, FL 33409.

17. CB INVESTMENTS LLC a Florida for Profit Corporation, operates a massage envy parlor at 7050 West Palmetto Park Road, Bay 17, Boca Raton, FL 33433.

18. MHL MASSAGE FOR HEALTHY LIVING, LLC a Florida Limited Liability Company operates a massage envy parlor at 10609 Ulmerton Rd, Largo, FL 3377.

19. TRIPLE DOUBLE, USA LLC, a Florida Limited Liability Company operates a massage envy parlor at 2855 University Parkway, Suite 206, Sarasota, FL 34232.

20. NAMASTE LIFESTYLE, INC., a Florida for Profit Corporation operates a massage envy parlor at 17673 N. Dale Mabry Hwy, Lutz, FL 33548.

21. SOUTHEAST CAUSEWAY INVESTMENTS, LLC, a Florida Limited Liability Company, operates a massage envy parlor at 1917 Cordova Rd, Fort Lauderdale, FL 33316.

22. SPANISH RIVER ENVY LLC, a Florida Limited Liability Company operates a massage envy parlor at 4125 N Federal Hwy, Boca Raton, FL 33431.

23. SUMMIT REGENCY, LLC, a Florida Limited Liability Company operates a massage envy parlor at 4509 St. Johns Avenue, Suite #1, Jacksonville, FL 32210.

24. The subject of this complaint occurred in many jurisdictions, including Palm Beach County, Florida.

25. Venue is proper in Palm Beach County as several of the Defendants are located in Palm Beach County and several of the incidents occurred in Palm Beach County.

GENERAL FACTS GIVING RISE TO CLAIMS

26. Upon information and belief, sexual assaults committed by massage therapists at MASSAGE ENVY franchise locations is an epidemic of national scale with more than 180 allegations of sexual assaults by MASSAGE ENVY therapists occurring across the country.

27. 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.

28. MASSAGE ENVY has engaged in directing franchisees in the State of Florida 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. This is being done in violation of Florida.

29. 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."

30. 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. 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.

31. 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.

32. 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.

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

34. 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.

35. 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 Florida Board of Massage Therapy and/or law enforcement personnel but rather to handle the matter "in-house," in violation of Florida law.

36. 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 Florida Board of Massage therapy, law enforcement or anyone for that matter, in violation of Florida law.

37. Instead, it is believed and therefore averred that DEFENDANTS chose not to conduct any 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.

38. 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.

39. 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.

40. As a result, DEFENDANTS' agents and/or employees would go on to sexually assault numerous unsuspecting customers at DEFENDANTS' locations.

41. 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.

42. 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 in a vulnerable position per the protocol of massage clients at Massage Envy franchises. DEFENDANTS negligently maintained its premises and failed to keep its free from hazards and its customers safe, thereby causing PLAINTIFFS severe injuries and damages.

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

44. At the aforementioned time and place, the Defendant owed a nondelegable duty of care to all invitees on the premises, including, JANE DOE #1 (R.G.) individually; JANE DOE #2

(B.P.) individually; JANE DOE #3 (N.B.) individually; JANE DOE #4 (D.W.) individually; JANE DOE #5 (T.G.) individually; JANE DOE #6 (R.M.) individually; JANE DOE #7 (A.J) individually; JANE DOE #8 (B.L) individually; JANE DOE #9 (A.K) individually; JANE DOE #10 (S.G) individually; JANE DOE #11 (D.H) individually, to keep the premises free from dangerous conditions and hazards of which they knew or should have known. The negligent condition was known to DEFENDANTS, or had existed for a sufficient length of time so that DEFENDANTS should have known of it, and DEFENDANTS failed to properly maintain its property.

SPECIFIC FACTS GIVING RISE TO CLAIMS

JANE DOE # 1 (R.G)

45. During August 2017 (exact date unknown), JANE DOE #1 (R.G.) scheduled a massage at JK KRN ENTERPRISES, INC. (hereinafter MASSAGE ENVY – ROYAL PALM BEACH).

46. JANE DOE #1 (R.G.) was a member of MASSAGE ENVY for three years but it was her first visit to this location.

47. During her massage that occurred in August 2017, JANE DOE #1 (R.G.) was assaulted when she was a customer at the Massage Envy location in Royal Palm Beach, which was owned and operated by Defendants MASSAGE ENVY – ROYAL PALM BEACH and MASSAGE ENVY. The massage therapist that sexually assaulted JANE DOE #1 (R.G.) shall hereinafter be referred to as “Assailant #1.”

48. Specifically, JANE DOE #1 (R.G.)’s genitals were inappropriately touched without her consent when she was a customer at MASSAGE ENVY – ROYAL PALM BEACH and MASSAGE ENVY.

JANE DOE # 2 (B.P.)

49. During the year 2015 or 2016 (exact date unknown), JANE DOE #2 (B.P.) scheduled a massage at VICALEX, LLC (hereinafter MASSAGE ENVY – WEST PALM BEACH).

50. JANE DOE #2 (B.P.) suffered from spinal pain that required her to get frequent massages to relieve the pain.

51. JANE DOE #2 (B.P.) obtained two massages before the subject incident without any problems; however, on or about the third massage, is when the incident occurred.

52. During the massage at issue, JANE DOE #2 (B.P.) was assaulted when she was a customer at MASSAGE ENVY – WEST PALM BEACH, which was owned and operated by Defendants MASSAGE ENVY – WEST PALM BEACH and MASSAGE ENVY. The massage therapist that sexually assaulted JANE DOE #2 (B.P.) shall hereinafter be referred to as “Assailant #2.”

53. Specifically, JANE DOE #2 (B.P.)’s genitals were inappropriately touched without her consent when she was a customer at MASSAGE ENVY – WEST PALM BEACH and MASSAGE ENVY.

JANE DOE # 3 (N.B.)

54. At or around June 2016 (exact date unknown), JANE DOE #3 (N.B.) scheduled a massage at CB INVESTMENTS LLC (hereinafter MASSAGE ENVY – WEST BOCA).

55. JANE DOE #3 (N.B.) scheduled a massage at MASSAGE ENVY – WEST BOCA that was the last appointment for the day.

56. At all material times, JANE DOE #3 (N.B.) was given a massage as a gift from her boyfriend who also had a massage on the same day at the same location.

57. During the massage at issue, JANE DOE #3 (N.B.) was assaulted when she was a customer at MASSAGE ENVY – WEST BOCA, which was owned and operated by Defendants MASSAGE ENVY – WEST BOCA and MASSAGE ENVY. The massage therapist that sexually assaulted JANE DOE #3 (N.B.) shall hereinafter be referred to as “Assailant #3.”

58. Specifically, JANE DOE #3 (N.B.)’s breasts were inappropriately touched without her consent when she was a customer at MASSAGE ENVY – WEST BOCA and MASSAGE ENVY.

JANE DOE # 4 (D.W.)

59. On or about May 27, 2016, JANE DOE #4 (D.W.) scheduled a massage at MHL MASSAGE FOR HEALTHY LIVING, LLC (hereinafter MASSAGE ENVY – LARGO).

60. JANE DOE #4 (D.W.) suffered from spinal pain that required her to get frequent massages to relieve the pain.

61. JANE DOE #4 (D.W.) frequently visited the MASSAGE ENVY with a different masseuse. Her regular masseuse was unavailable when she was assigned MASSAGE ENVY – LARGO employee and/or agent Murtagh D. Meyler instead.

62. During the massage at issue, JANE DOE #4 (D.W.) was assaulted when she was a customer at MASSAGE ENVY – LARGO, which was owned and operated by Defendants MASSAGE ENVY – LARGO and MASSAGE ENVY.

63. Specifically, JANE DOE #4 (D.W.)’s genitals were touched and inappropriately digitally penetrated by Massage Therapist Murtagh D. Meyler’s without her consent when she was a customer at MASSAGE ENVY – LARGO and MASSAGE ENVY. The massage therapist, Murtagh D. Meyler, that sexually assaulted JANE DOE #4 (D.W.) shall hereinafter be referred to as “Assailant #4.”

64. Massage Therapist Assailant #4's license was revoked after the Department of Health, Florida Board of Massage Therapy conducted an investigation following the incident.

JANE DOE # 5 (T.G.)

65. On or about March 11, 2017, JANE DOE #5 (T.G.) scheduled a massage at NAMASTE LIFESTYLE, INC. (hereinafter MASSAGE ENVY – LUTZ).

66. JANE DOE #5 (T.G.) previously underwent a double mastectomy and required massages as part of her recovery.

67. JANE DOE #5 (T.G.) visited the MASSAGE ENVY – LUTZ for a lymphatic massage.

68. JANE DOE #5 (T.G.) previously treated for breast cancer that ultimately resulted in a double mastectomy.

69. During the massage at issue, JANE DOE #5 (T.G.) was assaulted when she was a customer at MASSAGE ENVY – LUTZ, which was owned and operated by Defendants MASSAGE ENVY – LUTZ and MASSAGE ENVY.

70. Specifically, JANE DOE #5 (T.G.)'s breasts were sexually and inappropriately touched by MASSAGE ENVY – LUTZ's employee and/or agent James D. Cardoza without her consent when she was a customer at MASSAGE ENVY – LUTZ and MASSAGE ENVY. The massage therapist, James D. Cardoza, that sexually assaulted JANE DOE #5 (T.G.) (hereinafter referred to as "Assailant #5").

JANE DOE # 6 (R.M.)

71. During the year 2016 (exact date unknown), JANE DOE #6 (R.M.) scheduled a massage at TRIPLE DOUBLE, USA LLC (hereinafter MASSAGE ENVY – SARASOTA).

72. JANE DOE #6 (R.M.) went to TRIPLE DOUBLE, USA LLC with a female friend for each of them to receive separate massages.

73. JANE DOE #6 (R.M.) specifically requested her massage be performed by a female; however, the MASSAGE ENVY – SARASOTA said they had no females available so it had to be a male masseuse.

74. JANE DOE #6 (R.M.) specifically included the areas which she wanted to be massaged and they included her neck and back only. JANE DOE #6 (R.M.) specifically did not want the lower half of her body massaged.

75. During the massage at issue, JANE DOE #6 (R.M.) was assaulted when she was a customer at MASSAGE ENVY – SARASOTA, which was owned and operated by Defendants MASSAGE ENVY – SARASOTA and MASSAGE ENVY. The massage therapist that sexually assaulted JANE DOE #6 (R.M.) shall hereinafter be referred to as “Assailant #6.”

76. Specifically, JANE DOE #6 (R.M.)’s genitals were inappropriately touched and her vagina was digitally penetrated without her consent when she was a customer at MASSAGE ENVY – SARASOTA and MASSAGE ENVY.

JANE DOE # 7 (A.J)

77. On February 3, 2016, JANE DOE #7 (A.J.) scheduled a massage at SOUTHEAST CAUSEWAY INVESTMENTS, LLC (hereinafter MASSAGE ENVY – FORT LAUDERDALE).

78. JANE DOE #7 (A.J.) was attending her third or fourth massage at MASSAGE ENVY with this particular massage therapist.

79. During her massage that occurred in February 3, 2016, JANE DOE #7 (A.J.) was assaulted when she was a customer at the Massage Envy location in Royal Palm Beach, which was owned and operated by Defendants MASSAGE ENVY – FORT LAUDERDALE and MASSAGE

ENVY. The massage therapist that sexually assaulted JANE DOE #7 (A.J.) shall hereinafter be referred to as “Assailant #7.”

80. Specifically, JANE DOE #7 (A.J.)’s genitals were inappropriately touched without her consent when she was a customer at MASSAGE ENVY – FORT LAUDERDALE and MASSAGE ENVY.

JANE DOE # 8 (B.L)

81. On or about April 12, 2017, JANE DOE #8 (B.L.) scheduled a massage at SOUTHEAST CAUSEWAY INVESTMENTS, LLC (hereinafter MASSAGE ENVY – FORT LAUDERDALE).

82. This was her first massage at this location with this particular massage therapist (Brett Toote, LMT).

83. During her massage that occurred on or about April 12, 2017, JANE DOE #8 (B.L.) was assaulted when she was a customer at the Massage Envy location in Royal Palm Beach, which was owned and operated by Defendants MASSAGE ENVY – FORT LAUDERDALE and MASSAGE ENVY.

84. Specifically, JANE DOE #8 (B.L.)’s genitals were inappropriately touched without her consent by Brett Toote when she was a customer at MASSAGE ENVY – FORT LAUDERDALE and MASSAGE ENVY. The massage therapist that sexually assaulted JANE DOE #7 (A.J.) first, Brett Toote, shall hereinafter be referred to as “Assailant #8”.

85. Thinking this was just maybe a mistake, JANE DOE #8 (B.L.) returned on May 25, 2017, where additional inappropriate touching occurred with a second massage therapist (Nik-ki Hardman). The massage therapist that sexually assaulted JANE DOE #8 (B.L.) second, Nik-ki Hardman, shall hereinafter be referred to as “Assailant #9.”

86. JANE DOE #8 (B.L.) filed a formal incident report with massage envy on or about December 3, 2017.

JANE DOE # 9 (A.K.)

87. In or about the summer of 2016, JANE DOE #9 (A.K.) scheduled a massage at Summit Regency, LLC (hereinafter MASSAGE ENVY – ORTEGA).

88. JANE DOE #9 (A.K.) suffered from a herniated disc in her neck and two disc bulges in her back from a 2010 car collision that required her to get frequent massages to relieve the pain.

