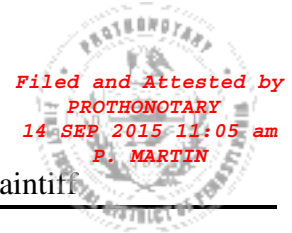


LAFFEY, BUCCI & KENT LLP

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(215) 399-9255



Attorneys for Plaintiff

Mary Doe (a fictitious name)
c/o Laffey, Bucci & Kent LLP
1435 Walnut Street, 7th Floor
Philadelphia, PA 19102

Plaintiff

v.

Massage Envy Franchising, LLC
14350 North 87th Street, Suite 200
Scottsdale, AZ 85260

(cont'd on next page)

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY
CIVIL TRIAL DIVISION

AUGUST TERM, 2015

No. 409

JURY TRIAL DEMANDED

NOTICE TO DEFEND

NOTICE

“You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

“YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL and INFORMATION SERVICE
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-1701”

AVISO

“Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días, de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

“LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL

ASOCIACION DE LICENCIADOS DE FILADELFA
SERVICIO DE REFERENCIA E INFORMACION LEGAL

One Reading Center
Filadelfia, Pennsylvania 19107
Telefono: (215) 238-1701”

Roark Capital Group, Inc. :
1180 Peachtree NE :
Suite 2500 :
Atlanta, GA 30309 :
:
and :
:
Spa Dogs, LLC :
350 East Biddle Street :
West Chester, PA 19380 :
:
Defendants :

FIRST AMENDED COMPLAINT

The Parties

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

2. There exists good cause for Plaintiff to use a pseudonym due to the harmful effect of the public disclosure of her identity and the harm inflicted by the Defendants to Mary Doe. Plaintiff's undersigned counsel will provide the identity of Plaintiff to all Defendants. As such, Defendants suffer no prejudice as a result of concealing her identity in the Complaint and Verifications.

3. Defendant, Spa Dogs LLC (hereinafter "Spa Dogs") because Spa Dogs is a Pennsylvania corporation with its principal place of business located at 350 East Biddle Street, West Chester, PA 19380. Spa Dogs owns, operates, controls, manages and/or does business as Massage Envy Spa, located at 1107 West Chester Pike, West Chester, PA (hereinafter referred to as "Massage Envy West Chester"), a day spa that offers massages and other spa services.

4. Defendant, Massage Envy Franchising, LLC (hereinafter referred to as “Massage Envy”), is an Arizona corporation with its principal place of business located in Scottsdale, Arizona. Massage Envy is a massage and spa therapy franchise with approximately 900 franchises located across the United States and is the largest employer of massage therapists nationwide. It is also believed and therefore averred that Massage Envy owns, operates, controls manages and/or does business as Massage Envy West Chester, Massage Envy Philadelphia, .

5. Defendant, Roark Capital Group, Inc. (hereinafter “Roark Capital”) is a Georgia corporation with its principal place of business located in Atlanta, Georgia. It is believed and therefore averred that Roark Capital owns, operates, controls and/or manages Massage Envy and/or Massage Envy franchise locations throughout the United States, including, but not limited to Massage Envy West Chester.

6. Venue is proper in Philadelphia County pursuant to Pa. R. C. P. 2179(a)(2) as all Defendants regularly and systematically conduct business within Philadelphia County, specifically:

- Massage Envy has entered into franchise agreements with residents of Philadelphia;
- Massage Envy has a franchisee within Philadelphia County;
- Massage Envy Philadelphia – a tri-state franchisee co-op of Defendant, Massage Envy made up of franchisees, including Spa Dogs, located in Pennsylvania, Southern New Jersey and Delaware – is based in and located within Philadelphia County;
- Massage Envy has only two data centers nationwide, one of which is located in Philadelphia County. This data center is responsible for managing Massage

Envy's IT services nationwide in order to ensure its enterprise applications, web-based scheduling systems, and databases operate consistently across an entire network of franchises across the county. The Philadelphia data center ensures that all Massage Envy clinics throughout the country, including, but not limited to Spa Dogs, remain online.

