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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 COUNTY OF SAN MATEO - UNLIMITED CIVIL JURISDICTION

20 JANE DOE #1 (N.K.); JANE DOE #2 (L.T.);
21 JANE DOE #3 (J.V.); JANE DOE #4 (K.M.);
22 and JANE DOE #5 (J.M.),

23 Plaintiffs,

24 vs.

25 MASSAGE ENVY FRANCHISING, LLC; ME
26 TIME, INC.; ANGELINE SEBASTIAN-
27 STAFFORD; JDSME, INC.; LEOCADIA
ELLEN SALAS; R & S BARNES
ENTERPRISES, INC.; RAVELLO
VENTURES, INC.; ERIKA RICE; MARY
GUIDRY; and DOES 1-40, inclusive;

Defendants,

ENDORSED FILED
SAN MATEO COUNTY

AUG 20 2018

Clerk of the Superior Court
By: ANTONIO R. GERONIMO
Deputy Clerk

Case No.: 18 - CV - 03706

FIRST AMENDED COMPLAINT FOR:

- (1) Negligence
- (2) Premises Liability
- (3) Intentional Inflict of Emotional Distress
- (4) Sexual Battery (Civ. Code § 1708.5)
- (5) Gender Violence (Civ. Code § 52.4)
- (6) Ralph Act Violation (Civ. Code § 51.7)
- (7) False Imprisonment
- (8) Negligent Misrepresentation
- (9) Fraud, Intentional
Misrepresentation, Concealment, False
Promise
- (10) Consumer Legal Remedy Violation
(Civ. Code §§ 1750, *et seq.*)
- (11) Civil Conspiracy
- (12) Fraudulent and Unfair Business
Practices (Business and Professions
Code §§ 17200, *et seq.*)

1 Plaintiffs JANE DOE #1 (N.K.), JANE DOE #2 (L.T.), JANE DOE #3 (J.V.), JANE DOE
2 #4 (K.M.), JANE DOE #5 (J.M.), and JANE DOE #6 (L.S.) hereby submit their Complaint against
3 Defendants MASSAGE ENVY FRANCHISING, LLC; ME TIME, INC.; ANGELINE
4 SEBASTIAN-STAFFORD; JDSME, Inc.; LEOCADIA ELLEN SALAS; R & S BARNES
5 ENTERPRISES, INC.; RAVELLO VENTURES, INC.; ERIKA RICE; MARY GUIDRY and
6 DOES 1-40, and each of them, and allege as follows:

7 **PARTIES**

8 1. Plaintiff JANE DOE #1 (N.K.) is an individual who was and is at all times herein
9 a resident of the City of San Francisco, County of San Francisco, State of California. JANE
10 DOE #1 (N.K.) went to the Massage Envy, located at 1209 Howard Avenue, Burlingame,
11 California 94010 (“Massage Envy - Burlingame”) for a massage.

12 2. Plaintiff JANE DOE #2 (L.T.) is an individual who was and is at all times herein
13 a resident of the City of Los Angeles, County of Los Angeles, State of California. JANE DOE
14 #2 (L.T.) was a massage therapist at Massage Envy, located at 2620 East Workman Avenue,
15 Suite 4B, West Covina, CA 91791 (“Massage Envy – West Covina”).

16 3. Plaintiff JANE DOE #3 (J.V.) is an individual who was and is at all times herein
17 a resident of the City of Rancho Palos Verdes, County of Los Angeles, State of California.
18 JANE DOE #3 (J.V.) went to the Massage Envy, located at 415 North Pacific Coast Highway,
19 Suite 101, Redondo Beach, California 90277 (“Massage Envy – Redondo Beach”) for a
20 massage.

21 4. Plaintiff JANE DOE #4 (K.M.) is an individual who was and is at all times
22 herein a resident of the City of Beverly Hills, County of Los Angeles, State of California.
23 JANE DOE #4 (K.M.) went to the Massage Envy, located at 246 South Robertson Boulevard,
24 Beverly Hills, California 90211 (“Massage Envy – Beverly Hills”) for a massage.

25 5. Plaintiff JANE DOE #5 (J.M.) is an individual who was and is at all times herein
26 a resident of the City of Galt, County of Sacramento, State of California. JANE DOE #5 (J.M.)
27 went to the Massage Envy, located at 4810 Elk Grove Boulevard, Suite 190, Elk Grove,

1 California 95758 (“Massage Envy – Elk Grove”) for a massage.

2 6. Plaintiff JANE DOE #6 (L.S.) is an individual who was and is at all times herein
3 a resident of Studio City, County of Los Angeles, State of California. JANE DOE #6 went to
4 the Massage Envy located at 11988 Ventura Boulevard, Studio City, California 91604
5 (“Massage Envy – Studio City”) for a massage.

6 7. Defendant MASSAGE ENVY FRANCHISING, LLC (“MEF”) is, and at all
7 relevant times mentioned herein was, a corporation organized under the laws of the State of
8 California. At all relevant times mentioned herein, MEF’s primary place of business was
9 located in the City of Scottsdale, County of Maricopa, State of Arizona, is the franchisor of
10 Massage Envy locations throughout California, and performed work and controlled the day-to-
11 day activities of the Massage Envy locations throughout California..

12 8. Defendant ME TIME, INC. (“ME TIME”) is, and at all relevant times mentioned
13 herein was, a corporation organized under the laws of the State of California. At all relevant
14 times mentioned herein, ME TIME’s primary place of business was located in the City of San
15 Carlos, County of San Mateo, State of California, is the franchisee of the Massage Envy –
16 Burlingame location, and performed work in and at Massage Envy – Burlingame location.

17 9. Defendant ANGELINE SEBASTIAN-STAFFORD (“ANGELINE”) is, and at all
18 relevant times mentioned herein was, an individual. At all relevant times mentioned herein,
19 ANGELINE resides in the City of San Carlos, County of San Mateo, State of California, is the
20 franchisee of the Massage Envy – Burlingame location, and performed work in and at Massage
21 Envy – Burlingame location. At all relevant times mentioned herein, ANGELINE was an
22 officer and/or director of ME TIME, and is liable to JANE DOE #1 because of her failures to
23 act, her failure to act constituted a breach of her fiduciary duties as an officer and/or director;
24 and/or her breach of those duties involved intentional misconduct, fraud or a knowing violation
25 of law.

26 10. Defendant JDSME, INC. (“JDSME”) is, and at all relevant times mentioned
27 herein was, a corporation organized under the laws of the State of California. At all relevant

1 times mentioned herein, JDSME's primary place of business was located in the City of
2 Rowland Heights, County of Los Angeles, State of California, is the franchisee of the Massage
3 Envy – West Covina location, and performed work in and at Massage Envy – West Covina.

4 11. Defendant LEOCADIA ELLEN SALAS ("LEOCADIA") is, and at all relevant
5 times mentioned herein was, an individual. At all relevant times mentioned herein,
6 LEOCADIA resides in City of Rowland Heights, County of Los Angeles, State of California, is
7 the franchisee of the Massage Envy – West Covina location, and performed work in and at
8 Massage Envy – West Covina. At all relevant times mentioned herein, LEOCADIA was an
9 officer and/or director of JDSME, and is liable to JANE DOE #2 (L.T.) because of her failures
10 to act, her failure to act constituted a breach of her fiduciary duties as an officer and/or director,
11 and/or her breach of those duties involved intentional misconduct, fraud or a knowing violation
12 of law.

13 12. The owners of the Massage Envy – Redondo Beach location is presently
14 unknown. Upon information and belief, the owners of the Massage Envy – Redondo Beach
15 location are individual, corporate, associate, partner or otherwise. Since these Defendants are
16 presently unknown, Plaintiffs herein named them as DOES 1-5, inclusive, and Plaintiffs
17 therefore sue each said Defendants by such fictitious names. Plaintiffs will move to amend this
18 Complaint to substitute their true names and capacities when the same have been ascertained.
19 Upon information and belief, DOES 1-5's primary place of business was located in the City of
20 Redondo Beach, County of San Los Angeles, State of California, the franchisees of the Massage
21 Envy – Redondo Beach location and performed work in Massage Envy – Redondo Beach.

22 13. The owners of the Massage Envy – Beverly Hills location is presently unknown.
23 Upon information and belief, the owners of the Massage Envy – Beverly Hills location are
24 individual, corporate, associate, partner or otherwise. Since these Defendants are presently
25 unknown, Plaintiffs herein named them as DOES 6-10, inclusive, and Plaintiffs therefore sue
26 each said Defendants by such fictitious names. Plaintiffs will move to amend this Complaint to
27 substitute their true names and capacities when the same have been ascertained. Upon

1 information and belief, DOES 6-10's primary place of business was located in the City of
2 Beverly Hills, County of San Los Angeles, State of California, the franchisees of the Massage
3 Envy – Redondo Beach location and performed work in Massage Envy – Beverly Hills.

4 14. Defendant R & S BARNES ENTERPRISES, INC. ("R & S") is, and at all
5 relevant times mentioned herein was, a corporation organized under the laws of the State of
6 California. At all relevant times mentioned herein, R & S's primary place of business was
7 located in the City of Elk Grove, County of Sacramento, State of California, and performed
8 work in Massage Envy – Elk Grove.

9 15. Defendant RAVELLO VENTURES, INC. ("RAVELLO") is, and at all relevant
10 times mentioned herein was, a corporation organized under the laws of the State of California.
11 At all relevant times mentioned herein, RAVELLO's primary place of business was located in
12 Studio City, County of Los Angeles, State of California, and performed work in Massage Envy
13 – Studio City.

14 16. Defendant ERIKA RICE ("RICE") is, and at all relevant times mentioned herein
15 was, an individual. On information and belief, at all relevant times mentioned herein, RICE
16 resides in the County of Los Angeles, State of California, is the franchisee of the Massage Envy
17 – Studio City location, and performed work in and at Massage Envy – Studio City. At all
18 relevant times mentioned herein, RICE was an officer and/or director of RAVELLO, and is
19 liable to JANE DOE #6 (L.S.) because of her failures to act, her failure to act constituted a
20 breach of her fiduciary duties as an officer and/or director, and/or her breach of those duties
21 involved intentional misconduct, fraud or a knowing violation of law.