89. JANE DOE #9 (A.K.) visited the MASSAGE ENVY – ORTEGA for a massage.

90. During the massage at issue, JANE DOE #9 (A.K.) was assaulted when she was a customer at MASSAGE ENVY – ORTEGA, which was owned and operated by Defendants MASSAGE ENVY – ORTEGA and MASSAGE ENVY. The massage therapist that sexually assaulted JANE DOE #9 (A.K.) shall hereinafter be referred to as “Assailant #10.”

91. Specifically, JANE DOE #9’s (A.K.) vagina was inappropriately touched by a MASSAGE ENVY – ORTEGA’s employee and/or agent without her consent when she was a customer at MASSAGE ENVY – ORTEGA and MASSAGE ENVY.

JANE DOE # 10 (S.G) and JANE DOE #11 (D.H)

92. During Mother’s Day Weekend in May 2017 (exact date unknown), JANE DOE #10 (S.G.) scheduled a massage at SPANISH RIVER ENVY, LLC (hereinafter MASSAGE ENVY – SPANISH RIVER) with her mother, JANE DOE #11 (D.H).

93. JANE DOE #10 (S.G.) purchased a mother’s day package for two as a present to JANE DOE #11 (D.H) for mother’s day.

94. Prior to the massage, JANE DOE #10 (S.G.) specifically scheduled both her massage and JANE DOE #11 (D.H)'s massage with females.

95. However, when they arrived, JANE DOE #10 (S.G.) was told there were no female massage therapists available, despite specifically booking an appointment with a female, and her scheduled massage instead had to be performed by a male massage therapist.

96. During her massage that occurred in May 2017, JANE DOE #10 (S.G.) and JANE DOE #11 (D.H) were sexually harassed when they were customers at the Massage Envy location in Spanish River, which was owned and operated by Defendants MASSAGE ENVY – SPANISH RIVER and MASSAGE ENVY.

97. Specifically, an employee and/or agent of MASSAGE ENVY – SPANISH RIVER and MASSAGE ENVY inappropriately requested JANE DOE #10 (S.G.) undress and disrobe in front of him on two separate occasions during this May 2017 massage. The massage therapist that sexually assaulted JANE DOE #10 (S.G.) shall hereinafter be referred to as “Assailant #11.” During JANE DOE #11 (D.H)'s massage down the hall at the same time, her massage therapist placed his genitals extremely close to JANE DOE #11's head when he abruptly halted the massage and left the room when she was a customer at MASSAGE ENVY – SPANISH RIVER and MASSAGE ENVY. The massage therapist that sexually assaulted JANE DOE #11 (D.H) shall hereinafter be referred to as “Assailant #12.”

98. JANE DOE #11 (D.H) immediately terminated the massage, scared for JANE DOE #10 (S.G.)'s safety when JANE DOE #11 (D.H) learned of the inappropriate conduct that occurred simultaneously at the same MASSAGE ENVY – SPANISH RIVER and MASSAGE ENVY.

99. The incident surrounding JANE DOE #10 (S.G.) and JANE DOE #11 (D.H). establishes the prevalence of sexual harassment and sexual assaults that is rampant at MASSAGE

ENVY and its franchise locations, including but not limited to, JK KRN ENTERPRISES, INC., a Florida for Profit Corporation; VICALEX, LLC, a Florida Limited Liability Company; CB INVESTMENTS LLC a Florida for Profit Corporation; MHL MASSAGE FOR HEALTHY LIVING, LLC a Florida Limited Liability Company; NAMASTE LIFESTYLE, INC., a Florida for Profit Corporation; SOUTHEAST CAUSEWAY INVESTMENTS, LLC, a Florida Limited Liability Company, SPANISH RIVER ENVY LLC, a Florida Limited Liability Company.

**COUNT ONE – DIRECT LIABILITY AGAINST
MESSAGE ENVY BY JANE DOE #1 (R.G.)**

100. Plaintiff JANE DOE #1 (R.G.) realleges each and every allegation contained in paragraphs 1 through 48 above as if fully set forth herein.

101. Defendant, MESSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #1's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #1 (R.G.).

102. For years prior to the sexual assault of JANE DOE #1 (R.G.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

103. MESSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #1, were likely to commit further acts of sexual assault.

104. MESSAGE ENVY owed to the public in general, and to JANE DOE #1 (R.G.) 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.

105. MASSAGE ENVY owed to the public in general, and to JANE DOE #1 (R.G.) 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.

106. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #1 (R.G.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

107. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #1 (R.G.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

108. At all times relevant hereto, MASSAGE ENVY 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.

109. 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, MASSAGE ENVY 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.

110. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

112. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

113. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #1 (R.G.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #1.

114. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #1, to sexually assault female customers, including JANE DOE #1 (R.G.);
- b. permitting massage therapists, including Assailant #1, to engage in illegal sexual conduct with female customers, including JANE DOE #1 (R.G.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – ROYAL PALM BEACH, during operating hours;
- c. permitting Assailant #1 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #1 on JANE DOE #1 (R.G.);

- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #1;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #1 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 Florida;
- l. failing to warn JANE DOE #1 (R.G.) of the risk of harm that JANE DOE #1 (R.G.) may suffer as a result of contact with Assailant #1;
- 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 (R.G.);
- 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 Assailant #1, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #1 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #1 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #1 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and

- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – ROYAL PALM BEACH.

116. 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 JANE DOE #1 (R.G.) in particular, that the massage therapists, including Assailant #1, 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.

117. MASSAGE ENVY 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.

118. At all times relevant hereto, MASSAGE ENVY 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.

119. MASSAGE ENVY 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.

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

121. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #1 as a sexual predator.

122. Defendant hired, retained and/or assigned Assailant #1 to Plaintiff knowing or having reason to know that Assailant #1 was a sexual predator.

123. Defendant further breached its duty of care to JANE DOE #1 (R.G.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #1, Defendants further breached their duty of care by failing to warn JANE DOE #1 (R.G.), of the propensities of Assailant #1 and by failing to provide a safe and secure environment for the JANE DOE #1 (R.G.).

124. As a result of the above-described conduct, JANE DOE #1 (R.G.) 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 (R.G.)'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.

WHEREFORE, the Plaintiff, JANE DOE #1 (R.G.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT TWO – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #2 (B.P.)**

125. Plaintiff JANE DOE #2 (B.P.) realleges each and every allegation contained in paragraphs 1 through 44, and 49-53 above as if fully set forth herein.

126. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #2's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #2 (B.P.).

127. For years prior to the sexual assault of JANE DOE #2 (B.P.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

128. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #2, were likely to commit further acts of sexual assault.

129. MASSAGE ENVY owed to the public in general, and to JANE DOE #2 (B.P.) 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.

130. MASSAGE ENVY owed to the public in general, and to JANE DOE #2 (B.P.) 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.

131. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #2 (B.P.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

132. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #2 (B.P.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

133. At all times relevant hereto, MASSAGE ENVY 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.

134. 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, MASSAGE ENVY 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.

135. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

137. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

138. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #2 (B.P.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #2.

139. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #2, to sexually assault female customers, including JANE DOE #2 (B.P.);
- b. permitting massage therapists, including Assailant #2, to engage in illegal sexual conduct with female customers, including JANE DOE #2 (B.P.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. permitting Assailant #2 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);

- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #2 on JANE DOE #2 (B.P.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #2;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #2 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 Florida;
- l. failing to warn JANE DOE #2 (B.P.) of the risk of harm that JANE DOE #2 (B.P.) may suffer as a result of contact with Assailant #2;
- 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 (B.P.);
- 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 Assailant #2, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;

- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #2 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #2 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #2 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

141. 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 JANE DOE #2 (B.P.) in particular, that the massage therapists, including Assailant #2, 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.

142. MASSAGE ENVY 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.

143. At all times relevant hereto, MASSAGE ENVY 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.

144. MASSAGE ENVY 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.

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

146. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #2 as a sexual predator.

147. Defendant hired, retained and/or assigned Assailant #2 to Plaintiff knowing or having reason to know that Assailant #2 was a sexual predator.

148. Defendant further breached their duty of care to JANE DOE #2 (B.P.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #2, Defendant further breached their duty of care by failing to warn JANE DOE #2 (B.P.), of the propensities of Assailant #2 and by failing to provide a safe and secure environment for the JANE DOE #2 (B.P.).

149. As a result of the above-described conduct, JANE DOE #2 (B.P.) 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 (B.P.)'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.

WHEREFORE, the Plaintiff, JANE DOE #2 (B.P.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT THREE – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #3 (N.B.)**

150. Plaintiff JANE DOE #3 (N.B.) realleges each and every allegation contained in paragraphs 1 through 44, and 54-58 above as if fully set forth herein.

151. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #3's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #3 (N.B.).

152. For years prior to the sexual assault of JANE DOE #3 (N.B.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

153. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #3, were likely to commit further acts of sexual assault.

154. MASSAGE ENVY owed to the public in general, and to JANE DOE #3 (N.B.) 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.

155. MASSAGE ENVY owed to the public in general, and to JANE DOE #3 (N.B.) 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.

156. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #3 (N.B.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

157. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #3 (N.B.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

158. At all times relevant hereto, MASSAGE ENVY 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.

159. 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, MASSAGE ENVY 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.

160. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

162. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

163. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #3 (N.B.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #3.

164. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #3, to sexually assault female customers, including JANE DOE #3 (N.B.);
- b. permitting massage therapists, including Assailant #3, to engage in illegal sexual conduct with female customers, including JANE DOE #3 (N.B.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST BOCA, during operating hours;
- c. permitting Assailant #3 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #3 on JANE DOE #3 (N.B.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #3;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;

- j. failing to warn Plaintiff of the risk of harm posed by Assailant #3 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 Florida;
- l. failing to warn JANE DOE #3 (N.B.) of the risk of harm that JANE DOE #3 (N.B.) may suffer as a result of contact with Assailant #3;
- 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.B.);
- 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 Assailant #3, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #3 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #3 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #3 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST BOCA.

166. 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 JANE DOE #3 (N.B.) in particular, that the

massage therapists, including Assailant #3, 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.

167. MASSAGE ENVY 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.

168. At all times relevant hereto, MASSAGE ENVY 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.

169. MASSAGE ENVY 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.

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

171. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #3 as a sexual predator.

172. Defendant hired, retained and/or assigned Assailant #3 to Plaintiff knowing or having reason to know that Assailant #3 was a sexual predator.

173. Defendant further breached their duty of care to JANE DOE #3 (N.B.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #3, Defendant further breached their duty of care by failing to

warn JANE DOE #3 (N.B.), of the propensities of Assailant #3 and by failing to provide a safe and secure environment for the JANE DOE #3 (N.B.).

174. As a result of the above-described conduct, JANE DOE #3 (N.B.) 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 (N.B.)'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.

WHEREFORE, the Plaintiff, JANE DOE #3 (N.B.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT FOUR – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #4 (D.W.)**

175. Plaintiff JANE DOE #4 (D.W.) realleges each and every allegation contained in paragraphs 1 through 44, and 59-64 above as if fully set forth herein.

176. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #4's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #4 (D.W.).

177. For years prior to the sexual assault of JANE DOE #4 (D.W.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

178. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #4, were likely to commit further acts of sexual assault.

179. MASSAGE ENVY owed to the public in general, and to JANE DOE #4 (D.W.) 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.

180. MASSAGE ENVY owed to the public in general, and to JANE DOE #4 (D.W.) 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.

181. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #4 (D.W.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

182. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #4 (D.W.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

183. At all times relevant hereto, MASSAGE ENVY 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.

184. 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, MASSAGE ENVY 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.

185. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

187. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

188. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #4 (D.W.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #4.

189. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #4, to sexually assault female customers, including JANE DOE #4 (D.W.);
- b. permitting massage therapists, including Assailant #4, to engage in illegal sexual conduct with female customers, including JANE DOE #4 (D.W.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – LARGO, during operating hours;
- c. permitting Assailant #4 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including

Plaintiff, 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 Assailant #4 on JANE DOE #4 (D.W.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #4;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #4 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 Florida;
- l. failing to warn JANE DOE #4 (D.W.) of the risk of harm that JANE DOE #4 (D.W.) may suffer as a result of contact with Assailant #4;
- 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 (D.W.);
- 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 Assailant #4, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #4 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #4 on Plaintiff and other women he sexually assaulted;

- s. allowing Assailant #4 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – LARGO.

191. 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 JANE DOE #4 (D.W.) in particular, that the massage therapists, including Assailant #4, 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.

192. MASSAGE ENVY 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.

193. At all times relevant hereto, MASSAGE ENVY 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.

194. MASSAGE ENVY 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.

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

196. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #4 as a sexual predator.

197. Defendant hired, retained and/or assigned Assailant #4 to Plaintiff knowing or having reason to know that Assailant #4 was a sexual predator.

198. Defendant further breached their duty of care to JANE DOE #4 (D.W.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #4, Defendant further breached their duty of care by failing to warn JANE DOE #4 (D.W.), of the propensities of Assailant #4 and by failing to provide a safe and secure environment for the JANE DOE #4 (D.W.).

199. As a result of the above-described conduct, JANE DOE #4 (D.W.) 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 (D.W.)'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.

WHEREFORE, the Plaintiff, JANE DOE #4 (D.W.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT FIVE – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #5 (T.G.)**

200. Plaintiff JANE DOE #5 (T.G.) realleges each and every allegation contained in paragraphs 1 through 44, and 65-70 above as if fully set forth herein.

201. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #5's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #5 (T.G.).

202. For years prior to the sexual assault of JANE DOE #5 (T.G.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

203. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #5, were likely to commit further acts of sexual assault.

204. MASSAGE ENVY owed to the public in general, and to JANE DOE #5 (T.G.) 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.