- All advertising for Massage Envy franchisees located in the Philadelphia area, including, but not limited to, Spa Dogs, is done through LevLane Advertising Agency located at 100 Penn Square East, Philadelphia, Pa. As such, all marketing for Massage Envy, Massage Envy Philadelphia and Massage Envy franchisees for television, radio, online advertising, search engine marketing, sponsorships, event marketing, and direct mail in Philadelphia, Pennsylvania, southern New Jersey and Delaware occurs within Philadelphia County.
- Massage Envy has an exclusive business partnership with the National Massage Therapy Institute (hereinafter "NMTI") located at 10050 Roosevelt Blvd, Philadelphia, Pa.;
- Spa Dogs and Massage Envy regularly and systematically do business within Philadelphia County through advertisement and sales of its massage and spa services within Philadelphia County. Further, Spa Dogs and Massage Envy provide massage therapy services to a large amount of Philadelphia residents;
- Upon information and relief Defendant, Massage Envy has launched a campaign specifically targeting residents of Philadelphia County by signing several franchise agreements in the Philadelphia and other Southeastern

Pennsylvania markets in order to expand the franchise and conduct business with Philadelphia residents;

- Upon information and belief Massage Envy employees and agents live in Philadelphia County;
- Defendant, Roark Capital, regularly and systematically does business within Philadelphia County through its ownership, operation and/or management of numerous businesses located within Philadelphia County including, but not limited to, Moe's Southwest Grill, Corner Bakery Cafe, Auntie Anne's and Cinnabon restaurants/shops, as well as Carvel and Pet Valu stores.

Operative Facts

7. Upon information and belief, sexual assaults committed by massage therapists at Massage Envy franchise locations occurs on a national scale with more than fifty (50) allegations of sexual assaults by Massage Envy therapists occurring in approximately fifteen (15) different states.

8. 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.

9. 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." Massage Envy also does not require documentation by its franchisees of any reports of

inappropriate conduct and/or sexual assaults committed by Massage Envy therapists to ensure that said reports are documented.

10. 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.

11. 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.

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

13. At all times relevant hereto, James Deiter (hereinafter “Deiter”) was working in the course and scope of his employment with Spa Dogs, Massage Envy and/or Roark Capital as a massage therapist at Massage Envy West Chester.

14. It is believed and therefore averred that employees at Massage Envy West Chester would recommend Deiter to their female customers.

15. Throughout the years 2014 and 2015, Deiter sexually assaulted multiple female customers while under the guise of performing massage therapy on them at Massage Envy West Chester. The sexual assaults committed by Deiter upon female customers at Massage Envy West Chester included, but are not limited to, touching their bare breasts, touching their vaginal/genital

area, digitally penetrating their vaginas and/or placing his erect penis on the hands/and or bodies of female customers. All of the aforementioned acts were done without the consent of said female customers and many of them occurred *after* Spa Dogs, Massage Envy and/or Roark Capital *knew* of the sexual assault committed by Deiter on Mary Doe and/or after Spa Dogs, Massage Envy and/or Roark Capital suspended Deiter for approximately one week after learning of said sexual assault.

16. Specifically, Deiter was assigned to give massages to multiple female customers in his capacity as an employee and/or agent of Spa Dogs, Massage Envy and/or Roark.

17. At all times relevant hereto, Spa Dogs, Massage Envy and/or Roark Capital authorized and/or entrusted Deiter to have skin-to-skin contact with the aforementioned female customers and to be alone with them while the customers were undressed and in a vulnerable position. Deiter was aided in his commission of the sexual assaults described more fully above and below by virtue of his duties as a massage therapist because the female customers mentioned herein were already undressed in a private room in a vulnerable position per the protocol of massage clients at Massage Envy franchises, including, but not limited to, Massage Envy West Chester.

18. The sexual assaults described herein occurred on a massage table, on the premises operated and/or controlled by Spa Dogs, Massage Envy and/or Roark Capital.