22 17. Defendant MARY GUIDRY ("GUIDRY") is, and at all relevant times
23 mentioned herein was, an individual. On information and belief, at all relevant times mentioned
24 herein, RICE resides in the County of Los Angeles, State of California, is the franchisee of the
25 Massage Envy – Studio City location, and performed work in and at Massage Envy – Studio
26 City. At all relevant times mentioned herein, RICE was an officer and/or director of
27 RAVELLO and is liable to JANE DOE #6 (L.S.) because of her failures to act, her failure to act

1 constituted a breach of her fiduciary duties as an officer and/or director, and/or her breach of
2 those duties involved intentional misconduct, fraud or a knowing violation of law.

3 18. The true names and capacities, whether individual, corporate, associate, partner
4 or otherwise, of other Defendants, herein named as DOES 10-40, inclusive, are unknown to
5 Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs will move to
6 amend this Complaint to substitute their true names and capacities when the same have been
7 ascertained.

8 19. Plaintiffs are also unaware of the basis of liability as to some or all of such
9 fictitious Defendants sued herein as DOES 10-40, inclusive, but believe that their liability arises
10 out of the same general facts as set forth herein. Plaintiffs will move to amend this Complaint
11 to assert the theories of liability of said fictitiously named Defendants when they have been
12 ascertained.

13 20. Plaintiffs are informed and believe and thereon allege that each Defendant and
14 DOES 10-40 are legally responsible in some manner for the events, happenings, omissions
15 and/or occurrences causing damages referred to herein, and legally and proximately caused
16 damage to Plaintiffs. Further, each and every Defendant, including DOES 10-40, had a duty to
17 Plaintiffs, as customers of the Massage Envy locations.

18 21. Plaintiffs are informed and believe, and thereon allege that DOES 1-40,
19 inclusive, were franchisees, contractors, individuals, sole proprietorships, partnerships and/or
20 corporations, and all their employees and agents who performed services as an employee, agent,
21 ostensible agent, servant, partner, joint venturer, and aider and abettor of each of the Defendants
22 and were, in doing the business of things herein complained of, acting within the course and
23 scope of such relationship and therefore are responsible for damages to Plaintiffs as hereinafter
24 alleged. Whenever a Defendant is the subject of any charging allegation by Plaintiffs, it shall be
25 deemed that DOES 1-40, inclusive, and each of them, are likewise subject to this charging
26 allegation.

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1 **JURISDICTION AND VENUE**

2 22. This Court has jurisdiction over this action pursuant to *California Code of Civil*
3 *Procedure* § 410.10. Plaintiffs seek damages under the statutory and common law of the State
4 of California.

5 23. Venue is proper in this Court pursuant to *California Code of Civil Procedure* §
6 395 because (a) some of the acts and transactions described herein occurred within this county;
7 (b) some Defendants are or were registered to do business in the State of California and/or are
8 or were doing business within this county; and (c) because some Defendants did do business in
9 this county by operating and/or exercising complete control over the operations of the *Massage*
10 *Envy – Burlingame*.

11 **FACTS COMMON TO ALL CAUSES OF ACTIONS**

12 24. Sexual misconduct committed by massage therapists at MEF franchise locations
13 is a national epidemic, with over 180 reports of sexual assaults by its therapists occurring
14 throughout the country. The assaults range from forcible sexual intercourse to digital and oral
15 penetration of women’s vaginas to touching of women’s breasts to therapists putting their
16 genitals on women as well as ejaculating on women.

17 25. MEF does not require its franchisees to report sexual assaults of customers by its
18 massage therapists to law enforcement and/or state massage therapy boards. In fact, one of the
19 reasons this epidemic of sexual assaults of female customers by *Massage Envy* therapists exists
20 is as a result of MEF’s incomprehensible policy and procedure of directing franchisees to
21 conceal allegations of inappropriate sexual behavior involving its massage therapists and
22 directing franchisees not to report said allegations to local law enforcement and/or state massage
23 therapy boards in order to “protect the brand.”

24 26. MEF company protocol encourages employees to handle any allegations of
25 sexual misconduct by its massage therapists “in-house.”

26 27. In numerous cases involving sexual misconduct at its franchise locations by its
27 massage therapists, MEF therapists were allowed to remain employed and/or were transferred

1 and/or hired/re-hired at another Massage Envy franchise location, only to go on to improperly
2 touch multiple other female customers.

3 28. MEF, other Defendants named herein, and other of MEF's franchisees have long
4 feared that the public would learn about the problem of massage therapists sexually assaulting
5 female customers at its franchise locations but took no action whatsoever to prevent same but
6 rather continued to protect the company at the expense of the safety of its customers.

7 29. MEF, other Defendants named herein, and other of MEF's franchisees have does
8 nothing to warn customers of the problem of women being sexually assaulted at its franchise
9 locations by massage therapists, even though it trains franchisees on the problem.

10 30. MEF, other Defendants named herein, and other of MEF's franchisees conspired
11 to keep the problem of woman being sexually assaulted at its franchise locations by massage
12 therapists from Plaintiffs, and all of Defendants' customers. Instead of informing Plaintiffs and
13 all of Defendants' customers about the problem of woman being sexually assaulted at its
14 franchise locations by massage therapists, MEF, other Defendants named herein, and other of
15 MEF's franchisees intentionally and falsely told Plaintiffs and all of Defendants' customers that
16 safety is at the core of their company's mission, that it has a zero tolerance policy towards
17 sexual assaults committed by their massage therapists, that they protect their customers, that
18 they carefully select and thoroughly train their massage therapists, that they are dedicated to
19 providing a comfortable and professional environment, that Plaintiffs and all of Defendants'
20 customers can be confident they will have a positive experience, that they bring joy into
21 Plaintiffs and all of Defendants' customers' lives, and that they make the best of everybody,
22 among other intentionally false statements to Plaintiffs and all of Defendants' customers.

23 31. In at least one case, multiple women were sexually assaulted by a Massage Envy
24 massage therapist at Massage Envy – Burlingame location even though there were two reports
25 to the franchisee and MEF that the therapist had sexually assaulted other female customers.

26 32. In another case, a woman was sexually assaulted by a Massage Envy massage
27 therapist at Massage Envy – Elk Grove location even though there was a report to the franchisee

1 and MEF that the therapist had sexually assaulted other female customers.

2 JANE DOE #1 (N.K.)

3 33. At all times relevant hereto, Brandon (last name presently unknown) was a male
4 massage therapist working at Massage Envy - Burlingame who was assigned to massage JANE
5 DOE #1 (N.K.) on the date at issue, and was assigned to give massages to multiple female
6 customers in his capacity as an employee and/or agent of MEF, ME TIME, and ANGELINE.

7 34. On November 12, 2017, JANE DOE #1 (N.K.) went to Massage Envy –
8 Burlingame for a massage, where she had been numerous times before without incident.
9 Plaintiff had a one-year membership with Massage Envy – Burlingame. All of her previous
10 massages were without incident. On November 12, 2017, Plaintiff was improperly touched in
11 an inappropriate sexual manner by Brandon on the premises of Defendants. Specifically,
12 Brandon led Plaintiff to a massage room and told her to undress. He then forced Plaintiff to
13 touch his penis; touched, groped, and licked Plaintiff's bare breasts and vagina; and ultimately
14 penetrated Plaintiff's vagina with his penis, all without Plaintiff's consent.

15 35. During the massage, Brandon pressed his penis against JANE DOE #1 (N.K.)'s
16 hands. He did this more than once. Plaintiff had kept her underwear on, but was otherwise
17 unclothed. While lying on her stomach, Brandon put his hands underneath the sheet and
18 Plaintiff's underwear and began massaging Plaintiff's bare glutes. Brandon then told Plaintiff
19 to turn onto her back. When Plaintiff was on her back, she started falling asleep. Plaintiff
20 awoke and discovered Brandon groping and massaging the entirety of Plaintiff's bare breasts.
21 Brandon proceeded to fondle and rub Plaintiff's nipple of her left breast. Plaintiff was in total
22 shock and tried to "play dead," hoping Brandon would stop his inappropriate touching if he
23 realized Plaintiff was not reacting. However, Brandon only went further. He then began
24 kissing and licking Plaintiff's nipple.

25 36. JANE DOE #1 (N.K.) was frozen in fear and shock. Not knowing what to do,
26 Plaintiff laid still, hoping Brandon would stop. The nightmare only continued. Brandon took
27 Plaintiff's right hand and interlocked his hand with hers. He then moved their hands onto

1 Brandon’s penis. Brandon took Plaintiff’s left hand and rubbed it inside Plaintiff’s thighs.
2 Brandon then inserted his finger inside Plaintiff’s vagina. He removed his finger and began
3 licking Plaintiff’s vagina. Brandon then put his fingers back inside Plaintiff’s vagina in a
4 manner that Plaintiff believed was an attempt by Brandon to sexually arouse Plaintiff.

5 37. JANE DOE #1 (N.K.) tightened up, devastated by what was going on. Brandon
6 then pulled his shorts down, pulled Plaintiff’s legs to the side, and inserted his penis into
7 Plaintiff’s vagina. Brandon had nonconsensual sexual intercourse with Plaintiff. On
8 information and belief, Brandon stopped once he ejaculated. He then removed his penis from
9 Plaintiff’s vagina, let out a sigh, and thanked Plaintiff. Plaintiff immediately covered herself
10 with a sheet.

11 38. After Brandon put his shorts back on, he gave JANE DOE #1 (N.K.) a towel and
12 told her, “to wipe [herself] down.” He then left the room. Plaintiff was traumatized. She was
13 so frightened as to what to do next. She knew, as is common practice for massage therapists
14 following a massage service, Brandon would be standing outside the door with a glass of water.
15 When she regained enough composure to leave the room, Brandon was right outside the door,
16 and asked Plaintiff, “Are you feeling better?” Plaintiff responded that she had to go to the
17 restroom, trying her best to get away from Brandon as quickly as she could. Plaintiff then went
18 straight to the front desk, paid for her service, and went home.