205. MASSAGE ENVY owed to the public in general, and to JANE DOE #5 (T.G.) 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.

206. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #5 (T.G.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

207. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #5 (T.G.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

208. At all times relevant hereto, MASSAGE ENVY 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.

209. 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, MASSAGE ENVY 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.

210. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

212. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

213. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #5 (T.G.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #5.

214. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #5, to sexually assault female customers, including JANE DOE #5 (T.G.);
- b. permitting massage therapists, including Assailant #5, to engage in illegal sexual conduct with female customers, including JANE DOE #5 (T.G.), on the premises of MASSAGE ENVY franchise locations,

including MASSAGE ENVY – WEST PALM BEACH, during operating hours;

- c. permitting Assailant #5 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #5 on JANE DOE #5 (T.G.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #5;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #5 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 Florida;
- l. failing to warn JANE DOE #5 (T.G.) of the risk of harm that JANE DOE #5 (T.G.) may suffer as a result of contact with Assailant #5;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of JANE DOE #5 (T.G.);
- 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 Assailant #5, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #5 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #5 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #5 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

216. 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 JANE DOE #5 (T.G.) in particular, that the massage therapists, including Assailant #5, 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.

217. MASSAGE ENVY 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.

218. At all times relevant hereto, MASSAGE ENVY 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.

219. MASSAGE ENVY 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.

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

221. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #5 as a sexual predator.

222. Defendant hired, retained and/or assigned Assailant #5 to Plaintiff knowing or having reason to know that Assailant #5 was a sexual predator.

223. Defendant further breached their duty of care to JANE DOE #5 (T.G.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #5, Defendant further breached their duty of care by failing to warn JANE DOE #5 (T.G.), of the propensities of Assailant #5 and by failing to provide a safe and secure environment for the JANE DOE #5 (T.G.).

224. As a result of the above-described conduct, JANE DOE #5 (T.G.) 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 #5 (T.G.)'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.

WHEREFORE, the Plaintiff, JANE DOE #5 (T.G.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT SIX – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #6 (R.M.)**

225. Plaintiff JANE DOE #6 (R.M.) realleges each and every allegation contained in paragraphs 1 through 44, and 71-76 above as if fully set forth herein.

226. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #6's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #6 (R.M.).

227. For years prior to the sexual assault of JANE DOE #6 (R.M.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

228. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #6, were likely to commit further acts of sexual assault.

229. MASSAGE ENVY owed to the public in general, and to JANE DOE #6 (R.M.) 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.

230. MASSAGE ENVY owed to the public in general, and to JANE DOE #6 (R.M.) 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.

231. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #6 (R.M.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

232. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #6 (R.M.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

233. At all times relevant hereto, MASSAGE ENVY 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.

234. 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, MASSAGE ENVY 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.

235. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

237. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

238. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #6 (R.M.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #6.

239. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #6, to sexually assault female customers, including JANE DOE #6 (R.M.);
- b. permitting massage therapists, including Assailant #6, to engage in illegal sexual conduct with female customers, including JANE DOE #6 (R.M.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. permitting Assailant #6 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #6 on JANE DOE #6 (R.M.);

- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #6;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #6 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 Florida;
- l. failing to warn JANE DOE #6 (R.M.) of the risk of harm that JANE DOE #6 (R.M.) may suffer as a result of contact with Assailant #6;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of JANE DOE #6 (R.M.);
- 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 Assailant #6, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #6 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #6 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #6 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

241. 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 JANE DOE #6 (R.M.) in particular, that the massage therapists, including Assailant #6, 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.

242. MASSAGE ENVY 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.

243. At all times relevant hereto, MASSAGE ENVY 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.

244. MASSAGE ENVY 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.

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

246. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #6 as a sexual predator.

247. Defendant hired, retained and/or assigned Assailant #6 to Plaintiff knowing or having reason to know that Assailant #6 was a sexual predator.

248. Defendant further breached their duty of care to JANE DOE #6 (R.M.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #6, Defendant further breached their duty of care by failing to warn JANE DOE #6 (R.M.), of the propensities of Assailant #6 and by failing to provide a safe and secure environment for the JANE DOE #6 (R.M.).

249. As a result of the above-described conduct, JANE DOE #6 (R.M.) 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 #6 (R.M.)'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.

WHEREFORE, the Plaintiff, JANE DOE #6 (R.M.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT SEVEN – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #7 (A.J.)**

250. Plaintiff JANE DOE #7 (A.J.) realleges each and every allegation contained in paragraphs 1 through 44, and 77-80 above as if fully set forth herein.

251. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #7's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #7 (A.J.).

252. For years prior to the sexual assault of JANE DOE #7 (A.J.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

253. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #7, were likely to commit further acts of sexual assault.

254. MASSAGE ENVY owed to the public in general, and to JANE DOE #7 (A.J.) 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.

255. MASSAGE ENVY owed to the public in general, and to JANE DOE #7 (A.J.) 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.

256. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #7 (A.J.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

257. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #7 (A.J.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

258. At all times relevant hereto, MASSAGE ENVY 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.

259. 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, MASSAGE ENVY 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.

260. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

262. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

263. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #7 (A.J.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #7.

264. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #7, to sexually assault female customers, including JANE DOE #7 (A.J.);
- b. permitting massage therapists, including Assailant #7, to engage in illegal sexual conduct with female customers, including JANE DOE #7 (A.J.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. permitting Assailant #7 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);

- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #7 on JANE DOE #7 (A.J.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #7;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #7 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 Florida;
- l. failing to warn JANE DOE #7 (A.J.) of the risk of harm that JANE DOE #7 (A.J.) may suffer as a result of contact with Assailant #7;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of JANE DOE #7 (A.J.);
- 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 Assailant #7, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;

- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #7 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #7 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #7 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

266. 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 JANE DOE #7 (A.J.) in particular, that the massage therapists, including Assailant #7, 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.

267. MASSAGE ENVY 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.

268. At all times relevant hereto, MASSAGE ENVY 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.

269. MASSAGE ENVY 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.

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

271. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #7 as a sexual predator.

272. Defendant hired, retained and/or assigned Assailant #7 to Plaintiff knowing or having reason to know that Assailant #7 was a sexual predator.

273. Defendant further breached their duty of care to JANE DOE #7 (A.J.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #7, Defendant further breached their duty of care by failing to warn JANE DOE #7 (A.J.), of the propensities of Assailant #7 and by failing to provide a safe and secure environment for the JANE DOE #7 (A.J.).

274. As a result of the above-described conduct, JANE DOE #7 (A.J.) 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 #7 (A.J.)'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.

WHEREFORE, the Plaintiff, JANE DOE #7 (A.J.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT EIGHT – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #8 (B.L.)**

275. Plaintiff JANE DOE #8 (B.L.) realleges each and every allegation contained in paragraphs 1 through 44, and 81-86 above as if fully set forth herein.

276. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #8 and Assailant #9's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #8 (B.L.).

277. For years prior to the sexual assault of JANE DOE #8 (B.L.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

278. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailants #8 and #9, were likely to commit further acts of sexual assault.

279. MASSAGE ENVY owed to the public in general, and to JANE DOE #8 (B.L.) 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.

280. MASSAGE ENVY owed to the public in general, and to JANE DOE #8 (B.L.) 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.

281. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #8 (B.L.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

282. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #8 (B.L.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

283. At all times relevant hereto, MASSAGE ENVY 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.

284. 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, MASSAGE ENVY 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.

285. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

287. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

288. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #8 (B.L.) and other female customers from the depraved and vile acts of its massage therapists, including Assailants #8 and #9.

289. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailants #8 and #9, to sexually assault female customers, including JANE DOE #8 (B.L.);
- b. permitting massage therapists, including Assailants #8 and #9, to engage in illegal sexual conduct with female customers, including JANE DOE #8 (B.L.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. permitting Assailants #8 and #9 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including Plaintiff, 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 Assailants #8 and #9 on JANE DOE #8 (B.L.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailants #8 and #9;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;

- j. failing to warn Plaintiff of the risk of harm posed by Assailants #8 and #9 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 Florida;
- l. failing to warn JANE DOE #8 (B.L.) of the risk of harm that JANE DOE #8 (B.L.) may suffer as a result of contact with Assailants #8 and #9;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of JANE DOE #8 (B.L.);
- 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 Assailants #8 and #9, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailants #8 and #9 posed;
- r. failing to prevent the sexual assault that was committed by Assailants #8 and #9 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailants #8 and #9 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

291. 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 JANE DOE #8 (B.L.) in particular, that the

massage therapists, including Assailants #8 and #9, 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.

292. MASSAGE ENVY 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.

293. At all times relevant hereto, MASSAGE ENVY 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.

294. MASSAGE ENVY 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.

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

296. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailants #8 and #9 as a sexual predator.

297. Defendant hired, retained and/or assigned Assailants #8 and #9 to Plaintiff knowing or having reason to know that Assailants #8 and #9 was a sexual predator.

298. Defendant further breached their duty of care to JANE DOE #8 (B.L.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of

Defendants, including Assailants #8 and #9, Defendant further breached their duty of care by failing to warn JANE DOE #8 (B.L.), of the propensities of Assailants #8 and #9 and by failing to provide a safe and secure environment for the JANE DOE #8 (B.L.).

299. As a result of the above-described conduct, JANE DOE #8 (B.L.) 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 #8 (B.L.)'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.

WHEREFORE, the Plaintiff, JANE DOE #8 (B.L.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT NINE – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #9 (A.K.)**

300. Plaintiff JANE DOE #9 (A.K.) realleges each and every allegation contained in paragraphs 1 through 44, and 87-91 above as if fully set forth herein.

301. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #10's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #9 (A.K.).

302. For years prior to the sexual assault of JANE DOE #9 (A.K.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

303. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #10, were likely to commit further acts of sexual assault.

304. MASSAGE ENVY owed to the public in general, and to JANE DOE #9 (A.K.) 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.

305. MASSAGE ENVY owed to the public in general, and to JANE DOE #9 (A.K.) 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.

306. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #9 (A.K.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

307. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #9 (A.K.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

308. At all times relevant hereto, MASSAGE ENVY 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.

309. 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, MASSAGE ENVY 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.

310. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

312. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

313. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #9 (A.K.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #10.

314. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #10, to sexually assault female customers, including JANE DOE #9 (A.K.);
- b. permitting massage therapists, including Assailant #10, to engage in illegal sexual conduct with female customers, including JANE DOE #9 (A.K.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. permitting Assailant #10 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including

Plaintiff, 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 Assailant #10 on JANE DOE #9 (A.K.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #10;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #10 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 Florida;
- l. failing to warn JANE DOE #9 (A.K.) of the risk of harm that JANE DOE #9 (A.K.) may suffer as a result of contact with Assailant #10;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of JANE DOE #9 (A.K.);
- 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 Assailant #10, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #10 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #10 on Plaintiff and other women he sexually assaulted;

- s. allowing Assailant #10 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

316. 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 JANE DOE #9 (A.K.) in particular, that the massage therapists, including Assailant #10, 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.

317. MASSAGE ENVY 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.

318. At all times relevant hereto, MASSAGE ENVY 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.

319. MASSAGE ENVY 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.

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

321. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #10 as a sexual predator.

322. Defendant hired, retained and/or assigned Assailant #10 to Plaintiff knowing or having reason to know that Assailant #10 was a sexual predator.

323. Defendant further breached their duty of care to JANE DOE #9 (A.K.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #10, Defendant further breached their duty of care by failing to warn JANE DOE #9 (A.K.), of the propensities of Assailant #10 and by failing to provide a safe and secure environment for the JANE DOE #9 (A.K.).

324. As a result of the above-described conduct, JANE DOE #9 (A.K.) 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 #9 (A.K.)'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.

WHEREFORE, the Plaintiff, JANE DOE #9 (A.K.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT TEN – DIRECT LIABILITY AGAINST
MESSAGE ENVY BY JANE DOE #10 (S.G.)**

325. Plaintiff JANE DOE #10 (S.G.) realleges each and every allegation contained in paragraphs 1 through 44, and 92-99 above as if fully set forth herein.

326. Defendant, MESSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #11's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #10 (S.G.).

327. For years prior to the sexual assault of JANE DOE #10 (S.G.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

328. MESSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #11, were likely to commit further acts of sexual assault.

329. MESSAGE ENVY owed to the public in general, and to JANE DOE #10 (S.G.) 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.

330. MESSAGE ENVY owed to the public in general, and to JANE DOE #10 (S.G.) 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.

331. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #10 (S.G.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

332. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #10 (S.G.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

333. At all times relevant hereto, MASSAGE ENVY 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.

334. 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, MASSAGE ENVY 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.

335. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

337. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

338. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #10 (S.G.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #11.

339. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #11, to sexually assault female customers, including JANE DOE #10 (S.G.);
- b. permitting massage therapists, including Assailant #11, to engage in illegal sexual conduct with female customers, including JANE DOE #10 (S.G.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. permitting Assailant #11 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #11 on JANE DOE #10 (S.G.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #11;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #11 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 Florida;

- l. failing to warn JANE DOE #10 (S.G.) of the risk of harm that JANE DOE #11 (S.G.) may suffer as a result of contact with Assailant #11;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of JANE DOE #10 (S.G.);
- 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 Assailant #11, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #11 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #11 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #11 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;
- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

341. 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 JANE DOE #10 (S.G.) in particular, that the massage therapists, including Assailant #11, 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.

342. MASSAGE ENVY 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.

343. At all times relevant hereto, MASSAGE ENVY 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.

344. MASSAGE ENVY 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.

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

346. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #11 as a sexual predator.