19. The sexual assaults described above and below, including the assault of Plaintiff, occurred during normal business hours of Massage Envy West Chester and occurred in the course and scope of the performance of duties of Deiter while he was making skin-to-skin contact with female customers' bodies, including Plaintiff's.

20. Prior to November of 2015, it is believed and therefore averred that Deiter sexually assaulted several women in his role as a massage therapist at Massage Envy West Chester.

21. At all times relevant hereto, Spa Dogs, Massage Envy and/or Roark Capital authorized and entrusted Deiter to have skin-to-skin contact with Plaintiff's body and to be alone with Plaintiff while Plaintiff was undressed and in a vulnerable position.

22. Deiter was aided in his commission of the sexual assault of Plaintiff described more fully below by virtue of his duties as a massage therapist because Plaintiff was already undressed in a private room in a vulnerable position per the protocol of massage clients at Massage Envy franchises.

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

24. The sexual assault of Plaintiff described below occurred during normal business hours of Massage Envy West Chester and occurred in the course and scope of the performance of duties of Deiter while he was making skin-to-skin contact with Plaintiff's body.

25. Specifically, upon information and belief, in or around November/December of 2014, Plaintiff went to Massage Envy West Chester for a massage.

26. After arriving at Massage Envy West Chester, Deiter came out and brought Plaintiff to a massage room. At Deiter's direction, Plaintiff removed her clothing leaving on only her underwear and got onto the massage table under a sheet.

27. Thereafter, Deiter, while giving a massage to Plaintiff touched her bare breasts and genital area.

28. In January of 2015, Mary Doe reported her assault to a female employee at Massage Envy West Chester.

29. After learning of the report of Deiter committing the aforementioned sexual assault upon Mary Doe, employee(s) of Massage Envy West Chester reported same to the main office of Massage Envy in Arizona, per Massage Envy protocol.

30. It is also believed and therefore averred that, consistent with Massage Envy policy and procedure, Massage Envy informed and directed the employee(s) at Massage Envy West Chester not to report the assault to the Pennsylvania Board of Massage Therapy and/or law enforcement personnel but rather to handle the matter “in-house.”

31. As a result, it is believed and therefore averred that no one from Spa Dogs, Massage Envy, Roark Capital or any employee(s) at Massage Envy West Chester reported the assault to the Pennsylvania Board of Massage therapy, law enforcement or anyone for that matter.

32. Instead, it is believed and therefore averred that Spa Dogs, Massage Envy and/or Roark Capital chose not to conduct any investigation whatsoever into the report of Deiter sexually assaulting Mary Doe in January of 2015. **Rather, inexplicably and at the direction of Spa Dogs, Massage Envy and/or Roark Capital, Deiter was *merely suspended for one week and allowed to return to full duty thereafter with no restrictions concerning his access to female customers.*** (emphasis added).

33. Moreover, at no point did anyone from Spa Dogs, Massage Envy and/or Roark inform and/or warn any female customers at Massage Envy West Chester of the assault committed by Deiter on Mary Doe.

34. **In fact, employee(s) at Massage Envy West Chester unfathomably recommended Deiter to unknowing female customers after they knew he had already sexually assaulted at least one client at that location.**

35. As a result, Deiter would go on to sexually assault numerous unsuspecting female customers at Massage Envy West Chester, thereby aggravating and compounding the injuries and damages already caused to Mary Doe as a result of being sexually assaulted by Deiter as she now feels a tremendous amount of mental anguish, grief and guilt as a result of the women who were assaulted after she reported her assault to Massage Envy West Chester.

36. On May 2, 2015, Deiter sexually assaulted another female customer (hereinafter referred to as “June Doe”) under the guise of massage therapy at Massage Envy West Chester.

37. That same day, June Doe reported the assault to local law enforcement.

38. Upon information and belief, on May 2, 2015, Deiter met with West Goshen Police Detective Michael Carroll in order to be interviewed concerning the reported sexual assault that day on June Doe at Massage Envy West Chester. Deiter proceeded to admit to the sexual assaults described more fully herein and, in fact, disclosed the identities and facts of multiple women he had assaulted at Massage Envy West Chester, including Plaintiff.