19 39. Subsequently, JANE DOE #1 (N.K.) called Massage Envy – Burlingame and
20 reported the sexual assault to the acting manager. The acting manager told Plaintiff that
21 Massage Envy – Burlingame’s actual manager would call Plaintiff within twenty-four hours.
22 The actual manager, named Priscilla, later called Plaintiff. Plaintiff described the entire
23 incident, including every detail. Priscilla then explained to Plaintiff that she would repeat
24 Plaintiff’s incident to the owner of Massage Envy – Burlingame, ANGELINE, and they will
25 decide whether to contact the police. About two days after Plaintiff’s call with Priscilla, the
26 owner of the Massage Envy – Burlingame, ANGELINE called Plaintiff. Plaintiff was forced to
27 retell her horrifying experience once more. ANGELINE informed Plaintiff that she had hired

1 Brandon. She also told Plaintiff that she had taken Brandon's statement, and he denied
2 Plaintiff's allegations entirely. ANGELINE told Plaintiff that, "their stories did not match up"
3 and that she would not fire Brandon.

4 **JANE DOE #2 (L.T.)**

5 40. At all times relevant "Johnny" (last name presently unknown) was a male
6 massage therapist in training, interning at Massage Envy – West Covina to retain massage
7 therapy practice credit hours to get his California massage therapy certification and/or license.

8 41. On information and belief, MEF, JDSME, and LEOCADIA, hire unlicensed
9 massage therapists in training to practice massage therapy at Massage Envy franchises,
10 including Massage Envy – West Covina, to earn required credit hours as to become a certified
11 and licensed California massage therapist.

12 42. On information and belief, MEF, JDSME, and LEOCADIA hired Johnny as an
13 unlicensed massage therapist in training to practice massage therapy on Massage Envy – West
14 Covina customers to earn massage therapy school credit hours in order to become a California
15 certified and licensed massage therapist.

16 43. On information and belief, in July 2016, Johnny was a massage therapist student
17 at a local school that MEF contracts with to train and hire new massage therapists.

18 44. In or around July 2016, Plaintiff was a hired massage therapist at Massage Envy
19 – West Covina.

20 45. On information and belief, it is the customary practice of MEF and Massage
21 Envy – West Covina to encourage its massage therapists in training, including Johnny, to
22 practice massage therapy services on their co-workers.

23 46. On July 17, 2016, Plaintiff was an employee of Defendants, working as a
24 massage therapist at Massage Envy – West Covina.

25 47. Prior to July 17, 2016, Johnny had performed two practice massages on Plaintiff
26 in a professional manner and without incident.

27 48. On July 17, 2016, after Plaintiff was finished with her shift after her last client of

1 the day had cancelled her appointment, Plaintiff asked Johnny if he would like to practice and
2 perform another massage on Plaintiff. Johnny agreed. At this point, Plaintiff was no longer
3 acting as a Massage Envy employee, and was instead a Massage Envy customer. Plaintiff then
4 walked into a massage room and completely undressed while Johnny waited outside. Once
5 Plaintiff was face down and draped with a sheet, Johnny came back in the room to begin the
6 massage.

7 49. Johnny pulled the sheet off Plaintiff's back and began the massage. Without
8 Plaintiff's consent, Johnny immediately began touching Plaintiff in a very inappropriate and
9 sexual fashion, not in a way expected during a professional massage. Johnny was breathing in a
10 very sexual and intense manner. This improper conduct made Plaintiff extremely
11 uncomfortable.

12 50. Johnny then began working on Plaintiff's hands, starting with her right hand.
13 Plaintiff then felt something poking her right hand, soon realizing it was Johnny's erect penis.
14 Johnny then moved to Plaintiff's left hand and again put his erect penis on Plaintiff's hand.
15 Plaintiff was frozen in shock and fear.

16 51. Frightened as to how Johnny might react if Plaintiff confronted him or abruptly
17 left the room, Plaintiff stayed petrified on the massage table face down. Plaintiff then heard
18 Johnny taking his pants off. Johnny proceeded to make Plaintiff touch Johnny's naked body.
19 He then began using Plaintiff's hand to masturbate. Johnny did this with both Plaintiff's left
20 and right hands. After Johnny stopped using Plaintiff's hands to masturbate, Johnny began
21 masturbating himself while he continued to improperly touch and massage Plaintiff with one
22 hand.

23 52. Plaintiff was devastated by what was going on. After a few minutes, Johnny left
24 the room without saying anything to Plaintiff. Plaintiff immediately got off the table and
25 redressed herself. Plaintiff left the room in a hurry. She passed by the employee break room,
26 where Johnny looked at her with an eerie smile that communicated his feeling of satisfaction.
27 Plaintiff then ran to the bathroom, vomited and immediately went home.

1 exposing Plaintiff's legs and underwear. Plaintiff fell back asleep. Plaintiff awoke feeling the
2 massage therapist's thumbs moving toward her vaginal area. The massage therapist then began
3 massaging down Plaintiff's legs, and Plaintiff fell back asleep.

4 60. Plaintiff awoke and discovered both of the massage therapist's hands inside her
5 underwear groping and rubbing her vagina and clitoris. The massage therapist quickly removed
6 his hands from inside her underwear. Plaintiff was in total shock and tried to use "small talk" as
7 a defensive mechanism, hoping the massage therapist would stop his inappropriate touching.
8 The massage ended soon thereafter.

9 **JANE DOE #4 (K.M.)**

10 61. At all times relevant hereto, "Punay" or "Punah" (last name presently unknown)
11 was a male massage therapist working at Massage Envy – Beverly Hills who was assigned to
12 massage JANE DOE #4 (K.M.) on the date at issue, and was assigned to give massages to
13 multiple female customers in his capacity as an employee and/or agent of MEF and DOES 6-10.

14 62. JANE DOE #4 (K.M.) had a membership with Massage Envy – Beverly Hills for
15 approximately eight months.

16 63. On June 14, 2018, Plaintiff walked into a massage room and undressed. She was
17 wearing a solid white body suit, similar to a leotard, which she rolled down to her waist. Once
18 Plaintiff was face down and draped with a sheet, the massage therapist came into the room to
19 begin the massage.

20 64. During the massage, while Plaintiff was lying on her stomach, the massage
21 therapist put his hands between Plaintiff's legs. He began rubbing between Plaintiff's right leg
22 and labia, spending an abnormal amount of time in the area, and almost penetrating her vagina.
23 Plaintiff was in total shock. The massage therapist began rubbing between Plaintiff's left leg
24 and labia, getting even closer to penetrating her vagina. The massage therapist then began
25 rubbing near Plaintiff's vagina, telling her, "I feel this real connection to you." The massage
26 therapist had his phone out causing Plaintiff to fear that he was taking pictures, recording her, or
27 watching pornography at the time.

1 sheet down too far and exposed my breasts. In all of my years of getting massages here and
2 other places, I have NEVER had a therapist pull the sheet down too far.” Plaintiff said, “never
3 give me Carlos as a therapist again. and do a better job screening male masseurs to make sure
4 they are behaving appropriately with female clients.” She urged “take my comments seriously
5 and follow up with Carlos’ female clients.”

6 71. On January 18, 2016, an employee of Massage Envy – Elk Grove received
7 Plaintiff’s online complaint and began an investigation. That same day, Ocampo was notified
8 that he was on administrative leave until further notice. The Massage Envy – Elk Grove
9 employee called Plaintiff and discussed the incident with her. Plaintiff reported that Ocampo
10 exposed “the entire area” of her breasts by pulling the sheet down with “an intentional yank,” it
11 was not accidental.

12 72. On January 20, 2016, Ocampo went to Massage Envy – Elk Grove to be
13 interviewed about the incident. Ocampo was asked to describe Plaintiff’s massage. Ocampo
14 admitted to “yanking” the sheet down after completing the foot scrub, but did not say it resulted
15 in exposing Plaintiff’s breasts. Ocampo was asked if anything “abnormal” happened during the
16 massage. According to the interviewer’s notes, “Other than her not being excited, he didn’t feel
17 anything was abnormal and that the room was pretty dark so he couldn’t really see if anything
18 happened abnormal.” When asked about the size of Plaintiff’s breasts, the interviewer
19 documented Ocampo’s response as follows, “he replied ‘She had large breasts’ – his facial
20 expression at that point became very serious as opposed to the relaxed demeanor prior – like he
21 knew exactly the size of her breast, whereas in earlier reference to her appearance he wasn’t as
22 adamant about the characteristics.” Ocampo again stated that he could not think of anything
23 that could have been perceived as abnormal. When Ocampo was told that Plaintiff complained
24 that Ocampo exposed her breasts, the interviewer noted, “[Ocampo] did not seem shocked or
25 concerned [sic] at all. There was no change in his body language.” The interviewer told
26 Ocampo that Massage Envy – Elk Grove would take time to determine the resolution, but to call
27 with any changes to his story. Ocampo first stated, “yeah, I can’t think of anything...,” but then

1 continued to say “Now that I think about it, I guess her breast could have been exposed when I
2 did the sugar foot scrub but it couldn’t have been the entire breast.”

3 73. On January 25, 2016, Massage Envy – Elk Grove terminated Ocampo’s
4 employment.

5 74. Ocampo’s sexual misconduct against JANE DOE #5 (J.M.) on January 13, 2016,
6 was not the first time Massage Envy received complaints about Ocampo’s sexual misconduct at
7 Massage Envy – Elk Grove. On January 5, 2016, another Massage Envy – Elk Grove customer
8 emailed a complaint about Ocampo to the Massage Envy corporate office. The customer
9 reported that Ocampo, among other things, repeatedly touched the sides of her breasts, pressed
10 down on her buttocks cheeks and spread them apart, touched the side of her vagina, moved his
11 hand up and down over her entire vagina, and cupped his hand over her vagina as he moved it in
12 an up and down motion. On January 12, 2016, after the customer did not receive a response
13 from Massage Envy, she filed a complaint about Ocampo with the California Massage Therapy
14 Council.