347. Defendant hired, retained and/or assigned Assailant #11 to Plaintiff knowing or having reason to know that Assailant #11 was a sexual predator.

348. Defendant further breached their duty of care to JANE DOE #10 (S.G.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #11, Defendant further breached their duty of care by failing to warn JANE DOE #10 (S.G.), of the propensities of Assailant #11 and by failing to provide a safe and secure environment for the JANE DOE #10 (S.G.).

349. As a result of the above-described conduct, JANE DOE #10 (S.G.) 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 #10 (S.G.)'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.

WHEREFORE, the Plaintiff, JANE DOE #10 (S.G.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

**COUNT ELEVEN – DIRECT LIABILITY AGAINST
MASSAGE ENVY BY JANE DOE #11 (D.H.)**

350. Plaintiff JANE DOE #11 (D.H.) realleges each and every allegation contained in paragraphs 1 through 44, and 92-99 above as if fully set forth herein.

351. Defendant, MASSAGE ENVY, by and through their agents, servants and employees, knew or reasonably should have known of Assailant #12's dangerous and exploitive propensities and/or that he was an unfit agent. It was foreseeable that if said 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 massage therapists, including the subject incident involving JANE DOE #11 (D.H.).

352. For years prior to the sexual assault of JANE DOE #11 (D.H.), as set forth in this Complaint, Defendant knew that there were more than one-hundred eighty allegations of sexual assaults by Massage Envy therapists occurring in nationwide.

353. MASSAGE ENVY knew, and/or should have known, that those individuals who had sexually assaulted female customers, including Assailant #12, were likely to commit further acts of sexual assault.

354. MASSAGE ENVY owed to the public in general, and to JANE DOE #11 (D.H.) 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.

355. MASSAGE ENVY owed to the public in general, and to JANE DOE #11 (D.H.) 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.

356. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #11 (D.H.) of her entitlement to safe care and protection, MASSAGE ENVY owed to Plaintiff 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.

357. Having been in the care of MASSAGE ENVY at the time under circumstances such as to deprive JANE DOE #11 (D.H.) of her normal opportunities for protection, the MASSAGE ENVY owed to Plaintiff a duty to control the acts of its agents, servants, and/or employees.

358. At all times relevant hereto, MASSAGE ENVY 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.

359. 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, MASSAGE ENVY 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.

360. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

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

362. At all times relevant hereto, MASSAGE ENVY 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 MASSAGE ENVY.

363. As set forth in this Complaint, MASSAGE ENVY failed to fulfill its legal duty to protect JANE DOE #11 (D.H.) and other female customers from the depraved and vile acts of its massage therapists, including Assailant #12.

364. As set forth in this Complaint, MASSAGE ENVY 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.

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

- a. permitting massage therapists, including Assailant #12, to sexually assault female customers, including JANE DOE #11 (D.H.);
- b. permitting massage therapists, including Assailant #12, to engage in illegal sexual conduct with female customers, including JANE DOE #11 (D.H.), on the premises of MASSAGE ENVY franchise locations, including MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. permitting Assailant #12 to violate Florida criminal statutes (Title XLVI) prohibiting Battery (§784.03);
- 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 MASSAGE ENVY, including Plaintiff, 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 Assailant #12 on JANE DOE #11 (D.H.);
- h. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #12;
- i. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Florida;
- j. failing to warn Plaintiff of the risk of harm posed by Assailant #12 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 Florida;
- l. failing to warn JANE DOE #11 (D.H.) of the risk of harm that JANE DOE #11 (D.H.) may suffer as a result of contact with Assailant #12;
- m. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of JANE DOE #11 (D.H.);
- 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 Assailant #12, to authorities;
- p. violating its own policies and/or by-laws regarding sexual assaults by staff;
- q. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #12 posed;
- r. failing to prevent the sexual assault that was committed by Assailant #12 on Plaintiff and other women he sexually assaulted;
- s. allowing Assailant #12 to remain employed after knowing that he sexually assaulted a female customer;
- t. failing to properly supervise and/or discipline its employees;

- u. failing to adequately and properly train its employees regarding sexual assaults of female customers by massage therapists; and
- v. negligently managing and/or operating Massage Envy franchise locations, including MASSAGE ENVY – WEST PALM BEACH.

366. 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 JANE DOE #11 (D.H.) in particular, that the massage therapists, including Assailant #12, 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.

367. MASSAGE ENVY 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.

368. At all times relevant hereto, MASSAGE ENVY 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.

369. MASSAGE ENVY 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.

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

371. MASSAGE ENVY negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #12 as a sexual predator.

372. Defendant hired, retained and/or assigned Assailant #12 to Plaintiff knowing or having reason to know that Assailant #12 was a sexual predator.

373. Defendant further breached their duty of care to JANE DOE #11 (D.H.), by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Assailant #12, Defendant further breached their duty of care by failing to warn JANE DOE #11 (D.H.), of the propensities of Assailant #12 and by failing to provide a safe and secure environment for the JANE DOE #11 (D.H.).

374. As a result of the above-described conduct, JANE DOE #11 (D.H.) 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 #11 (D.H.)'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.

WHEREFORE, the Plaintiff, JANE DOE #11 (D.H.), demands judgment against Defendant MASSAGE ENVY, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWELVE-NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a “MASSAGE ENVY –ROYAL PALM BEACH”
BY JANE DOE #1 (R.G.)

375. Plaintiff JANE DOE #1 (R.G.) realleges each and every allegation contained in paragraphs 1 through 48 above as if fully set forth herein.

376. Defendant MASSAGE ENVY – ROYAL PALM BEACH, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #1’s dangerous and exploitive propensities and/or that Assailant #1 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – ROYAL PALM BEACH 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 (R.G.), that would be vulnerable to sexual assaults by Assailant #1.

377. Defendant MASSAGE ENVY – ROYAL PALM BEACH owed to the public in general, and to Plaintiff 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 Assailant #1.

378. Defendant MASSAGE ENVY – ROYAL PALM BEACH owed to the public in general, and to Plaintiff 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 Assailant #1.

379. Having been in the care of Defendant MASSAGE ENVY – ROYAL PALM BEACH at the time under circumstances such as to deprive Plaintiff JANE DOE #1 (R.G.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #1 (R.G.) a duty to aid and/or protect her and to control the actions of third parties.

380. Having been in the care of Defendant MASSAGE ENVY – ROYAL PALM BEACH at the time under circumstances such as to deprive Plaintiff JANE DOE #1 (R.G.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #1 (R.G.) a duty to control the acts of its agents, servants, and/or employees.

381. At all times relevant hereto, Defendant MASSAGE ENVY – ROYAL PALM BEACH 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.

382. Despite actual knowledge of Assailant #1 committing at least one sexual assault on a female customer at MASSAGE ENVY – ROYAL PALM BEACH and despite the foreseeable risk that Assailant #1 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, including Assailant #1.

383. At all times relevant hereto, Defendant MASSAGE ENVY – ROYAL PALM BEACH 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 MASSAGE ENVY – ROYAL PALM BEACH and/or MASSAGE ENVY, including Assailant #1.

384. At all times relevant hereto, Defendant MASSAGE ENVY – ROYAL PALM BEACH did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #1, in the employ and/or service of Defendant MASSAGE ENVY – ROYAL PALM BEACH.

385. At all times relevant hereto, Defendant MASSAGE ENVY – ROYAL PALM BEACH 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 Assailant #1, in the employ and/or service of MASSAGE ENVY – ROYAL PALM BEACH.

386. As set forth in this Complaint, Defendant MASSAGE ENVY – ROYAL PALM BEACH failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #1.

387. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – ROYAL PALM BEACH 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and

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

388. Moreover, the conduct of Defendant MASSAGE ENVY – ROYAL PALM BEACH as set forth above and herein, further consisted of:

- a. permitting Assailant #1 to sexually assault female customers, including JANE DOE #1 (R.G.);
- b. permitting Assailant #1 to engage in illegal sexual conduct with female customers, including JANE DOE #1 (R.G.), on the premises of MASSAGE ENVY – ROYAL PALM BEACH, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #1 (R.G.);
- d. 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 MASSAGE ENVY – ROYAL PALM BEACH, including JANE DOE #1 (R.G.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #1 (R.G.);
- f. creating an environment that facilitated sexual assault by Assailant #1 on Plaintiff;
- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #1;
- h. failing to warn JANE DOE #1 (R.G.) of the risk of harm posed by Assailant #1 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #1 (R.G.) of the risk of harm that JANE DOE #1 (R.G.) may suffer as a result of contact with Assailant #1;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #1 (R.G.);
- k. 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 Assailant #1;
- l. failing to report sexual assaults by massage therapists, including Assailant #1, to authorities;

- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #1 posed and, in fact, recommending Assailant #1 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #1 on JANE DOE #1 (R.G.) and other women he sexually assaulted;
- p. allowing Assailant #1 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – ROYAL PALM BEACH

389. Defendant MASSAGE ENVY – ROYAL PALM BEACH explicitly and/or implicitly represented to the public in general, and to JANE DOE #1 (R.G.) in particular, that the massage therapists, including Assailant #1, 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.

390. Defendant MASSAGE ENVY – ROYAL PALM BEACH 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.

391. At all times relevant hereto, Defendant MASSAGE ENVY – ROYAL PALM BEACH 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.

392. Defendant MASSAGE ENVY – ROYAL PALM BEACH 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.

393. Defendant MASSAGE ENVY – ROYAL PALM BEACH failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

394. Defendant MASSAGE ENVY – ROYAL PALM BEACH negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #1 as a sexual predator.

395. Defendant hired, retained and/or assigned Assailant #1 to Plaintiff knowing or having reason to know that he was a sexual predator.

396. Defendant MASSAGE ENVY – ROYAL PALM BEACH further breached its duty of care to JANE DOE #1 (R.G.) by failing to protect JANE DOE #1 (R.G.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #1. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #1 and by failing to provide a safe and secure environment for JANE DOE #1 (R.G.).

397. As a result of the above-described conduct, JANE DOE #1 (R.G.) 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.

WHEREFORE, the Plaintiff, JANE DOE #1 (R.G.), demands judgment against Defendant MASSAGE ENVY – ROYAL PALM BEACH, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT THIRTEEN-NEGLIGENCE
VICALEX, LLC a/k/a “MASSAGE ENVY – WEST PALM BEACH”
BY JANE DOE #2 (B.P.)

398. Plaintiff JANE DOE #2 (B.P.) realleges each and every allegation contained in paragraphs 1 through 44, and 49-53 above as if fully set forth herein.

399. Defendant MASSAGE ENVY – WEST PALM BEACH, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #2’s dangerous and exploitive propensities and/or that Assailant #2 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – WEST PALM BEACH 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 (B.P.), that would be vulnerable to sexual assaults by Assailant #2.

400. Defendant MASSAGE ENVY – WEST PALM BEACH owed to the public in general, and to Plaintiff 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 Assailant #2.

401. Defendant MASSAGE ENVY – WEST PALM BEACH owed to the public in general, and to Plaintiff 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 Assailant #2.

402. Having been in the care of Defendant MASSAGE ENVY – WEST PALM BEACH at the time under circumstances such as to deprive Plaintiff JANE DOE #2 (B.P.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #2 (B.P.) a duty to aid and/or protect her and to control the actions of third parties.

403. Having been in the care of Defendant MASSAGE ENVY – WEST PALM BEACH at the time under circumstances such as to deprive Plaintiff JANE DOE #2 (B.P.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #2 (B.P.) a duty to control the acts of its agents, servants, and/or employees.

404. At all times relevant hereto, Defendant MASSAGE ENVY – WEST PALM BEACH 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.

405. Despite actual knowledge of Assailant #2 committing at least one sexual assault on a female customer at MASSAGE ENVY – WEST PALM BEACH and despite the foreseeable risk that Assailant #2 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, including Assailant #2.

406. At all times relevant hereto, Defendant MASSAGE ENVY – WEST PALM BEACH 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 MASSAGE ENVY – WEST PALM BEACH and/or MASSAGE ENVY, including Assailant #2.

407. At all times relevant hereto, Defendant MASSAGE ENVY – WEST PALM BEACH did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #2, in the employ and/or service of Defendant MASSAGE ENVY – WEST PALM BEACH.

408. At all times relevant hereto, Defendant MASSAGE ENVY – WEST PALM BEACH 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 Assailant #2, in the employ and/or service of MASSAGE ENVY – WEST PALM BEACH.

409. As set forth in this Complaint, Defendant MASSAGE ENVY – WEST PALM BEACH failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #2.

410. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – WEST PALM BEACH 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and

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

411. Moreover, the conduct of Defendant MASSAGE ENVY – WEST PALM BEACH as set forth above and herein, further consisted of:

- a. permitting Assailant #2 to sexually assault female customers, including JANE DOE #2 (B.P.);
- b. permitting Assailant #2 to engage in illegal sexual conduct with female customers, including JANE DOE #2 (B.P.), on the premises of MASSAGE ENVY – WEST PALM BEACH, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #2 (B.P.);
- d. 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 MASSAGE ENVY – WEST PALM BEACH, including JANE DOE #2 (B.P.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #2 (B.P.);
- f. creating an environment that facilitated sexual assault by Assailant #2 on Plaintiff;
- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #2;
- h. failing to warn JANE DOE #2 (B.P.) of the risk of harm posed by Assailant #2 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #2 (B.P.) of the risk of harm that JANE DOE #2 (B.P.) may suffer as a result of contact with Assailant #2;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #2 (B.P.);
- k. 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 Assailant #2;
- l. failing to report sexual assaults by massage therapists, including Assailant #2, to authorities;

- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #2 posed and, in fact, recommending Assailant #2 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #2 on JANE DOE #2 (B.P.) and other women he sexually assaulted;
- p. allowing Assailant #2 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – WEST PALM BEACH

412. Defendant MASSAGE ENVY – WEST PALM BEACH explicitly and/or implicitly represented to the public in general, and to JANE DOE #2 (B.P.) in particular, that the massage therapists, including Assailant #2, 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.

413. Defendant MASSAGE ENVY – WEST PALM BEACH 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.

414. At all times relevant hereto, Defendant MASSAGE ENVY – WEST PALM BEACH 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.

415. Defendant MASSAGE ENVY – WEST PALM BEACH 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.

416. Defendant MASSAGE ENVY – WEST PALM BEACH failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

417. Defendant MASSAGE ENVY – WEST PALM BEACH negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #2 as a sexual predator.

418. Defendant hired, retained and/or assigned Assailant #2 to Plaintiff knowing or having reason to know that he was a sexual predator.

419. Defendant MASSAGE ENVY – WEST PALM BEACH further breached its duty of care to JANE DOE #2 (B.P.) by failing to protect JANE DOE #2 (B.P.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #2. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #2 and by failing to provide a safe and secure environment for JANE DOE #2 (B.P.).

420. As a result of the above-described conduct, JANE DOE #2 (B.P.) 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.

WHEREFORE, the Plaintiff, JANE DOE #2 (B.P.), demands judgment against Defendant MASSAGE ENVY – WEST PALM BEACH, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT FOURTEEN-NEGLIGENCE
CB INVESTMENTS LLC a/k/a “MASSAGE ENVY –WEST BOCA
JANE DOE #3 (N.B.)

421. Plaintiff JANE DOE #3 (N.B.) realleges each and every allegation contained in paragraphs 1 through 44, and 54-58 above as if fully set forth herein.

422. Defendant MASSAGE ENVY – WEST BOCA, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #3’s dangerous and exploitive propensities and/or that Assailant #3 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – WEST BOCA 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 (N.B.), that would be vulnerable to sexual assaults by Assailant #3.

423. Defendant MASSAGE ENVY – WEST BOCA owed to the public in general, and to Plaintiff 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 Assailant #3.

424. Defendant MASSAGE ENVY – WEST BOCA owed to the public in general, and to Plaintiff 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 Assailant #3.

425. Having been in the care of Defendant MASSAGE ENVY – WEST BOCA at the time under circumstances such as to deprive Plaintiff JANE DOE #3 (N.B.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #3 (N.B.) a duty to aid and/or protect her and to control the actions of third parties.

426. Having been in the care of Defendant MASSAGE ENVY – WEST BOCA at the time under circumstances such as to deprive Plaintiff JANE DOE #3 (N.B.) of her normal

opportunities for protection, the Defendant owed to Plaintiff JANE DOE #3 (N.B.) a duty to control the acts of its agents, servants, and/or employees.

427. At all times relevant hereto, Defendant MASSAGE ENVY – WEST BOCA 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.

428. Despite actual knowledge of Assailant #3 committing at least one sexual assault on a female customer at MASSAGE ENVY – WEST BOCA and despite the foreseeable risk that Assailant #3 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, including Assailant #3.

429. At all times relevant hereto, Defendant MASSAGE ENVY – WEST BOCA 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 MASSAGE ENVY – WEST BOCA and/or MASSAGE ENVY, including Assailant #3.

430. At all times relevant hereto, Defendant MASSAGE ENVY – WEST BOCA did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #3, in the employ and/or service of Defendant MASSAGE ENVY – WEST BOCA.

431. At all times relevant hereto, Defendant MASSAGE ENVY – WEST BOCA 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 Assailant #3, in the employ and/or service of MASSAGE ENVY – WEST BOCA.

432. As set forth in this Complaint, Defendant MASSAGE ENVY – WEST BOCA failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #3.

433. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – WEST BOCA 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

434. Moreover, the conduct of Defendant MASSAGE ENVY – WEST BOCA as set forth above and herein, further consisted of:

- a. permitting Assailant #3 to sexually assault female customers, including JANE DOE #3 (N.B.);
- b. permitting Assailant #3 to engage in illegal sexual conduct with female customers, including JANE DOE #3 (N.B.), on the premises of MASSAGE ENVY – WEST BOCA, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #3 (N.B.);
- d. 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 MASSAGE ENVY – WEST BOCA, including JANE DOE #3 (N.B.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #3 (N.B.);
- f. creating an environment that facilitated sexual assault by Assailant #3 on Plaintiff;
- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #3;
- h. failing to warn JANE DOE #3 (N.B.) of the risk of harm posed by Assailant #3 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #3 (N.B.) of the risk of harm that JANE DOE #3 (N.B.) may suffer as a result of contact with Assailant #3;
- j. 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.B.);
- k. 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 Assailant #3;
- l. failing to report sexual assaults by massage therapists, including Assailant #3, to authorities;
- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #3 posed and, in fact, recommending Assailant #3 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #3 on JANE DOE #3 (N.B.) and other women he sexually assaulted;
- p. allowing Assailant #3 to remain employed after knowing that he sexually assaulted a female customer;

- 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 – WEST BOCA

435. Defendant MASSAGE ENVY – WEST BOCA explicitly and/or implicitly represented to the public in general, and to JANE DOE #3 (N.B.) in particular, that the massage therapists, including Assailant #3, 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.

436. Defendant MASSAGE ENVY – WEST BOCA 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.

437. At all times relevant hereto, Defendant MASSAGE ENVY – WEST BOCA 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.

438. Defendant MASSAGE ENVY – WEST BOCA 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.

439. Defendant MASSAGE ENVY – WEST BOCA failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

440. Defendant MASSAGE ENVY – WEST BOCA negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #3 as a sexual predator.

441. Defendant hired, retained and/or assigned Assailant #3 to Plaintiff knowing or having reason to know that he was a sexual predator.

442. Defendant MASSAGE ENVY – WEST BOCA further breached its duty of care to JANE DOE #3 (N.B.) by failing to protect JANE DOE #3 (N.B.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #3. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #3 and by failing to provide a safe and secure environment for JANE DOE #3 (N.B.).

443. As a result of the above-described conduct, JANE DOE #3 (N.B.) 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.

WHEREFORE, the Plaintiff, JANE DOE #3 (N.B.), demands judgment against Defendant MASSAGE ENVY – WEST BOCA, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT FIFTEEN-NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a ‘MASSAGE ENVY –ROYAL PALM BEACH’
BY JANE DOE #4 (D.W.)

444. Plaintiff JANE DOE #4 (D.W.) realleges each and every allegation contained in paragraphs 1 through 44, and 59-64 above as if fully set forth herein.

445. Defendant MASSAGE ENVY – LARGO, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #4’s dangerous and exploitive propensities and/or that Assailant #4 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – LARGO 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 (D.W.), that would be vulnerable to sexual assaults by Assailant #4.

446. Defendant MASSAGE ENVY – LARGO owed to the public in general, and to Plaintiff 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 Assailant #4.

447. Defendant MASSAGE ENVY – LARGO owed to the public in general, and to Plaintiff 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 Assailant #4.

448. Having been in the care of Defendant MASSAGE ENVY – LARGO at the time under circumstances such as to deprive Plaintiff JANE DOE #4 (D.W.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #4 (D.W.) a duty to aid and/or protect her and to control the actions of third parties.

449. Having been in the care of Defendant MASSAGE ENVY – LARGO at the time under circumstances such as to deprive Plaintiff JANE DOE #4 (D.W.) of her normal

opportunities for protection, the Defendant owed to Plaintiff JANE DOE #4 (D.W.) a duty to control the acts of its agents, servants, and/or employees.

450. At all times relevant hereto, Defendant MASSAGE ENVY – LARGO 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.

451. Despite actual knowledge of Assailant #4 committing at least one sexual assault on a female customer at MASSAGE ENVY – LARGO and despite the foreseeable risk that Assailant #4 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, including Assailant #4.

452. At all times relevant hereto, Defendant MASSAGE ENVY – LARGO 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 MASSAGE ENVY – LARGO and/or MASSAGE ENVY, including Assailant #4.

453. At all times relevant hereto, Defendant MASSAGE ENVY – LARGO did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #4, in the employ and/or service of Defendant MASSAGE ENVY – LARGO.

454. At all times relevant hereto, Defendant MASSAGE ENVY – LARGO 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 Assailant #4, in the employ and/or service of MASSAGE ENVY – LARGO.

455. As set forth in this Complaint, Defendant MASSAGE ENVY – LARGO failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #4.

456. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – LARGO 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

457. Moreover, the conduct of Defendant MASSAGE ENVY – LARGO as set forth above and herein, further consisted of:

- a. permitting Assailant #4 to sexually assault female customers, including JANE DOE #4 (D.W.);
- b. permitting Assailant #4 to engage in illegal sexual conduct with female customers, including JANE DOE #4 (D.W.), on the premises of MASSAGE ENVY – LARGO, during operating hours;

- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #4 (D.W.);
- d. 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 MASSAGE ENVY – LARGO, including JANE DOE #4 (D.W.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #4 (D.W.);
- f. creating an environment that facilitated sexual assault by Assailant #4 on Plaintiff;
- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #4;
- h. failing to warn JANE DOE #4 (D.W.) of the risk of harm posed by Assailant #4 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #4 (D.W.) of the risk of harm that JANE DOE #4 (D.W.) may suffer as a result of contact with Assailant #4;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #4 (D.W.);
- k. 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 Assailant #4;
- l. failing to report sexual assaults by massage therapists, including Assailant #4, to authorities;
- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #4 posed and, in fact, recommending Assailant #4 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #4 on JANE DOE #4 (D.W.) and other women he sexually assaulted;
- p. allowing Assailant #4 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – LARGO

458. Defendant MASSAGE ENVY – LARGO explicitly and/or implicitly represented to the public in general, and to JANE DOE #4 (D.W.) in particular, that the massage therapists, including Assailant #4, 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.

459. Defendant MASSAGE ENVY – LARGO 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.

460. At all times relevant hereto, Defendant MASSAGE ENVY – LARGO 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.

461. Defendant MASSAGE ENVY – LARGO 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.

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

463. Defendant MASSAGE ENVY – LARGO negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #4 as a sexual predator.

464. Defendant hired, retained and/or assigned Assailant #4 to Plaintiff knowing or having reason to know that he was a sexual predator.

465. Defendant MASSAGE ENVY – LARGO further breached its duty of care to JANE DOE #4 (D.W.) by failing to protect JANE DOE #4 (D.W.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #4. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #4 and by failing to provide a safe and secure environment for JANE DOE #4 (D.W.).

466. As a result of the above-described conduct, JANE DOE #4 (D.W.) 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.

WHEREFORE, the Plaintiff, JANE DOE #4 (D.W.), demands judgment against Defendant MASSAGE ENVY – LARGO, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT SIXTEEN - NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a "MASSAGE ENVY –ROYAL PALM BEACH"
BY JANE DOE #5 (T.G.)

467. Plaintiff JANE DOE #5 (T.G.) realleges each and every allegation contained in paragraphs 1 through 44, and 65-70 above as if fully set forth herein.

468. Defendant MASSAGE ENVY – LUTZ, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #5's dangerous and exploitive

propensities and/or that Assailant #5 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – LUTZ did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to JANE DOE #5 (T.G.), that would be vulnerable to sexual assaults by Assailant #5.

469. Defendant MASSAGE ENVY – LUTZ owed to the public in general, and to Plaintiff 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 Assailant #5.

470. Defendant MASSAGE ENVY – LUTZ owed to the public in general, and to Plaintiff 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 Assailant #5.

471. Having been in the care of Defendant MASSAGE ENVY – LUTZ at the time under circumstances such as to deprive Plaintiff JANE DOE #5 (T.G.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #5 (T.G.) a duty to aid and/or protect her and to control the actions of third parties.

472. Having been in the care of Defendant MASSAGE ENVY – LUTZ at the time under circumstances such as to deprive Plaintiff JANE DOE #5 (T.G.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #5 (T.G.) a duty to control the acts of its agents, servants, and/or employees.

473. At all times relevant hereto, Defendant MASSAGE ENVY – LUTZ 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.

474. Despite actual knowledge of Assailant #5 committing at least one sexual assault on a female customer at MASSAGE ENVY – LUTZ and despite the foreseeable risk that Assailant #5 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, including Assailant #5.

475. At all times relevant hereto, Defendant MASSAGE ENVY – LUTZ 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 MASSAGE ENVY – LUTZ and/or MASSAGE ENVY, including Assailant #5.

476. At all times relevant hereto, Defendant MASSAGE ENVY – LUTZ did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #5, in the employ and/or service of Defendant MASSAGE ENVY – LUTZ.

477. At all times relevant hereto, Defendant MASSAGE ENVY – LUTZ 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 Assailant #5, in the employ and/or service of MASSAGE ENVY – LUTZ.

478. As set forth in this Complaint, Defendant MASSAGE ENVY – LUTZ failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #5.

479. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – LUTZ 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

480. Moreover, the conduct of Defendant MASSAGE ENVY – LUTZ as set forth above and herein, further consisted of:

- a. permitting Assailant #5 to sexually assault female customers, including JANE DOE #5 (T.G.);
- b. permitting Assailant #5 to engage in illegal sexual conduct with female customers, including JANE DOE #5 (T.G.), on the premises of MASSAGE ENVY – LUTZ, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #5 (T.G.);
- d. 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 MASSAGE ENVY – LUTZ,

- including JANE DOE #5 (T.G.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #5 (T.G.);
 - f. creating an environment that facilitated sexual assault by Assailant #5 on Plaintiff;
 - g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #5;
 - h. failing to warn JANE DOE #5 (T.G.) of the risk of harm posed by Assailant #5 after Defendant knew or should have known of such risk;
 - i. failing to warn JANE DOE #5 (T.G.) of the risk of harm that JANE DOE #5 (T.G.) may suffer as a result of contact with Assailant #5;
 - j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #5 (T.G.);
 - k. 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 Assailant #5;
 - l. failing to report sexual assaults by massage therapists, including Assailant #5, to authorities;
 - m. violating its own policies and/or by-laws regarding sexual assaults by staff;
 - n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #5 posed and, in fact, recommending Assailant #5 to female customers after it knew of the danger he posed;
 - o. failing to prevent the sexual assault that was committed by Assailant #5 on JANE DOE #5 (T.G.) and other women he sexually assaulted;
 - p. allowing Assailant #5 to remain employed after knowing that he sexually assaulted a female customer;
 - 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 – LUTZ

481. Defendant MASSAGE ENVY – LUTZ explicitly and/or implicitly represented to the public in general, and to JANE DOE #5 (T.G.) in particular, that the massage therapists,

including Assailant #5, 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.

482. Defendant MASSAGE ENVY – LUTZ 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.

483. At all times relevant hereto, Defendant MASSAGE ENVY – LUTZ 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.

484. Defendant MASSAGE ENVY – LUTZ 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.

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

486. Defendant MASSAGE ENVY – LUTZ negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #5 as a sexual predator.

487. Defendant hired, retained and/or assigned Assailant #5 to Plaintiff knowing or having reason to know that he was a sexual predator.

488. Defendant MASSAGE ENVY – LUTZ further breached its duty of care to JANE DOE #5 (T.G.) by failing to protect JANE DOE #5 (T.G.) from foreseeable harm from the sexual

misconduct of employees of Defendant, including Assailant #5. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #5 and by failing to provide a safe and secure environment for JANE DOE #5 (T.G.).

489. As a result of the above-described conduct, JANE DOE #5 (T.G.) 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.

WHEREFORE, the Plaintiff, JANE DOE #5 (T.G.), demands judgment against Defendant MASSAGE ENVY – LUTZ, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT SEVENTEEN-NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a "MASSAGE ENVY –ROYAL PALM BEACH"
BY JANE DOE #6 (R.M.)

490. Plaintiff JANE DOE #6 (R.M.) realleges each and every allegation contained in paragraphs 1 through 44, and 71-76 above as if fully set forth herein.

491. Defendant MASSAGE ENVY – SARASOTA, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #6's dangerous and exploitive propensities and/or that Assailant #6 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – SARASOTA did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to JANE DOE #6 (R.M.), that would be vulnerable to sexual assaults by Assailant #6.

492. Defendant MASSAGE ENVY – SARASOTA owed to the public in general, and to Plaintiff 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 Assailant #6.

493. Defendant MASSAGE ENVY – SARASOTA owed to the public in general, and to Plaintiff 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 Assailant #6.

494. Having been in the care of Defendant MASSAGE ENVY – SARASOTA at the time under circumstances such as to deprive Plaintiff JANE DOE #6 (R.M.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #6 (R.M.) a duty to aid and/or protect her and to control the actions of third parties.

495. Having been in the care of Defendant MASSAGE ENVY – SARASOTA at the time under circumstances such as to deprive Plaintiff JANE DOE #6 (R.M.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #6 (R.M.) a duty to control the acts of its agents, servants, and/or employees.

496. At all times relevant hereto, Defendant MASSAGE ENVY – SARASOTA 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.

497. Despite actual knowledge of Assailant #6 committing at least one sexual assault on a female customer at MASSAGE ENVY – SARASOTA and despite the foreseeable risk that Assailant #6 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, including Assailant #6.

498. At all times relevant hereto, Defendant MASSAGE ENVY – SARASOTA 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 MASSAGE ENVY – SARASOTA and/or MASSAGE ENVY, including Assailant #6.

499. At all times relevant hereto, Defendant MASSAGE ENVY – SARASOTA did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #6, in the employ and/or service of Defendant MASSAGE ENVY – SARASOTA.

500. At all times relevant hereto, Defendant MASSAGE ENVY – SARASOTA 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 Assailant #6, in the employ and/or service of MASSAGE ENVY – SARASOTA.

501. As set forth in this Complaint, Defendant MASSAGE ENVY – SARASOTA failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #6.

502. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – SARASOTA 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

503. Moreover, the conduct of Defendant MASSAGE ENVY – SARASOTA as set forth above and herein, further consisted of:

- a. permitting Assailant #6 to sexually assault female customers, including JANE DOE #6 (R.M.);
- b. permitting Assailant #6 to engage in illegal sexual conduct with female customers, including JANE DOE #6 (R.M.), on the premises of MASSAGE ENVY – SARASOTA, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #6 (R.M.);
- d. 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 MASSAGE ENVY – SARASOTA, including JANE DOE #6 (R.M.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #6 (R.M.);
- f. creating an environment that facilitated sexual assault by Assailant #6 on Plaintiff;

- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #6;
- h. failing to warn JANE DOE #6 (R.M.) of the risk of harm posed by Assailant #6 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #6 (R.M.) of the risk of harm that JANE DOE #6 (R.M.) may suffer as a result of contact with Assailant #6;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #6 (R.M.);
- k. 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 Assailant #6;
- l. failing to report sexual assaults by massage therapists, including Assailant #6, to authorities;
- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #6 posed and, in fact, recommending Assailant #6 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #6 on JANE DOE #6 (R.M.) and other women he sexually assaulted;
- p. allowing Assailant #6 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – SARASOTA

504. Defendant MASSAGE ENVY – SARASOTA explicitly and/or implicitly represented to the public in general, and to JANE DOE #6 (R.M.) in particular, that the massage therapists, including Assailant #6, 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.

505. Defendant MASSAGE ENVY – SARASOTA 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.

506. At all times relevant hereto, Defendant MASSAGE ENVY – SARASOTA 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.

507. Defendant MASSAGE ENVY – SARASOTA 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.

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

509. Defendant MASSAGE ENVY – SARASOTA negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #6 as a sexual predator.

510. Defendant hired, retained and/or assigned Assailant #6 to Plaintiff knowing or having reason to know that he was a sexual predator.

511. Defendant MASSAGE ENVY – SARASOTA further breached its duty of care to JANE DOE #6 (R.M.) by failing to protect JANE DOE #6 (R.M.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #6. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #6 and by failing to provide a safe and secure environment for JANE DOE #6 (R.M.).

512. As a result of the above-described conduct, JANE DOE #6 (R.M.) 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.

WHEREFORE, the Plaintiff, JANE DOE #6 (R.M.), demands judgment against Defendant MASSAGE ENVY – SARASOTA, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT EIGHTEEN-NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a "MASSAGE ENVY –ROYAL PALM BEACH"
BY JANE DOE #7 (A.J.)

513. Plaintiff JANE DOE #7 (A.J.) realleges each and every allegation contained in paragraphs 1 through 44, and 77-80 above as if fully set forth herein.

514. Defendant MASSAGE ENVY – FORT LAUDERDALE, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #7's dangerous and exploitive propensities and/or that Assailant #7 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – FORT LAUDERDALE did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to JANE DOE #7 (A.J.), that would be vulnerable to sexual assaults by Assailant #7.

515. Defendant MASSAGE ENVY – FORT LAUDERDALE owed to the public in general, and to Plaintiff 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 Assailant #7.

516. Defendant MASSAGE ENVY – FORT LAUDERDALE owed to the public in general, and to Plaintiff 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 Assailant #7.

517. Having been in the care of Defendant MASSAGE ENVY – FORT LAUDERDALE at the time under circumstances such as to deprive Plaintiff JANE DOE #7 (A.J.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #7 (A.J.) a duty to aid and/or protect her and to control the actions of third parties.

518. Having been in the care of Defendant MASSAGE ENVY – FORT LAUDERDALE at the time under circumstances such as to deprive Plaintiff JANE DOE #7 (A.J.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #7 (A.J.) a duty to control the acts of its agents, servants, and/or employees.

519. At all times relevant hereto, Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

520. Despite actual knowledge of Assailant #7 committing at least one sexual assault on a female customer at MASSAGE ENVY – FORT LAUDERDALE and despite the foreseeable risk that Assailant #7 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, including Assailant #7.

521. At all times relevant hereto, Defendant MASSAGE ENVY – FORT LAUDERDALE 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 MASSAGE ENVY – FORT LAUDERDALE and/or MASSAGE ENVY, including Assailant #7.

522. At all times relevant hereto, Defendant MASSAGE ENVY – FORT LAUDERDALE did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #7, in the employ and/or service of Defendant MASSAGE ENVY – FORT LAUDERDALE.

523. At all times relevant hereto, Defendant MASSAGE ENVY – FORT LAUDERDALE 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 Assailant #7, in the employ and/or service of MASSAGE ENVY – FORT LAUDERDALE.

524. As set forth in this Complaint, Defendant MASSAGE ENVY – FORT LAUDERDALE failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #7.

525. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – FORT LAUDERDALE 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

526. Moreover, the conduct of Defendant MASSAGE ENVY – FORT LAUDERDALE as set forth above and herein, further consisted of:

- a. permitting Assailant #7 to sexually assault female customers, including JANE DOE #7 (A.J.);
- b. permitting Assailant #7 to engage in illegal sexual conduct with female customers, including JANE DOE #7 (A.J.), on the premises of MASSAGE ENVY – FORT LAUDERDALE, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #7 (A.J.);
- d. 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 MASSAGE ENVY – FORT LAUDERDALE, including JANE DOE #7 (A.J.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;

- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #7 (A.J.);
- f. creating an environment that facilitated sexual assault by Assailant #7 on Plaintiff;
- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #7;
- h. failing to warn JANE DOE #7 (A.J.) of the risk of harm posed by Assailant #7 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #7 (A.J.) of the risk of harm that JANE DOE #7 (A.J.) may suffer as a result of contact with Assailant #7;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #7 (A.J.);
- k. 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 Assailant #7;
- l. failing to report sexual assaults by massage therapists, including Assailant #7, to authorities;
- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #7 posed and, in fact, recommending Assailant #7 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #7 on JANE DOE #7 (A.J.) and other women he sexually assaulted;
- p. allowing Assailant #7 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – FORT LAUDERDALE

527. Defendant MASSAGE ENVY – FORT LAUDERDALE explicitly and/or implicitly represented to the public in general, and to JANE DOE #7 (A.J.) in particular, that the massage therapists, including Assailant #7, 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.

528. Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

529. At all times relevant hereto, Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

530. Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

531. Defendant MASSAGE ENVY – FORT LAUDERDALE failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

532. Defendant MASSAGE ENVY – FORT LAUDERDALE negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #7 as a sexual predator.

533. Defendant hired, retained and/or assigned Assailant #7 to Plaintiff knowing or having reason to know that he was a sexual predator.

534. Defendant MASSAGE ENVY – FORT LAUDERDALE further breached its duty of care to JANE DOE #7 (A.J.) by failing to protect JANE DOE #7 (A.J.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #7. Defendant further

breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #7 and by failing to provide a safe and secure environment for JANE DOE #7 (A.J.).

535. As a result of the above-described conduct, JANE DOE #7 (A.J.) 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.

WHEREFORE, the Plaintiff, JANE DOE #7 (A.J.), demands judgment against Defendant MASSAGE ENVY – FORT LAUDERDALE, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT NINETEEN-NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a "MASSAGE ENVY –ROYAL PALM BEACH"
BY JANE DOE #8 (B.L.)

536. Plaintiff JANE DOE #8 (B.L.) realleges each and every allegation contained in paragraphs 1 through 44, and 81-86 above as if fully set forth herein.

537. Defendant MASSAGE ENVY – FORT LAUDERDALE, by and through its agents, servants and employees, knew or reasonably should have known of Assailants #8 and #9's dangerous and exploitive propensities and/or that Assailants #8 and #9 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – FORT LAUDERDALE did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to JANE DOE #8 (B.L.), that would be vulnerable to sexual assaults by Assailants #8 and #9.

538. Defendant MASSAGE ENVY – FORT LAUDERDALE owed to the public in general, and to Plaintiff 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 Assailants #8 and #9.

539. Defendant MASSAGE ENVY – FORT LAUDERDALE owed to the public in general, and to Plaintiff 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 Assailants #8 and #9.

540. Having been in the care of Defendant MASSAGE ENVY – FORT LAUDERDALE at the time under circumstances such as to deprive Plaintiff JANE DOE #8 (B.L.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #8 (B.L.) a duty to aid and/or protect her and to control the actions of third parties.

541. Having been in the care of Defendant MASSAGE ENVY – FORT LAUDERDALE at the time under circumstances such as to deprive Plaintiff JANE DOE #8 (B.L.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #8 (B.L.) a duty to control the acts of its agents, servants, and/or employees.

542. At all times relevant hereto, Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

543. Despite actual knowledge of Assailants #8 and #9 committing at least one sexual assault on a female customer at MASSAGE ENVY – FORT LAUDERDALE and despite the foreseeable risk that Assailants #8 and #9 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, including Assailants #8 and #9.

544. At all times relevant hereto, Defendant MESSAGE ENVY – FORT LAUDERDALE 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 MESSAGE ENVY – FORT LAUDERDALE and/or MESSAGE ENVY, including Assailants #8 and #9.