15 **JANE DOE #6 (L.S.)**

16 75. At all times relevant hereto, James Mock was a male massage therapist working
17 at Massage Envy – Studio City who was assigned to massage JANE DOE #6 (L.S.) on the date
18 at issue, and was assigned to give massages to multiple female customers in his capacity as an
19 employee and/or agent of RAVELLO, RICE and GUIDRY.

20 76. On August 21, 2016, JANE DOE #6 (L.S.) went to Massage Envy – Studio City
21 for a two-hour deep tissue massage. She had been to Massage Envy – Studio City numerous
22 times before without incident.

23 77. Approximately one hour into the massage, JANE DOE #6 (L.S.) turned onto her
24 back, facing up, per Mr. Mock’s request. She continued to be covered by the sheet. When JANE
25 DOE #6 (L.S.) turned face up, Mr. Mock inquired as to whether she wanted any abdominal
26 work done and said it would be helpful to her hips. Mr. Mock stated that JANE DOE #6 (L.S.)
27 would be draped properly the entire time. JANE DOE #6 (L.S.) agreed and Mr. Mock placed a

1 towel over her chest and tucked the sheet around JANE DOE #6 (L.S.) near her waist. Mr.
2 Mock began massaging JANE DOE #6 (L.S.)'s sides. Mr. Mock then began massaging her
3 stomach. Mr. Mock then began massaging her diaphragm and sternum. Mr. Mock then said
4 JANE DOE #6 (L.S.) should take a deep breath and he ran the edges of his palms from
5 Plaintiff's sternum straight down her stomach to her abdominals. He did this a couple of times.
6 Mr. Mock again ran his hands down her sternum to her abdominals, but this time under the
7 towel, and continued under her underpants, touching his fingers to her vagina and inner labia.
8 As soon as JANE DOE #6 (L.S.) felt Mr. Mock's fingers touch her vagina, she knocked his
9 hand away. JANE DOE #6 (L.S.) was frozen and terrified.

10 78. Mr. Mock began massaging JANE DOE #6 (L.S.)'s upper body and started to
11 move the sheet, and she pulled it back over herself, but he began touching her breasts and
12 exposing them. Mr. Mock was putting his hand on the sides of JANE DOE #6 (L.S.)'s breasts
13 sweeping around them. Mr. Mock then pulled both of her arms overhead into a stretch. This
14 action caused her breasts to become exposed. He held her hands and had her breathe and stretch
15 while restrained by him. Mr. Mock then stopped for a moment and JANE DOE #6 (L.S.) heard
16 him fumbling with something that dropped. JANE DOE #6 (L.S.) did not move when he
17 stepped away as she was afraid he would attack her since he was much bigger than her. She also
18 did not open her eyes as she was afraid he would see how scared she was and react. Mr. Mock
19 continued the massage and became more aggressive, sweeping his hands across JANE DOE #6
20 (L.S.)'s breasts. The sheet continued to slip off JANE DOE #6 (L.S.), and she continued to try
21 to cover herself. At the end of the massage, Mr. Mock grabbed her nipples and pulled up, and
22 let them go several times.

23 79. Mr. Mock then ended the massage. He pulled up the sheet, leaned over JANE
24 DOE #6 (L.S.) and with his hands on her shoulder said, "Thank you for sharing your energy
25 with me." Mr. Mock then exited the room as if nothing had happened. JANE DOE #6 (L.S.)
26 quickly got dressed and tried to compose herself before she left the room. Mr. Mock walked
27 behind JANE DOE #6 (L.S.) as she walked to the front of Massage Envy. The front desk

1 receptionist Cindy talked with JANE DOE #6 (L.S.) for about ten (10) minutes while Mr. Mock
2 stood watching and smiling. Mr. Mock's assault of JANE DOE #6 (L.S.) was uninvited and
3 unwelcome.

4 80. JANE DOE #6 (L.S.) submitted a complaint against James Mock to the
5 California Massage Therapy Council on or about August 26, 2016.

6 81. According to the California Massage Therapy Council website license
7 verification search portal, James Mock's Certified Massage Therapist Certificate was revoked
8 on or about July 20, 2017. (Link: [http://camtc.org/record-](http://camtc.org/record-search?certificateNumber=&work=&lastName=mock&firstName=james)
9 [search?certificateNumber=&work=&lastName=mock&firstName=james](http://camtc.org/record-search?certificateNumber=&work=&lastName=mock&firstName=james))

10 **ALL DEFENDANTS**

11 82. At all times relevant hereto, Defendants MEF, ME TIME, ANGELINE, JDSME,
12 LEOCADIA, R & S, RAVELLO, RICE, GUIDRY, and DOES 1-40 authorized and/or entrusted
13 the massage therapists to have skin-to-skin contact with female customers and to be alone with
14 them while the customers were undressed and in a vulnerable position. The massage therapists
15 were aided in their commission of the sexual misconduct described more fully above and below
16 by virtue of their duties as massage therapists because JANE DOE #1 (N.K.) through JANE
17 DOE #6 (L.S.) were already undressed in a private room in a vulnerable position per the
18 protocol of massage clients at Massage Envy franchises.

19 83. The sexual misconduct described herein occurred on a massage table, on the
20 premises operated and/or controlled by Defendants. The improper touching and harassment of
21 Plaintiffs occurred during normal business hours of the Massage Envy locations, and occurred
22 in the course and scope of the performance of duties of massage therapists while they were
23 making skin-to-skin contact with female customers' bodies, including JANE DOE #1 (N.K.)
24 through JANE DOE #6 (L.S.).

25 84. At all times relevant herein, the massage therapists were employees, agents,
26 and/or servants of Defendants. Defendants are liable for the harm to Plaintiffs resulting from
27 the conduct of their employees, agents and/or servants' conduct because Defendants knew or

1 should have known their massage therapists' unfitness and propensities prior to the assaults on
2 Plaintiffs and at the time of their hire. Defendants are liable for the acts and omissions of the
3 massage therapists and other employees at the Massage Envy locations under the theories of
4 respondeat superior, vicarious liability, master-servant, agency, and right of control. Upon
5 information and belief, Defendants failed to conduct any criminal background check or any
6 reference check in making the determination to hire the massage therapists. Upon information
7 and belief, long before these incidents, Defendants knew or should have known that the
8 massage therapists had the propensity to act in a sexually inappropriate manner towards many
9 other women at the Massage Envy locations.

10 85. The massage therapists engaged in unpermitted, harmful and offensive touching
11 and contact upon the person of JANE DOE #1 (N.K.) through JANE DOE #6 (L.S.) in violation
12 of California law. Said conduct was undertaken while the massage therapists were employees
13 and agents of Defendants, while in the course and scope of employment with said Defendants,
14 and/or was ratified by said Defendants. Incidents of sexual misconduct by massage therapists in
15 Massage Envy's service or employment were neither isolated nor unusual. For years,
16 Defendants failed to reprimand, punish, report, or otherwise sanction massage therapists, which
17 it knew or had reason to know were sexual predators and/or mentally ill.

18 86. Defendants' failure to take appropriate action against the massage therapists
19 following their inappropriate sexual behavior toward JANE DOE #1 (N.K.) through JANE DOE
20 #6 (L.S.) thereby ratified the actions of the massage therapists, giving them access to further
21 sexually assault other female customers in the future. By not terminating the massage
22 therapists' employment, Defendants approved, aided and abetted, adopted, and ratified their
23 improper touching. No one from Defendants reported the improper touching to law
24 enforcement or any governmental licensing or regulatory agency, or anyone for that matter.

25 87. Defendants owed a duty to female customers, including JANE DOE #1 (N.K.)
26 through JANE DOE #6 (L.S.), to provide a reasonably safe environment for them, to ensure
27 their safety, and to provide reasonably necessary supervision and oversight for their safety and

1 welfare while at Massage Envy franchise locations, including Massage Envy – Burlingame,
2 West Covina, Redondo Beach, Beverly Hills, Elk Grove, and Studio City. Defendants failed to
3 fulfill their legal duty to provide a reasonably safe environment for female customers at
4 Massage Envy franchise locations.

5 88. Defendants had a duty to take reasonable steps to ensure that massage therapists
6 at Massage Envy franchise locations were psychologically fit to provide massage therapy
7 services to female customers at their franchise locations. Defendants failed to fulfill their legal
8 duty to ensure that massage therapists were psychologically fit to provide massage therapy
9 services to female customers at their franchise locations.

10 89. To the contrary, Defendants hired, retained, transferred and/or re-hired
11 individuals who it knew and/or had reason to know were sexual predators, including, but not
12 limited to their massage therapists. As a result, massage therapists at Massage Envy franchise
13 locations have sexually assaulted numerous women nationwide. Defendants have willfully
14 failed to report these assaults to police or to other public authorities including, but not limited
15 to, assaults pertaining to JANE DOE #1 (N.K.) through JANE DOE #6 (L.S.).

16 90. As a result of Defendants' negligent, careless, and reckless acts and omissions,
17 numerous women, including JANE DOE #1 (N.K.) through JANE DOE #6 (L.S.), were
18 improperly touched by depraved predators, who exploited their position as massage therapists to
19 violate innocent and unsuspecting women. Defendants failed to take reasonable steps to ensure
20 that massage therapists at Massage Envy franchise locations were psychologically fit to provide
21 massage therapy services to unsuspecting, vulnerable female customers. As a direct result of
22 Defendants' tortious acts and omissions, Plaintiffs suffered severe emotional distress.
23 Defendants knowingly permitted massage therapists to be employed, retained, rehired, and/or
24 assigned who they knew and/or had reason to know, were psychologically unfit to provide
25 massage therapy services to unsuspecting, vulnerable female customers. As a direct result of
26 Defendants' acts, Plaintiffs suffered severe physical injuries and emotional distress. Defendants
27 employed, retained, transferred, re-hired and/or assigned massage therapists who it knew or

1 should have known were sexual predators and/or mentally ill.