545. At all times relevant hereto, Defendant MESSAGE ENVY – FORT LAUDERDALE did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailants #8 and #9, in the employ and/or service of Defendant MESSAGE ENVY – FORT LAUDERDALE.

546. At all times relevant hereto, Defendant MESSAGE ENVY – FORT LAUDERDALE 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 Assailants #8 and #9, in the employ and/or service of MESSAGE ENVY – FORT LAUDERDALE.

547. As set forth in this Complaint, Defendant MESSAGE ENVY – FORT LAUDERDALE failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailants #8 and #9.

548. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MESSAGE ENVY – FORT LAUDERDALE 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

549. Moreover, the conduct of Defendant MASSAGE ENVY – FORT LAUDERDALE as set forth above and herein, further consisted of:

- a. permitting Assailants #8 and #9 to sexually assault female customers, including JANE DOE #8 (B.L.);
- b. permitting Assailants #8 and #9 to engage in illegal sexual conduct with female customers, including JANE DOE #8 (B.L.), on the premises of MASSAGE ENVY – FORT LAUDERDALE, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #8 (B.L.);
- d. 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 MASSAGE ENVY – FORT LAUDERDALE, including JANE DOE #8 (B.L.), and, in the

- alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #8 (B.L.);
 - f. creating an environment that facilitated sexual assault by Assailants #8 and #9 on Plaintiff;
 - g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailants #8 and #9;
 - h. failing to warn JANE DOE #8 (B.L.) of the risk of harm posed by Assailants #8 and #9 after Defendant knew or should have known of such risk;
 - i. failing to warn JANE DOE #8 (B.L.) of the risk of harm that JANE DOE #8 (B.L.) may suffer as a result of contact with Assailants #8 and #9;
 - j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #8 (B.L.);
 - k. 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 Assailants #8 and #9;
 - l. failing to report sexual assaults by massage therapists, including Assailants #8 and #9, to authorities;
 - m. violating its own policies and/or by-laws regarding sexual assaults by staff;
 - n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailants #8 and #9 posed and, in fact, recommending Assailants #8 and #9 to female customers after it knew of the danger he posed;
 - o. failing to prevent the sexual assault that was committed by Assailants #8 and #9 on JANE DOE #8 (B.L.) and other women he sexually assaulted;
 - p. allowing Assailants #8 and #9 to remain employed after knowing that he sexually assaulted a female customer;
 - 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 – FORT LAUDERDALE

550. Defendant MASSAGE ENVY – FORT LAUDERDALE explicitly and/or implicitly represented to the public in general, and to JANE DOE #8 (B.L.) in particular, that the

massage therapists, including Assailants #8 and #9, 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.

551. Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

552. At all times relevant hereto, Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

553. Defendant MASSAGE ENVY – FORT LAUDERDALE 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.

554. Defendant MASSAGE ENVY – FORT LAUDERDALE failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

555. Defendant MASSAGE ENVY – FORT LAUDERDALE negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailants #8 and #9 as a sexual predator.

556. Defendant hired, retained and/or assigned Assailants #8 and #9 to Plaintiff knowing or having reason to know that he was a sexual predator.

557. Defendant MASSAGE ENVY – FORT LAUDERDALE further breached its duty of care to JANE DOE #8 (B.L.) by failing to protect JANE DOE #8 (B.L.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailants #8 and #9. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailants #8 and #9 and by failing to provide a safe and secure environment for JANE DOE #8 (B.L.).

558. As a result of the above-described conduct, JANE DOE #8 (B.L.) 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.

WHEREFORE, the Plaintiff, JANE DOE #8 (B.L.), demands judgment against Defendant MASSAGE ENVY – FORT LAUDERDALE, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWENTY-NEGLIGENCE
SUMMIT REGENCY, LLC a/k/a "MASSAGE ENVY –ORTEGA"
BY JANE DOE #9 (A.K.)

559. Plaintiff JANE DOE #9 (A.K.) realleges each and every allegation contained in paragraphs 1 through 44, and 87-92 above as if fully set forth herein.

560. Defendant MASSAGE ENVY – ORTEGA, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #10's dangerous and exploitive propensities and/or that Assailant #10 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – ORTEGA did not adequately exercise or provide the duty of care owed to

female customers in their care, including, but not limited to JANE DOE #9 (A.K.), that would be vulnerable to sexual assaults by Assailant #10.

561. Defendant MASSAGE ENVY – ORTEGA owed to the public in general, and to Plaintiff 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 Assailant #10.

562. Defendant MASSAGE ENVY – ORTEGA owed to the public in general, and to Plaintiff 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 Assailant #10.

563. Having been in the care of Defendant MASSAGE ENVY – ORETEGA at the time under circumstances such as to deprive Plaintiff JANE DOE #9 (A.K.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #9 (A.K.) a duty to aid and/or protect her and to control the actions of third parties.

564. Having been in the care of Defendant MASSAGE ENVY – ORTEGA at the time under circumstances such as to deprive Plaintiff JANE DOE #9 (A.K.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #9 (A.K.) a duty to control the acts of its agents, servants, and/or employees.

565. At all times relevant hereto, Defendant MASSAGE ENVY – ORTEGA 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.

566. Despite actual knowledge of Assailant #10 committing at least one sexual assault on a female customer at MASSAGE ENVY – ORTEGA and despite the foreseeable risk that Assailant #10 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, including Assailant #10.

567. At all times relevant hereto, Defendant MASSAGE ENVY – ORTEGA 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 MASSAGE ENVY – ORTEGA and/or MASSAGE ENVY, including Assailant #10.

568. At all times relevant hereto, Defendant MASSAGE ENVY – ORTEGA did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #10, in the employ and/or service of Defendant MASSAGE ENVY – ORTEGA.

569. At all times relevant hereto, Defendant MASSAGE ENVY – ORTEGA 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 Assailant #10, in the employ and/or service of MASSAGE ENVY – ORTEGA.

570. As set forth in this Complaint, Defendant MASSAGE ENVY – ORTEGA failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #10.

571. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – ORTEGA 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

572. Moreover, the conduct of Defendant MASSAGE ENVY – ORTEGA as set forth above and herein, further consisted of:

- a. permitting Assailant #10 to sexually assault female customers, including JANE DOE #9 (A.K.);
- b. permitting Assailant #10 to engage in illegal sexual conduct with female customers, including JANE DOE #9 (A.K.), on the premises of MASSAGE ENVY – ORTEGA, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #9 (A.K.);
- d. 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 MASSAGE ENVY – ORTEGA, including JANE DOE #9 (A.K.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #9 (A.K.);

- f. creating an environment that facilitated sexual assault by Assailant #10 on Plaintiff;
- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #10;
- h. failing to warn JANE DOE #9 (A.K.) of the risk of harm posed by Assailant #10 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #9 (A.K.) of the risk of harm that JANE DOE #9 (A.K.) may suffer as a result of contact with Assailant #10;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #9 (A.K.);
- k. 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 Assailant #10;
- l. failing to report sexual assaults by massage therapists, including Assailant #10, to authorities;
- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #10 posed and, in fact, recommending Assailant #10 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #10 on JANE DOE #9 (A.K.) and other women he sexually assaulted;
- p. allowing Assailant #10 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – ORTEGA

573. Defendant MASSAGE ENVY – ORTEGA explicitly and/or implicitly represented to the public in general, and to JANE DOE #9 (A.K.) in particular, that the massage therapists, including Assailant #10, 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.

574. Defendant MASSAGE ENVY – ORTEGA 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.

575. At all times relevant hereto, Defendant MASSAGE ENVY – ORTEGA 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.

576. Defendant MASSAGE ENVY – ORTEGA 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.

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

578. Defendant MASSAGE ENVY – ORTEGA negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #10 as a sexual predator.

579. Defendant hired, retained and/or assigned Assailant #10 to Plaintiff knowing or having reason to know that he was a sexual predator.

580. Defendant MASSAGE ENVY – ORTEGA further breached its duty of care to JANE DOE #9 (A.K.) by failing to protect JANE DOE #9 (A.K.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #10. Defendant further

breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #10 and by failing to provide a safe and secure environment for JANE DOE #9 (A.K.).

581. As a result of the above-described conduct, JANE DOE #9 (A.K.) 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.

WHEREFORE, the Plaintiff, JANE DOE #9 (A.K.), demands judgment against Defendant MASSAGE ENVY – ORTEGA, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWENTY-ONE-NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a "MASSAGE ENVY –ROYAL PALM BEACH"
BY JANE DOE #10 (S.G.)

582. Plaintiff JANE DOE #11 (S.G.) realleges each and every allegation contained in paragraphs 1 through 44, and 92-99 above as if fully set forth herein.

583. Defendant MASSAGE ENVY – SPANISH RIVER, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #11's dangerous and exploitive propensities and/or that Assailant #11 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – SPANISH RIVER did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to JANE DOE #10 (S.G.), that would be vulnerable to sexual assaults by Assailant #11.

584. Defendant MASSAGE ENVY – SPANISH RIVER owed to the public in general, and to Plaintiff 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 Assailant #11.

585. Defendant MASSAGE ENVY – SPANISH RIVER owed to the public in general, and to Plaintiff 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 Assailant #11.

586. Having been in the care of Defendant MASSAGE ENVY – SPANISH RIVER at the time under circumstances such as to deprive Plaintiff JANE DOE #10 (S.G.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #10 (S.G.) a duty to aid and/or protect her and to control the actions of third parties.

587. Having been in the care of Defendant MASSAGE ENVY – SPANISH RIVER at the time under circumstances such as to deprive Plaintiff JANE DOE #10 (S.G.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #10 (S.G.) a duty to control the acts of its agents, servants, and/or employees.

588. At all times relevant hereto, Defendant MASSAGE ENVY – SPANISH RIVER 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.

589. Despite actual knowledge of Assailant #11 committing at least one sexual assault on a female customer at MASSAGE ENVY – SPANISH RIVER and despite the foreseeable risk that Assailant #11 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, including Assailant #11.

590. At all times relevant hereto, Defendant MESSAGE ENVY – SPANISH RIVER 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 MESSAGE ENVY – SPANISH RIVER and/or MESSAGE ENVY, including Assailant #11.

591. At all times relevant hereto, Defendant MESSAGE ENVY – SPANISH RIVER did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #11, in the employ and/or service of Defendant MESSAGE ENVY – SPANISH RIVER.

592. At all times relevant hereto, Defendant MESSAGE ENVY – SPANISH RIVER 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 Assailant #11, in the employ and/or service of MESSAGE ENVY – SPANISH RIVER.

593. As set forth in this Complaint, Defendant MESSAGE ENVY – SPANISH RIVER failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #11.

594. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MESSAGE ENVY – SPANISH RIVER 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

595. Moreover, the conduct of Defendant MASSAGE ENVY – SPANISH RIVER as set forth above and herein, further consisted of:

- a. permitting Assailant #11 to sexually assault female customers, including JANE DOE #10 (S.G.);
- b. permitting Assailant #11 to engage in illegal sexual conduct with female customers, including JANE DOE #10 (S.G.), on the premises of MASSAGE ENVY – SPANISH RIVER, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #10 (S.G.);
- d. 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 MASSAGE ENVY – SPANISH RIVER, including JANE DOE #10 (S.G.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #10 (S.G.);
- f. creating an environment that facilitated sexual assault by Assailant #11 on Plaintiff;

- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #11;
- h. failing to warn JANE DOE #10 (S.G.) of the risk of harm posed by Assailant #11 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #10 (S.G.) of the risk of harm that JANE DOE #10 (S.G.) may suffer as a result of contact with Assailant #11;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #10 (S.G.);
- k. 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 Assailant #11;
- l. failing to report sexual assaults by massage therapists, including Assailant #11, to authorities;
- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #11 posed and, in fact, recommending Assailant #11 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #11 on JANE DOE #10 (S.G.) and other women he sexually assaulted;
- p. allowing Assailant #11 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – SPANISH RIVER

596. Defendant MASSAGE ENVY – SPANISH RIVER explicitly and/or implicitly represented to the public in general, and to JANE DOE #10 (S.G.) in particular, that the massage therapists, including Assailant #11, 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.

597. Defendant MASSAGE ENVY – SPANISH RIVER 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.

598. At all times relevant hereto, Defendant MASSAGE ENVY – SPANISH RIVER 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.

599. Defendant MASSAGE ENVY – SPANISH RIVER 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.

600. Defendant MASSAGE ENVY – SPANISH RIVER failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

601. Defendant MASSAGE ENVY – SPANISH RIVER negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #11 as a sexual predator.

602. Defendant hired, retained and/or assigned Assailant #11 to Plaintiff knowing or having reason to know that he was a sexual predator.

603. Defendant MASSAGE ENVY – SPANISH RIVER further breached its duty of care to JANE DOE #10 (S.G.) by failing to protect JANE DOE #10 (S.G.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #11. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #11 and by failing to provide a safe and secure environment for JANE DOE #10 (S.G.).

604. As a result of the above-described conduct, JANE DOE #10 (S.G.) 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.

WHEREFORE, the Plaintiff, JANE DOE #10 (S.G.), demands judgment against Defendant MASSAGE ENVY – SPANISH RIVER, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWENTY-TWO-NEGLIGENCE
JK KRN ENTERPRISES, INC. a/k/a "MASSAGE ENVY –ROYAL PALM BEACH"
BY JANE DOE #11 (D.H.)

605. Plaintiff JANE DOE #11 (D.H.) realleges each and every allegation contained in paragraphs 1 through 44, and 92-99 above as if fully set forth herein.

606. Defendant MASSAGE ENVY – SPANISH RIVER, by and through its agents, servants and employees, knew or reasonably should have known of Assailant #12's dangerous and exploitive propensities and/or that Assailant #12 was an unfit agent. It was foreseeable that if Defendant MASSAGE ENVY – SPANISH RIVER did not adequately exercise or provide the duty of care owed to female customers in their care, including, but not limited to JANE DOE #11 (D.H.), that would be vulnerable to sexual assaults by Assailant #12.

607. Defendant MASSAGE ENVY – SPANISH RIVER owed to the public in general, and to Plaintiff 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 Assailant #12.

608. Defendant MASSAGE ENVY – SPANISH RIVER owed to the public in general, and to Plaintiff 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 Assailant #12.

609. Having been in the care of Defendant MASSAGE ENVY – SPANISH RIVER at the time under circumstances such as to deprive Plaintiff JANE DOE #11 (D.H.) of her entitlement to safe care and protection, Defendant owed to Plaintiff JANE DOE #11 (D.H.) a duty to aid and/or protect her and to control the actions of third parties.

610. Having been in the care of Defendant MASSAGE ENVY – SPANISH RIVER at the time under circumstances such as to deprive Plaintiff JANE DOE #11 (D.H.) of her normal opportunities for protection, the Defendant owed to Plaintiff JANE DOE #11 (D.H.) a duty to control the acts of its agents, servants, and/or employees.

611. At all times relevant hereto, Defendant MASSAGE ENVY – SPANISH RIVER 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.

612. Despite actual knowledge of Assailant #12 committing at least one sexual assault on a female customer at MASSAGE ENVY – SPANISH RIVER and despite the foreseeable risk that Assailant #12 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, including Assailant #12.

613. At all times relevant hereto, Defendant MASSAGE ENVY – SPANISH RIVER 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 MASSAGE ENVY – SPANISH RIVER and/or MASSAGE ENVY, including Assailant #12.

614. At all times relevant hereto, Defendant MASSAGE ENVY – SPANISH RIVER did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to criminal authorities any known sexual predators, including Assailant #12, in the employ and/or service of Defendant MASSAGE ENVY – SPANISH RIVER.

615. At all times relevant hereto, Defendant MASSAGE ENVY – SPANISH RIVER 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 Assailant #12, in the employ and/or service of MASSAGE ENVY – SPANISH RIVER.

616. As set forth in this Complaint, Defendant MASSAGE ENVY – SPANISH RIVER failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, Assailant #12.

617. As set forth in this Complaint, Defendant failed to take the reasonable steps to ensure that massage therapists at MASSAGE ENVY – SPANISH RIVER 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 Follow Title XXXII Regulation of Professions and Occupations, Chapter 480 Massage Practice, Section 0485 Sexual Misconduct in The Practice of Massage Therapy
- e. Failure to properly train and instruct investigators;
- f. Failure to have in place standards of acceptable and unacceptable conduct;
- g. Failure to designate competent investigators to evaluate complaints of sexual assault; and
- h. Failure to have in place standards for reporting acts of sexual misconduct to law enforcement authorities and/or the state board of massage therapy.

618. Moreover, the conduct of Defendant MASSAGE ENVY – SPANISH RIVER as set forth above and herein, further consisted of:

- a. permitting Assailant #12 to sexually assault female customers, including JANE DOE #11 (D.H.);
- b. permitting Assailant #12 to engage in illegal sexual conduct with female customers, including JANE DOE #11 (D.H.), on the premises of MASSAGE ENVY – SPANISH RIVER, during operating hours;
- c. failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to JANE DOE #11 (D.H.);
- d. 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 MASSAGE ENVY – SPANISH RIVER, including JANE DOE #11 (D.H.), and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- e. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of female customers, including JANE DOE #11 (D.H.);
- f. creating an environment that facilitated sexual assault by Assailant #12 on Plaintiff;
- g. failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including Assailant #12;

- h. failing to warn JANE DOE #11 (D.H.) of the risk of harm posed by Assailant #12 after Defendant knew or should have known of such risk;
- i. failing to warn JANE DOE #11 (D.H.) of the risk of harm that JANE DOE #11 (D.H.) may suffer as a result of contact with Assailant #12;
- j. failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of JANE DOE #11 (D.H.);
- k. 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 Assailant #12;
- l. failing to report sexual assaults by massage therapists, including Assailant #12, to authorities;
- m. violating its own policies and/or by-laws regarding sexual assaults by staff;
- n. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Assailant #12 posed and, in fact, recommending Assailant #12 to female customers after it knew of the danger he posed;
- o. failing to prevent the sexual assault that was committed by Assailant #12 on JANE DOE #11 (D.H.) and other women he sexually assaulted;
- p. allowing Assailant #12 to remain employed after knowing that he sexually assaulted a female customer;
- 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 – SPANISH RIVER

619. Defendant MASSAGE ENVY – SPANISH RIVER explicitly and/or implicitly represented to the public in general, and to JANE DOE #11 (D.H.) in particular, that the massage therapists, including Assailant #12, 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.

620. Defendant MASSAGE ENVY – SPANISH RIVER 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.

621. At all times relevant hereto, Defendant MASSAGE ENVY – SPANISH RIVER 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.

622. Defendant MASSAGE ENVY – SPANISH RIVER 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.

623. Defendant MASSAGE ENVY – SPANISH RIVER failed to reasonably supervise and/or monitor individuals who it knew, or should have known, were sexual predators in its service and employ.

624. Defendant MASSAGE ENVY – SPANISH RIVER negligently failed to timely and reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards of massage therapy) Assailant #12 as a sexual predator.

625. Defendant hired, retained and/or assigned Assailant #12 to Plaintiff knowing or having reason to know that he was a sexual predator.

626. Defendant MASSAGE ENVY – SPANISH RIVER further breached its duty of care to JANE DOE #11 (D.H.) by failing to protect JANE DOE #11 (D.H.) from foreseeable harm from the sexual misconduct of employees of Defendant, including Assailant #12. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Assailant #12 and by failing to provide a safe and secure environment for JANE DOE #11 (D.H.).

627. As a result of the above-described conduct, JANE DOE #11 (D.H.) 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.

WHEREFORE, the Plaintiff, JANE DOE #11 (D.H.), demands judgment against Defendant MASSAGE ENVY – SPANISH RIVER, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWENTY-THREE
VICARIOUS LIABILITY

628. Plaintiffs hereby incorporate by reference the allegations contained in the preceding paragraphs of this Complaint, as if fully set forth herein.

629. Assailants #1-12 engaged in unpermitted, harmful and offensive sexual conduct and contact upon the person of Plaintiffs in violation of Florida State law. Said conduct was undertaken while Assailants #1-12 were employees and agents of Defendants, while in the course and scope of employment with said Defendants, and/or was ratified by said Defendants.

630. Prior to the assault alleged above, upon information and belief, all Defendants knew, had reason to know, or were otherwise on notice of the unlawful sexual conduct of Assailants #1-12 and/or other massage therapists at franchise locations nationwide. All Defendants failed to take reasonable steps and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by Assailants #1-12, including, but not limited to, preventing or avoiding placement of Assailants #1-12 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.

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

632. 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, Assailants #1-12.

633. 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, Assailants #1-12, constituted a course of conduct through which acts of sexual perversion and the violation of female customers were condoned, approved, and effectively authorized.

634. 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, MASSAGE ENVY ratified said actions and, accordingly, are vicariously liable for the actions of Assailants #1-12.

635. As a result of the above-described conduct, Plaintiffs 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; were 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 have incurred and will continue to incur expenses for medical and psychological treatment, therapy and counseling.

WHEREFORE, the Plaintiffs demand judgment against Defendants, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWENTY-FOUR
VIOLATION OF FLORIDA UNFAIR AND DECEPTIVE TRADE PRACTICES ACT,
FLA. STAT. ANN. § 501.201

636. Plaintiffs hereby incorporate by reference the allegations contained in the preceding paragraphs of this Complaint, as if fully set forth herein.

637. Defendants' business acts and practices alleged herein constitute unfair, unconscionable and/or deceptive methods, acts or practices under the Florida Deceptive and Unfair Trade Practices Act, § 501.201, *et seq.*, Florida Statutes ("FDUTPA").

638. At all relevant times, the Florida Plaintiffs were "consumers" within the meaning of the FDUTPA. § 501.203(7), Fla. Stat.

639. Defendants' conduct, as set forth herein, occurred in the conduct of "trade or commerce" within the meaning of the FDUTPA. § 501.203(8), Fla. Stat.

640. The practices of Defendants, described above, violate the FDUTPA 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 the dangers associated with their massage therapists, which did, or tended to, mislead the Florida Plaintiffs about facts that could not reasonably be known by the consumer;
- b. Defendants caused Florida Plaintiffs to suffer a probability of confusion and a misunderstanding of legal rights, obligations, and/or remedies by and through its conduct;

641. Defendants' actions impact the public interest because the Florida 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.

642. Had the Florida Plaintiffs known of the defective nature of Defendant's employees and/or agents, they would not have purchased massages at Massage Envy.

643. The foregoing acts, omissions and practices proximately caused Florida Plaintiff to suffer actual damages in the form of, *inter alia*, in paying for massages where they were sexually assaulted, and are entitled to recover such damages, together with all other appropriate damages, attorneys' fees and costs of suit.

WHEREFORE, the Plaintiffs demand judgment against Defendants, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWENTY-FIVE
FRAUDULENT CONCEALMENT

644. Plaintiffs hereby incorporate by reference the allegations contained in the preceding paragraphs of this Complaint, as if fully set forth herein.

645. As set forth above, Defendants concealed and/or suppressed material facts concerning the safety of their customers. Defendants knew that employees and/or agents were sexually assaulting 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 customers. Plaintiffs had no knowledge of these issues at the time that they scheduled/attended their massages at MASSAGE ENVY.

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

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

648. Plaintiffs 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.

649. Defendants had a duty to disclose these safety issues to Plaintiffs, the public, and the Florida Board of Massage Therapy, but failed to do so.

650. Defendants had a duty to disclose the true facts about the safety of its 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 dangerous massages that may result in sexual assaults, 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 massages that were dangerous, criminal, and defective or that violated Florida law.

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

652. The aforementioned concealment was material, because if it had been disclosed, Plaintiffs would not have bought massages at MASSAGE ENVY.

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

654. By misrepresenting and/or failing to disclose these material facts, Defendants intended to induce Plaintiffs to purchase massages at MASSAGE ENVY.

WHEREFORE, the Plaintiffs demand judgment against Defendants, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

COUNT TWENTY-SIX
CIVIL CONSPIRACY

655. Plaintiffs hereby incorporate by reference the allegations contained in the preceding paragraphs of this Complaint, as if fully set forth herein.

656. Defendant MASSAGE ENVY FRANCHISING, LLC, a Foreign for Profit Corporation, was a franchisor of Massage Therapy businesses (hereinafter referred to as “Franchisor”).

657. At all times material hereto, Defendants JK KRN ENTERPRISES, INC., a Florida for Profit Corporation d/b/a MASSAGE ENVY; VICALEX, LLC, a Florida Limited Liability Company d/b/a MASSAGE ENVY; CB INVESTMENTS LLC a Florida for Profit Corporation d/b/a MASSAGE ENVY; MHL MASSAGE FOR HEALTHY LIVING, LLC a Florida Limited Liability Company d/b/a MASSAGE ENVY; TRIPLE DOUBLE, USA LLC, a Florida Limited Liability Company d/b/a MASSAGE ENVY; NAMASTE LIFESTYLE, INC., a Florida for Profit Corporation d/b/a MASSAGE ENVY; SOUTHEAST CAUSEWAY INVESTMENTS, LLC, a Florida Limited Liability Company d/b/a MASSAGE ENVY; SPANISH RIVER ENVY LLC, a Florida Limited Liability Company, d/b/a MASSAGE ENVY; SUMMIT REGENCY, LLC, a Florida Limited Liability Company, d/b/a MASSAGE ENVY) served as franchisees to Defendant MASSAGE ENVY FRANCHISING, LLC. (Collectively referred to within this Count as “Franchisees”)

658. Plaintiffs are informed and believe and thereon allege Defendant Franchisor conspired with Defendant Franchisees to knowingly and willfully agree among themselves to

misrepresent to Plaintiffs (and 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.

659. Defendants named herein conspired to keep reports of sexual assault allegations by massage therapists at Massage Envy franchise locations from the public, customers, law enforcement and the Florida Board of Massage Therapy in order to protect the brand of Massage Envy at the expense of the safety of its customers, including Plaintiffs. In furtherance of their conspiracy, rather than informing customers, including Plaintiffs, about the problem of customers being sexually assaulted at its franchise locations by massage therapists, Defendants intentionally and falsely told Plaintiffs 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 can be confident they will have a positive experience, that they will bring joy to Plaintiffs' lives, among other intentionally false statements to Plaintiffs.

660. 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 as customers in their Massage Envy franchise locations for the benefit of Defendants and as set forth in detail herein.

661. All of the actions of Defendants 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 set forth herein, Plaintiffs have suffered significant damages.

WHEREFORE, the Plaintiffs demand judgment against Defendants, in excess of Fifteen Thousand Dollars (\$15,000.00), plus costs incurred herein and any other relief this court deems fit and proper.

DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demands a trial by jury of all issues so triable, as a matter of right.

DATED this 27th day of August, 2018.

/e/ Jennifer M. Lipinski

Jennifer M. Lipinski, Esq.

Florida Bar Number: 99524

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