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

- 5 a. Failure to investigate the backgrounds of massage therapists in the
6 employ or service of the Defendants;
- 7 b. Failure to prohibit, restrict, or limit the activities of massage therapists
8 suspected of sexual misconduct and/or those known to be sexual
9 predators;
- 10 c. Failure to reasonably and properly investigate allegations of sexual
11 misconduct;
- 12 d. Failure to properly train and instruct investigators;
- 13 e. Failure to have in place, standards of acceptable and unacceptable
14 conduct;
- 15 f. Failure to formulate, effectuate and enforce policies to prevent and/or
16 minimize the risk of sexual misconduct to female customers by agents,
17 servants, and/or employees of the Defendants;
- 18 g. Failure to designate competent investigators to evaluate complaints of
19 sexual misconduct;
- 20 h. Failure to have in place standards for reporting acts of sexual misconduct
21 to law enforcement authorities;
- 22 i. Failure to have in place standards for reporting acts of sexual misconduct
23 to public officials and/or state massage therapy boards; and
- 24 j. Failure to warn customers regarding the danger of sexual assaults by
25 massage therapists at franchise locations.

26 92. Defendants had a duty to take reasonable steps to ensure that massage therapists,
27 whose duties placed them in close proximity to unsuspecting female customers, were

1 psychologically fit to perform those duties without jeopardizing the safety of said women.
2 Defendants had a duty to take reasonable steps to supervise the actions of their massage
3 therapists while providing services to female customers at Massage Envy franchises, especially
4 considering their knowledge of sexual assaults at franchise locations occurring at an
5 “enormous” number.

6 93. Defendants failed to take reasonable steps to ensure that massage therapists were
7 psychologically fit to provide massage therapy services to female customers at Massage Envy
8 franchise locations, after the Defendants knew, and/or should have known, of the dangers posed
9 by massage therapists. As a direct result of the Defendants’ acts and/or omissions, Plaintiffs
10 suffered severe emotional distress. Defendants employed, retained, transferred, re-hired and/or
11 assigned massage therapists who it knew and/or had reason to know were psychologically unfit
12 to provide massage therapy services to unsuspecting, innocent female customers. Defendants
13 employed, retained, transferred, re-hired and/or assigned massage therapists who it knew and/or
14 had reason to know or should have known were sexual predators and/or mentally ill.

15 94. Defendants’ wrongdoing, however, did not stop there. Defendants employed
16 deliberate strategies to conceal known sexual misconduct by massage therapists in the employ
17 or service of Defendants. These strategies included the following:

- 18 a. Conducting sham investigations which were designed to avoid
19 establishing culpability of massage therapists accused of sexual
20 misconduct;
- 21 b. Failing to interview witnesses or persons who possessed, or may have
22 possessed, information which might tend to establish the guilt of an
23 accused massage therapist;
- 24 c. Routinely transferring, assigning and/or re-hiring massage therapists
25 suspected of improperly touching female customers to and/or at other
26 Massage Envy locations;
- 27 d. Purposefully failing to inform customers of the acts of sexual misconduct

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and/or allegations of same, despite circumstances which gave rise to a duty to disclose such information and in fact, recommending massage therapists who were known to have improperly touched female customers;

- e. Knowingly harboring sexual predators that were suspected and/or accused of sexual misconduct;
- f. Purposefully refusing to notify law enforcement and/or state massage therapy board officials when there existed reasonable grounds to believe that a massage therapist had engaged in improper sexual conduct with a female customer; and
- g. Directing local franchisees not to report allegations of sexual abuse.

95. Defendants outrageously employed these strategies knowing that they exposed female customers, including Plaintiffs, to a significant risk of serious physical and psychological harm, including a significant risk of improper touching. Defendants' actions were willful, malicious, wanton, outrageous, abhorrent, abominable, revolting, vile, and unconscionable because Defendants were motivated by a desire to protect themselves at the expense of female customers who would foreseeably be improperly touched. Through the negligent hiring and supervision by Defendants, the massage therapists' unfitness and dangerous propensities proximately caused the resulting injuries to Plaintiffs. Defendants breached their duty of reasonable care in hiring the massage therapists because of the sensitive nature of the employment, which predictably involved a close degree of contact with vulnerable persons such as Plaintiffs.

96. Defendants were willful, wanton, reckless, negligent in overseeing and supervising and grossly negligent as a result of its employee, agent and/or servant's acts as follows:

- a. In failing to supervise and control massage therapist employees;
- b. In negligently supervising massage therapists' interaction with the

- 1 patrons of the Defendants;
- 2 c. In failing to use reasonable measures to ensure the safety of patrons of
- 3 Defendants and to prevent massage therapists from improperly touching
- 4 customers of Defendants;
- 5 d. In failing to provide adequate supervision of massage therapists;
- 6 e. In failing to make themselves aware of the ongoing activity of the patrons
- 7 of Defendants and/or massage therapists;
- 8 f. In failing to take the usual and ordinary means by which the safety of the
- 9 patrons of Defendants would be ensured;
- 10 g. In failing to use ordinary skill and care to protect Plaintiffs, which
- 11 Defendants undertook to perform;
- 12 h. In failing to ensure that Plaintiffs would not be injured by massage
- 13 therapists;
- 14 i. In failing to follow up and investigate complaints made regarding
- 15 massage therapists by patrons; and
- 16 j. In such other ways as will become evident during discovery.

17 97. Defendants then became directly liable because they approved, aided and
18 abetted, adopted, and ratified the massage therapists' improper touching of Plaintiffs.
19 Defendants' knowing acquiescence and silence with respect to the known, or reasonably
20 knowable, activities of massage therapists constituted a course of conduct through which acts of
21 sexual perversion and the violation of Massage Envy customers, including Plaintiffs, were
22 condoned, approved and effectively authorized. Through Defendants' failure to timely
23 reprimand and sanction the acts referenced herein, and for all of the other reasons set forth in
24 this Complaint including, without limitation, its failure to take the steps necessary to prevent the
25 occurrence of such reprehensible acts the Defendants ratified said actions and, accordingly, are
26 vicariously liable for the actions of the massage therapists.

27 98. As a direct and proximate result of the foregoing, Plaintiffs have suffered, and

1 proceeding Paragraphs of this Complaint.

2 101. At all times herein mentioned, Defendants, and each of them, provided massage
3 services.

4 102. Prior to the incidents, Defendants, and each of them, expressly and implicitly
5 warranted to Plaintiffs that Defendants were competent, and that they possessed and exercised
6 reasonable care and skill in providing massages without physically or emotionally harming
7 customers such as Plaintiffs.

8 103. At all relevant times herein the massage therapists, while in the course and scope
9 of their employment with Defendants, intended to cause harmful or offensive contact with
10 intimate parts of Plaintiffs, and sexually offensive contact with Plaintiffs directly and indirectly
11 resulted therefrom.

12 104. At all relevant times herein, the massage therapists, while in the course and
13 scope of their employment with Defendants, acted to cause Plaintiffs to be in imminent
14 apprehension of sexually offensive contact, and sexually offensive contact with Plaintiffs
15 directly and indirectly resulted therefrom.

16 105. Defendants owed to the public in general, and to Plaintiffs in particular, a duty to
17 reasonably identify, remove, and/or report to law enforcement authorities and/or to government
18 agencies individuals who it knew, or should have known, were sexual predators in its service
19 and employ. Defendants owed to the public in general, and to Plaintiffs in particular, a duty to
20 reasonably supervise and/or monitor individuals who it knew, or should have known, were
21 sexual predators in its service and employ. Defendants owed to Plaintiffs a duty to control the
22 acts of their agents, servants, and/or employees.

23 106. The acts and omissions of Defendants complained of herein constitute negligent
24 and reckless hiring, training, supervision, and retention of the massage therapists. It was
25 foreseeable that if Defendants did not adequately exercise or provide the duty of care owed to
26 female customers in their care, including, but not limited to Plaintiffs, they would be vulnerable
27 to sexual misconduct by massage therapists. Defendants also negligently and improperly failed

1 to exercise the minimal and reasonable care by failing to warn Plaintiffs about the massage
2 therapists' known history and propensity to improperly touch women, and by permitting and
3 encouraging the massage therapists to have physical access to Plaintiffs' bodies on the premises
4 of Defendants. Based on the acts alleged above, Defendants knew, or should have known, that
5 their failure to exercise due care toward Plaintiffs would, and did, cause Plaintiffs severe
6 emotional distress.

7 107. Despite actual knowledge of multiple instances in which sexual predators were
8 employed, transferred, re-hired and/or assigned to positions within Massage Envy franchise
9 locations and despite the foreseeable risk that said sexual predators would engage in repeated
10 acts of sexual misconduct, Defendants did not have in place or failed to enforce adequate,
11 reasonable, and necessary rules, regulations, policies, and procedures which could effectively
12 identify, and deal with sexual predators. Defendants did not have in place adequate, reasonable,
13 and necessary rules, regulations, policies, and procedures for the removal of sexual predators in
14 the employ and/or service of Defendants. Defendants did not have in place adequate,
15 reasonable, and necessary rules, regulations, policies, and procedures, which provided for the
16 reporting to criminal authorities sexual predators in the employ and/or service of Defendants.
17 Defendants did not have in place adequate, reasonable, and necessary rules, regulations,
18 policies, and procedures, which provided for the reporting to state boards of massage therapy
19 the presence of sexual predators in the employ and/or service of Defendants.

20 108. Defendants failed to fulfill their legal duty to protect Plaintiffs and other female
21 customers from the sexual misconduct of their massage therapists. Defendants failed to take
22 reasonable steps to ensure that massage therapists at Massage Envy franchise locations were
23 psychologically fit to provide massage therapy services to female customers. These failures
24 included the following: (a) failure to investigate the background of massage therapists in its
25 employ or service; (b) failure to prohibit, restrict, or limit the activities of massage therapists
26 suspected of sexual misconduct and/or those known to be sexual predators; (c) failure to
27 reasonably and properly investigate allegations of sexual misconduct; (d) failure to properly

1 train and instruct investigators; (e) failure to have in place standards of acceptable and
2 unacceptable conduct; (f) failure to designate competent investigators to evaluate complaints of
3 sexual misconduct; and (g) failure to have in place standards for reporting acts of sexual
4 misconduct to law enforcement authorities and/or state boards of massage therapy.

5 109. Moreover, the negligent, reckless, outrageous, deliberately and recklessly
6 indifferent and unlawful conduct of Defendants, as set forth above and herein, further consisted
7 of: (a) permitting massage therapists to improperly touch female customers, including Plaintiffs;
8 (b) permitting massage therapists to engage in sexual misconduct with female customers,
9 including Plaintiffs, on the premises of Massage Envy franchise locations during operating
10 hours; (d) failing to properly and adequately supervise and discipline their employees to prevent
11 the improper touching that occurred to Plaintiffs; (e) failing to adopt, enforce and/or follow
12 adequate policies and procedures for the protection and reasonable supervision of female
13 customers who engaged the services of Defendants, including Plaintiffs, and, in the alternative,
14 failing to implement and comply with such procedures which had been adopted; (f) failing to
15 implement, enforce and/or follow adequate protective and supervisory measures for the
16 protection of female customers, including Plaintiffs; (g) creating an environment that facilitated
17 improper touching by massage therapists on Plaintiffs; (h) failing to adopt, enforce and/or
18 follow policies and procedures to protect female customers against harmful contact by its
19 massage therapists; (i) failing to warn Plaintiffs of the risk of harm posed by the massage
20 therapists after Defendants knew or should have known of such risk; (j) failing to warn
21 Plaintiffs of the risk of harm that Plaintiffs may suffer as a result of contact with the massage
22 therapists; (k) failing to warn or otherwise make reasonably safe the property which Defendants
23 possessed and/or controlled, leading to the harm of Plaintiffs; (l) failing to adopt/implement
24 and/or enforce policies and procedures for the reporting to law enforcement, state board of
25 massage therapy and/or other authorities of sexual misconduct by massage therapists; (m)
26 failing to report improper touching by massage therapists to authorities; (n) violating their own
27 policies and/or by-laws regarding sexual misconduct by staff; (o) ignoring, concealing, or

1 otherwise mitigating the seriousness of the known danger that the massage therapists posed; (p)
2 failing to prevent the sexual misconduct that was committed by the massage therapists on
3 Plaintiffs and other women they improperly touched; (q) allowing the massage therapists to
4 remain employed after knowing that they improperly touched a female customer; (r) failing to
5 properly supervise and/or discipline their employees; (s) failing to adequately and properly train
6 their employees regarding sexual misconduct of female customers by massage therapists; and (t)
7 negligently managing and/or operating Massage Envy franchise locations.

8 110. Defendants having advertised and promoted Massage¹Envy as having a “zero
9 tolerance” policy relating to sexual misconduct by massage therapists, explicitly and/or
10 implicitly represented to the public in general, and to Plaintiffs in particular, that the massage
11 therapists in their employ and service were not only psychologically fit but were therapists who
12 could be entrusted with the safety and well-being of female customers. Defendants made these
13 explicit and implied representations knowing that they were false and/or having reason to
14 believe that they were false, and with the expectation that they would be relied upon by female
15 customers making decisions regarding their engagement of massage/spa services. Defendants
16 did not have in place adequate, reasonable, and necessary rules, regulations, policies, and
17 procedures with respect to the removal and/or supervision of individuals in its employ or service
18 who were suspected of being sexual predators. Defendants failed to reasonably identify,
19 remove, and/or report (to law enforcement authorities and/or to state massage therapy boards)
20 sexual predators in their service and employ. Defendants failed to reasonably supervise and/or
21 monitor individuals who it knew, or should have known, were sexual predators in their service
22 and employ. Defendants negligently, carelessly, and/or intentionally failed to timely and
23 reasonably identify, remove, and/or report (to law enforcement authorities and/or to state boards
24 of massage therapy) the massage therapists as sexual predators. Defendants hired, retained
25 and/or assigned the massage therapists to Plaintiffs knowing or having reason to know that they
26 were sexual predators. Defendants further breached their duty of care to Plaintiffs by failing to
27 protect the Plaintiffs from foreseeable harm from the sexual misconduct of employees of

1 Defendants. Defendants further breached their duty of care by failing to warn Plaintiffs of the
2 propensities of the massage therapists and by failing to provide a safe and secure environment
3 for Plaintiffs.

4 111. Defendants ratified the improper touching committed by the massage therapists
5 by continuing to employ them as massage therapists and giving them access to touch the bodies
6 of female customers including Plaintiffs, after having actual knowledge that the massage
7 therapists had improperly touched prior customers.

8 112. Plaintiffs are informed and believe and thereon allege that they will continue to
9 suffer extreme mental, physical, and pain and suffering in the future as a result of the injuries
10 alleged herein.

11 113. As a further proximate result, Plaintiffs have been damaged in that they have
12 been required to expend money and incur obligations for medical services, drugs, and sundries
13 reasonably required in the treatment and relief of the injuries alleged according to proof. As a
14 further proximate result, Plaintiffs will continue to incur, medical and related expenses.

15 **SECOND CAUSE OF ACTION**

16 **Premises Liability**

17 **(On Behalf of Jane Doe #1 (N.K.) through Jane Doe #4 (K.M.) and Jane Doe #6 (L.S.) And**
18 **Against All Defendants)**

19 114. Plaintiffs incorporate herein by reference, as though set forth in full, all
20 preceding Paragraphs of this Complaint.

21 115. Defendants owned, occupied, managed, operated, controlled, leased or serviced
22 the subject premises.

23 116. Defendants owed a duty to Plaintiffs to own, occupy, manage, operate, control,
24 lease, or service the premises in a safe and prudent manner.

25 117. The acts and/or omissions of Defendants were a breach of the duties Defendants
26 owed to Plaintiffs.

27 118. Plaintiffs are informed and believe and thereon allege that they will continue to

1 suffer extreme mental, physical, and pain and suffering in the future as a result of the injuries
2 alleged herein.

3 119. As a further proximate result, Plaintiffs have been damaged in that they have
4 been required to expend money and incur obligations for medical services, drugs, and sundries
5 reasonably required in the treatment and relief of the injuries alleged according to proof. As a
6 further proximate result, Plaintiffs will continue to incur, medical and related expenses.

7 **THIRD CAUSE OF ACTION**

8 **Intentional Infliction of Emotional Distress**

9 **(On Behalf of Jane Doe #1 (N.K.) through Jane Doe #4 (K.M.) and Jane Doe #6 (L.S.) And**
10 **Against All Defendants)**

11 120. Plaintiffs incorporate herein by reference, as though set forth in full, all
12 preceding Paragraphs of this Complaint.

13 121. As described above, without Plaintiffs' consent, Defendants' massage therapists
14 engaged in unlawful, sexual misconduct against Plaintiffs.

15 122. Defendants allowed, adopted, approved, aided, abetted, and ratified the behavior
16 of the massage therapists by allowing them to continue to work as massage therapists with
17 physical access to female customers knowing that they had a history of sexual misconduct,
18 including improperly touching and harassing female customers.

19 123. Plaintiffs are informed and believe and thereon allege that they will continue to
20 suffer extreme mental, physical, and pain and suffering in the future as a result of the injuries
21 alleged herein.

22 124. As a further proximate result, Plaintiffs have been damaged in that they have
23 been required to expend money and incur obligations for medical services, drugs, and sundries
24 reasonably required in the treatment and relief of the injuries alleged according to proof. As a
25 further proximate result, Plaintiffs will continue to incur, medical and related expenses.

26 125. The acts of Defendants alleged above were willful, wanton, malicious,
27 oppressive, fraudulent, despicable, and outrageous and justify the awarding of exemplary and

1 punitive damages.

2 **FOURTH CAUSE OF ACTION**

3 **Sexual Battery**

4 **(On Behalf of Jane Doe #1 (N.K.) through Jane Doe #4 (K.M.) and Jane Doe #6 (L.S.) And**
5 **Against All Defendants)**

6 126. Plaintiffs incorporate herein by reference, as though set forth in full, all
7 preceding Paragraphs of this Complaint.

8 127. As described above, the massage therapists, without Plaintiffs' consent, engaged
9 in sexual misconduct against Plaintiffs, all with the intent of sexual arousal in violation of Civil
10 Code § 1708.5 and Penal Code § 243.4(e)(1).

11 128. Defendants' conduct was a substantial factor in causing Plaintiffs' physical and
12 emotional harm.

13 129. The massage therapists were still employed as massage therapists at Defendants.
14 Defendants failed to adequately investigate and reprimand them. By allowing the massage
15 therapists to continue working as massage therapists after each of the aforementioned incidents
16 and failing to adequately investigate and reprimand them, Defendants approved, aided and
17 abetted, adopted, and ratified the massage therapists' sexual misconduct.

18 130. Plaintiffs are informed and believe and thereon allege that they will continue to
19 suffer extreme mental, physical, and pain and suffering in the future as a result of the injuries
20 alleged herein.

21 131. As a further proximate result, Plaintiffs have been damaged in that they have
22 been required to expend money and incur obligations for medical services, drugs, and sundries
23 reasonably required in the treatment and relief of the injuries alleged according to proof. As a
24 further proximate result, Plaintiffs will continue to incur, medical and related expenses.

25 132. Plaintiffs have also been required to expend attorney fees to pursue their rights
26 under Civil Code § 1708.5, and request that they be awarded all attorney fees and costs
27 reasonably required to pursue their claims pursuant to Civil Code § 1708.5.

1 **FIFTH CAUSE OF ACTION**

2 **GENDER VIOLENCE - Violation of California Civil Code § 52.4**

3 **(On Behalf of Jane Doe #1 (N.K.) through Jane Doe #4 (K.M.) and Jane Doe #6 (L.S.) And**
4 **Against All Defendants)**

5 133. Plaintiffs incorporate herein by reference, as though set forth in full, all
6 preceding Paragraphs of this Complaint.

7 134. Defendants adopted, approved, ratified, and aided and abetted the massage
8 therapists' gender violence on Plaintiffs, which constituted criminal offenses under California
9 law, including Penal Code § 243.4, sexual battery, which includes the use, attempted use, or
10 threatened use of physical force against a person.

11 135. These crimes are at least in part based on the gender of Plaintiffs.

12 136. Defendants caused a physical intrusion or a physical invasion of a sexual nature
13 under coercive conditions to Plaintiffs' persons in that Plaintiffs were improperly exposed and
14 touched by the massage therapists, all without Plaintiffs' consent.

15 137. The acts of violence as alleged above were directed at Plaintiffs because they
16 were women. These acts were intended to humiliate and degrade Plaintiffs because they were
17 women. These acts robbed Plaintiffs of their dignity.

18 138. Plaintiffs are informed and believe and thereon allege that they will continue to
19 suffer extreme mental, physical, and pain and suffering in the future as a result of the injuries
20 alleged herein.

21 139. As a further proximate result, Plaintiffs have been damaged in that they have
22 been required to expend money and incur obligations for medical services, drugs, and sundries
23 reasonably required in the treatment and relief of the injuries alleged according to proof. As a
24 further proximate result, Plaintiffs will continue to incur, medical and related expenses.

25 140. Defendants' aforementioned conduct was accomplished intentionally and/or
26 recklessly with conscious disregard for Plaintiffs' health, safety, privacy, freedom, and human
27 dignity. The aforementioned conduct was so outrageous in character and so extreme in degree

1 as to go beyond all possible bounds of decency, and should be regarded as despicable, atrocious,
2 and utterly intolerable in a civilized community. The acts of Defendants alleged above were
3 willful, wanton, malicious, oppressive, fraudulent, despicable, and outrageous and justify the
4 awarding of exemplary and punitive damages.

5 **SIXTH CAUSE OF ACTION**

6 **FREEDOM FROM VIOLENCE PURSUANT TO THE RALPH ACT –**

7 **Violation of California Civil Code §§ 51.7 and 52**

8 **(On Behalf of Jane Doe #1 (N.K.) through Jane Doe #4 (K.M.) and Jane Doe #6 (L.S.) And**
9 **Against All Defendants)**

10 141. Plaintiffs incorporate herein by reference, as though set forth in full, all
11 preceding Paragraphs of this Complaint.

12 142. Defendants subjected Plaintiffs to violence based on their sex, causing physical
13 and psychological injuries to them. A motivating reason for their conduct was Plaintiffs' sex.

14 143. Plaintiffs are informed and believe and thereon allege that they will continue to
15 suffer extreme mental, physical, and pain and suffering in the future as a result of the injuries
16 alleged herein.

17 144. As a further proximate result, Plaintiffs have been damaged in that they have
18 been required to expend money and incur obligations for medical services, drugs, and sundries
19 reasonably required in the treatment and relief of the injuries alleged according to proof. As a
20 further proximate result, Plaintiffs will continue to incur, medical and related expenses.

21 145. Defendants' conduct was a substantial factor in causing Plaintiffs' harm.

22 146. As a result of the aforementioned conduct, Plaintiffs are entitled to a \$25,000.00
23 penalty and/or punitive damages for Defendants' conduct in violation of Civil Code § 51.7, as
24 well as attorney's fees and costs pursuant to Civil Code § 52.

25 147. The aforementioned conduct was accomplished intentionally and/or recklessly
26 with conscious disregard for said Plaintiffs' health, safety, privacy, freedom, and human
27 dignity. Defendant's aforementioned conduct was so outrageous in character and so extreme in

1 degree as to go beyond all possible bounds of decency, and should be regarded as despicable,
2 atrocious, and utterly intolerable in a civilized community. The acts of Defendants alleged
3 above were willful, wanton, malicious, oppressive, fraudulent, despicable, and outrageous and
4 justify the awarding of exemplary and punitive damages.

5 **SEVENTH CAUSE OF ACTION**

6 **FALSE IMPRISONMENT**

7 **(On Behalf of Jane Doe #1 (N.K.) through Jane Doe #4 (K.M.) and Jane Doe #6 (L.S.) And**
8 **Against All Defendants)**

9 148. Plaintiffs incorporate herein by reference, as though set forth in full, all
10 preceding Paragraphs of this Complaint.

11 149. The massage therapists recklessly, negligently, and wrongly restrained, confined,
12 and detained Plaintiffs by depriving them of their freedom of movement by use of physical
13 force without Plaintiffs' consent.

14 150. The massage therapists were still employed as massage therapists at Defendants.
15 Defendants failed to adequately investigate and reprimand the massage therapists. By allowing
16 them to continue working as massage therapists after each of the aforementioned incidents and
17 failing to adequately investigate and reprimand them, Defendants approved, aided and abetted,
18 adopted, and ratified the massage therapists' false imprisonment of Plaintiffs.

19 151. Defendants' conduct was a substantial factor in causing Plaintiffs' harm.

20 152. Plaintiffs are informed and believe and thereon allege that they will continue to
21 suffer extreme mental, physical, and pain and suffering in the future as a result of the injuries
22 alleged herein.

23 153. As a further proximate result, Plaintiffs have been damaged in that they have
24 been required to expend money and incur obligations for medical services, drugs, and sundries
25 reasonably required in the treatment and relief of the injuries alleged according to proof. As a
26 further proximate result, Plaintiffs will continue to incur, medical and related expenses.

27 154. The acts of Defendants alleged above were willful, wanton, malicious,

1 oppressive, fraudulent, despicable, and outrageous and justify the awarding of exemplary and
2 punitive damages.

3 **EIGHTH CAUSE OF ACTION**

4 **NEGLIGENT MISREPRESENTATION**

5 **(On Behalf of Jane Doe #1 (N.K.) through Jane Doe #4 (K.M.) and Jane Doe #6 (L.S.) And**
6 **Against All Defendants)**

7 155. Plaintiffs incorporate herein by reference, as though set forth in full, all
8 preceding Paragraphs of this Complaint.

9 156. Defendants had no reasonable grounds for believing the false representations it
10 made to Plaintiffs regarding safety and reliability of its services were true. Nevertheless,
11 Defendants intended that customers, including Plaintiffs, rely on their representations in
12 choosing Massage Envy over other massage therapy services and options.

13 157. Plaintiffs reasonably relied on Defendants' misrepresentations in obtaining
14 massages at Massage Envy locations, and their reliance on Defendants' misrepresentations were
15 a substantial factor in causing their harm. If Plaintiffs had known the facts Defendants
16 concealed about their service, security screening, and massage therapists, they would not have
17 accepted massages from the massage therapists. Defendants failed to provide Plaintiffs with
18 safe massages.

19 **NINTH CAUSE OF ACTION**

20 **FRAUD, INTENTIONAL MISREPRESENTATION, CONCEALMENT, FALSE**

21 **PROMISE**

22 **(On Behalf of All Plaintiffs And Against All Defendants)**

23 158. Plaintiffs incorporate herein by reference, as though set forth in full, all
24 preceding Paragraphs of this Complaint.

25 159. Defendants made false representations and false promises that harmed Plaintiffs.

26 160. Defendants falsely represented to Plaintiffs that they had a "zero tolerance"
27 policy relating to sexual misconduct by massage therapists. Defendants falsely represented to

1 Plaintiffs that the massage therapists in their employ and service were not only psychologically
2 fit, but were therapists who could be entrusted with the safety and well-being of female
3 customers. Defendants represented that their massage therapists were properly screened and
4 were safe.

5 161. Defendants falsely represented to Plaintiffs that their massages were safe and
6 that their massage therapists were safe.

7 162. Defendants knew these representations were false and intended for customers,
8 like Plaintiffs, to rely on them.

9 163. Defendants knew that their security screening was deficient, that their
10 background checks were below industry standards, and that their massage therapists were not
11 trained or supervised, or given sexual harassment and abuse standards. Defendants knew that
12 numerous women had been assaulted by massage therapists. Defendants knew that it was not
13 safe for female customers to get massages from their massage therapists. Defendants
14 intentionally concealed these facts, and deliberately represented the opposite – that Massage
15 Envy had a “zero tolerance” policy relating to sexual misconduct and their massage therapists
16 could be entrusted with customer safety.

17 164. Plaintiffs reasonably relied on Defendants’ misrepresentations in getting
18 massages at Massage Envy locations, and their reliance on Defendants’ misrepresentations were
19 a substantial factor in causing their harm. If Plaintiffs had known the facts Defendants
20 concealed about their service, security screening, and massage therapists, they would never have
21 accepted massages from the massage therapists. Defendants failed to provide Plaintiffs with
22 safe massages.

23 **TENTH CAUSE OF ACTION**

24 **CONSUMER LEGAL REMEDIES ACT – Violation of Civil Code § 1750, *et seq.***

25 **(On Behalf of All Plaintiffs And Against All Defendants)**

26 165. Plaintiffs incorporate herein by reference, as though set forth in full, all
27 preceding Paragraphs of this Complaint.

1 166. Plaintiffs are consumers and Massage Envy massage services are goods or
2 services as those terms are defined in Civil Code § 1761.

3 167. Each Defendant is a “person,” as that term is defined in Civil Code § 1761(c).

4 168. Each Plaintiff’s massage at the Massage Envy locations constituted a
5 “transaction,” as that term is defined in Civil Code § 1761(e).

6 169. As detailed above, Defendants have engaged in and continue to engage in
7 business practices in violation of Civil Code § 1750, *et seq.* (the CLRA) by inter alia, actively
8 concealing and failing to warn customers about the inadequacy of their background screening of
9 massage therapists, as well as their failure to monitor the conduct of massage therapists after
10 hire.

11 170. Defendants also misled consumers about the safety of their services by falsely
12 claiming they had a “zero tolerance” policy relating to sexual misconduct by massage therapists.
13 Defendants misled consumers that the massage therapists in their employ and service were not
14 only psychologically fit, but were therapists who could be entrusted with the safety and well-
15 being of female customers.

16 171. Defendants have actively concealed and failed to disclose this information
17 knowing that such information is material to a reasonable consumer’s decision to use Massage
18 Envy for massage services, and thereby misrepresented the safety of massages offered by
19 Massage Therapy.

20 172. Defendants’ business practices are unfair and/or deceptive and should be
21 enjoined.

22 173. Defendants have engaged in unfair or deceptive acts or practices intended to
23 result in consumers agreeing to pay Defendants for massage services in violation of Civil Code
24 § 1770.

25 174. Defendants knew and/or should have known that their concealment and/or
26 omissions of material fact concerning their safety representations to consumers, including their
27 screening of massage therapists, monitoring of massage therapists’ conduct after hire, and safety

1 during massages that were material and likely to mislead the public. Accordingly, Defendants'
2 conduct alleged herein violates the CLRA, including Civil Code §§ 1770(a)(7) and (a)(9).

3 175. As a direct and proximate result of Defendants' conduct, as set forth herein,
4 Defendants have received ill-gotten gains and profits. Therefore, Defendants have been
5 unjustly enriched.

6 176. Plaintiffs will suffer irreparable harm unless Defendants' conduct is enjoined.

7 177. Pursuant to Civil Code §§ 1780(a) and (e), Plaintiffs seek an order enjoining
8 Defendants' unlawful business practices alleged herein.

9 178. On July 17, 2018, Plaintiffs notified Defendants in writing that their conduct is in
10 violation of the CLRA and demanded that Defendants remedy the violations. If after 30 days,
11 Defendants have failed to remedy their violations, Plaintiffs will amend this Complaint to add
12 claims for actual, punitive and statutory damages pursuant to the CLRA § 1782(2), including
13 attorneys' fees and costs to the full extent allowed by law.

14 179. On July 17, 2018, Plaintiffs notified Defendants in writing that their conduct is in
15 violation of the CLRA and demanded that Defendants remedy the violations. On July 20, 2018,
16 Defendants received Plaintiffs' notice. Defendants did not remedy the violations, agree to
17 remedy the violations, or provide notice to their affected consumers. Instead, Defendants wrote
18 to Plaintiffs' counsel instructing Plaintiffs that Defendants would not remedy the violations or
19 provide notice to their affected consumers.

20 180. As Defendants have failed to remedy their violations and provide notice to their
21 affected consumers within thirty (30) days of receiving Plaintiffs' notice, and it has been more
22 than thirty (30) days since Plaintiffs filed the original Complaint in this action, Plaintiffs are
23 entitled to recover actual, punitive and statutory damages pursuant to the CLRA § 1782(2),
24 including attorneys' fees and costs to the full extent allowed by law.

25 181. Additionally, under Civil Code § 1021.5, Plaintiffs seek reasonable attorneys'
26 fees as this lawsuit seeks the enforcement of an important right affecting the public interest and
27 satisfies the statutory requirements for an award of attorneys' fees.

1 ELVENTH CAUSE OF ACTION

2 CIVIL CONSPIRACY

3 (On Behalf of All Plaintiffs And Against All Defendants)

4 182. Plaintiffs incorporate herein by reference, as though set forth in full, all
5 preceding Paragraphs of this Complaint.

6 183. Plaintiffs are informed and believe and thereon allege that Defendants knowingly
7 and willfully conspire and agree among themselves to misrepresent to Plaintiffs and all of
8 Defendants' customers that there was a problem of women being sexually assaulted at their
9 Massage Envy franchise locations by its massage therapists. This conspiracy continues to this
10 day.

11 184. MEF, other Defendants named herein, and other of MEF's franchisees conspired
12 to keep the problem of woman being sexually assaulted at its franchise locations by massage
13 therapists from Plaintiffs, and all of Defendants' customers. Instead of informing Plaintiffs and
14 all of Defendants' customers about the problem of woman being sexually assaulted at its
15 franchise locations by massage therapists, MEF, other Defendants named herein, and other of
16 MEF's franchisees intentionally and falsely told Plaintiffs and all of Defendants' customers that
17 safety is at the core of their company's mission, that it has a zero tolerance policy towards
18 sexual assaults committed by their massage therapists, that they protect their customers, that
19 they carefully select and thoroughly train their massage therapists, that they are dedicated to
20 providing a comfortable and professional environment, that Plaintiffs and all of Defendants'
21 customers can be confident they will have a positive experience, that they bring joy into
22 Plaintiffs and all of Defendants' customers' lives, and that they make the best of everybody,
23 among other intentionally false statements to Plaintiffs and all of Defendants' customers.

24 185. In furtherance of said conspiracy and agreement, Defendants engaged in
25 fraudulent representations, omissions and concealment of facts, acts of cover-up and statements
26 calculated to obtain Plaintiffs and all of Defendants' customers as massage customers in their
27 Massage Envy franchise locations for the benefit of Defendants and as set forth in detail in the

1 foregoing paragraphs, which are hereby incorporated herein as though set forth in full.

2 186. All of the actions of Defendants set forth in the preceding paragraphs,
3 incorporated herein, were in violation of the rights of Plaintiffs and committed in furtherance of
4 the aforementioned conspiracies and agreements. Moreover, each of the aforementioned
5 Defendants lent aid and encouragement and knowingly financed, ratified and adopted the acts of
6 the other. As a proximate result of the wrongful acts herein alleged, Plaintiffs and the class have
7 suffered significant damage to be determined at trial.

8 187. These acts constituted malicious conduct which was carried on by said
9 Defendants with willful and conscious disregard for Plaintiffs' rights with the intention of
10 willfully concealing the problem of woman being sexually assaulted at its franchise locations by
11 massage therapists, and was despicable conduct that subjected Plaintiffs to a cruel and unjust
12 hardship so as to justify an award of exemplary and punitive damages. Accordingly, punitive
13 damages should be awarded against Defendants to punish them and deter them and other such
14 persons from committing such wrongful and malicious acts in the future.

15 **TWELFTH CAUSE OF ACTION**

16 **UNFAIR & FRAUDULENT BUSINESS PRACTICES – Violation of Civil Code § 17200,**

17 *et seq.*

18 **(On Behalf of All Plaintiffs And Against All Defendants)**

19 188. Plaintiffs incorporate herein by reference, as though set forth in full, all
20 preceding Paragraphs of this Complaint.

21 189. Defendants have engaged in and continue to engage in unlawful, fraudulent and
22 unfair practices, which are substantially likely to mislead Plaintiffs and all of Defendants'
23 customers, by representing intentionally misrepresenting that their Massage Envy franchise
24 locations were safe from sexual assaults, when in fact they knew they were not and their
25 statements were false.

26 190. Plaintiffs are informed and believe and thereon allege that Defendants' conduct
27 resulted in profits and pecuniary gain received from Plaintiffs and all of Defendants' customers

1 who contracted with Defendants and/or purchased massage services from Defendants.

2 191. The business acts and practices of Defendants are unlawful, unfair and deceptive
3 within the meaning of the consumer protection statutes because, inter alia, Defendants engaged
4 in fraud by intentionally misrepresenting that their Massage Envy franchise locations were safe
5 from sexual assaults, when in fact they knew they were not and their statements were false.
6 Further, Defendants have engaged in, and continue to engage in the following unlawful, unfair
7 and/or fraudulent business practices in violation of Business and Professions Code § 17200:
8 sexual battery in violation of Civil Code § 1708.5; gender violence in violation of Civil Code §
9 52.4; Ralph Act sexual harassment in violation of the Civil Code § 51.7; civil conspiracy to
10 deprive Plaintiffs their civil rights based on sex; intentional infliction of emotional distress;
11 negligence and negligent supervision and hiring; and fraud, concealment and misrepresentation.

12 192. As a direct and proximate result of Defendants' conduct, as set forth herein,
13 Defendants have received ill-gotten gains and/or profits, including, but not limited to money.
14 Therefore, Defendants were and are unjustly enriched. Pursuant to Business & Professions Code
15 § 17203, Plaintiffs and the class request restitution and/or restitutionary disgorgement of all
16 sums, including profits, obtained in violation of Business & Professions Code §§17200, et seq.

17 193. Plaintiffs seek injunctive relief, restitution and restitutionary disgorgement of ill-
18 gotten gains from Defendants as specifically provided in Business & Professions Code § 17203.
19 Plaintiffs seek injunctive relief, restitution and restitutionary disgorgement of the ill-gotten
20 gains from Defendants.

21 194. Plaintiffs engaged counsel to prosecute this action.

22 195. Plaintiffs are informed and believes and based thereon alleges that Defendants'
23 illegal acts as described above are a serious and continuing threat to Plaintiffs and the public. If
24 Defendants are allowed to continue their unfair and unlawful acts, Plaintiffs and the public will
25 suffer further immediate and irreparable injury, loss and damage. Plaintiffs are further informed
26 and believes, and based thereon alleges, that, in the absence of a temporary restraining order and
27 preliminary and permanent injunctions as prayed for below, Defendants will continue to

1 unfairly and unlawfully compete.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them as
4 follows as to each cause of action:

- 5 1. For general damages;
- 6 2. For special damages for medical, hospital, and incidental expenses;
- 7 3. For punitive damages/exemplary damages according to proof and pursuant to Civil
8 Code §§ 1708.5(3)(b) and 1782(2);
- 9 4. For attorney fees and/or penalties pursuant to Civil Code §§ 1708.5(3)(b) and
10 1782(2) and Civil Code §§ 51.7, 52, and 52.4, and Code of Civil Procedure §
11 1021.5;
- 12 5. For costs of suit herein incurred;
- 13 6. For injunctive relief pursuant to Civil Code §§ 1770 and 1780(a) and (e).
- 14 7. That the Court enter an order for restitution and/or restitutionary disgorgement of
15 profits wrongfully obtained by the Defendants pursuant to Business and Professions Code §§
16 17200, et seq.
- 17 8. For such other and further relief as the court may deem proper.

17 **JURY DEMAND**

18 Plaintiffs hereby demand a trial by jury on all triable issues.

19 DATED: August 20, 2018

THOMPSON LAW OFFICES, P.C.

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21 By: 
22 Robert W. Thompson, Esq.
23 Attorney for Plaintiffs
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