39. As a result, Deiter was arrested and charged with committing multiple violations of Pennsylvania’s Criminal Code, including, but not limited to, 18 Pa. C. S. A. § 3125(a)(1) Aggravated Indecent Assault without the Consent of Another and 18 Pa. C. S. A. § 3123 Indecent Assault without the Consent of Another.

40. At all times material hereto, Deiter was acting within the course and scope of his employment, master-servant, or agency relationship with Spa Dogs, Massage Envy and/or Roark Capital while he was providing massage services to the women described herein, including, but

not limited to, Plaintiff. Accordingly, Spa Dogs, Massage Envy and/or Roark Capital are liable for the acts and omissions of Deiter and other employees at Massage Envy West Chester under the theories of respondeat superior, vicarious liability, master-servant, agency, and right of control.

41. All Defendants are vicariously liable to Plaintiff for injuries sustained as a result of the negligence, gross negligence, and willful and/or intentional misconduct of persons or entities whose conduct was under their control, or right to control, namely, Deiter and other employees at Massage Envy West Chester, and which conduct directly and proximately caused Plaintiff's injuries.

42. Spa Dogs, Massage Envy and/or Roark Capitals' knowing acquiescence and silence with respect to the known, or reasonably knowable, activities of Deiter constituted a course of conduct through which acts of sexual perversion and the violation of Massage Envy customers, including Plaintiff, were condoned, approved and effectively authorized.

43. 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 and, in fact, recommend Deiter to female customers, including Plaintiff, after Deiter had sexually assaulted at least one female customer, the Defendants ratified said actions and, accordingly, are vicariously liable for the actions of Deiter.

44. Defendants, Massage Envy and Roark Capital, owed a duty to female customers, including Plaintiff herein, to provide a reasonably safe environment for them, to ensure their safety, and to provide reasonably necessary supervision and oversight for their safety and welfare

while at Massage Envy franchise locations, including Massage Envy West Chester. Defendant, Spa Dogs, owed the same duty to female customers at Massage Envy West Chester.

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

46. Defendants, Massage Envy and Roark Capital, had a duty to take reasonable steps to ensure that massage therapists at Massage Envy franchise locations were psychologically fit to provide massage therapy services to female customers at their franchise locations, including Massage Envy West Chester. Defendant, Spa Dogs, owed the same duty to female customers at Massage Envy West Chester.

47. As set forth in this Complaint, Defendants, Massage Envy and Roark Capital, failed to fulfill their legal duty to ensure that massage therapists were psychologically fit to provide massage therapy services to female customers at their franchise locations, including Massage Envy West Chester. Defendant, Spa Dogs, failed the same duty to female customers at Massage Envy West Chester.

48. To the contrary, Spa Dogs, Massage Envy and/or Roark Capital hired, retained, transferred and/or re-hired individuals who it knew and/or had reason to know were sexual predators, including, but not limited to, James Deiter.

49. As a result, upon information and belief, numerous women nationwide have been sexually assaulted by massage therapists at Massage Envy franchise locations and Spa Dogs, Massage Envy and/or Roark Capital did not report these assaults to police or to other public authorities, including, but not limited to, assault(s) pertaining to James Deiter.

50. As a result of Spa Dogs, Massage Envy and/or Roark Capitals' negligent, careless, reckless, and intentional acts and omissions, numerous women, including Plaintiff, were sexually assaulted by depraved predators who exploited their position as massage therapists to violate innocent and unsuspecting women.

51. As set forth in this Complaint, all Defendants failed to take reasonable steps to ensure that massage therapists at Massage Envy locations, including Massage Envy West Chester, were psychologically fit to provide massage therapy services to unsuspecting, vulnerable female customers. As a direct result of Defendants' tortious acts and omissions, Plaintiff suffered the injuries set forth in this Complaint.

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

53. Spa Dogs, Massage Envy and/or Roark Capital employed, retained, transferred, re-hired and/or assigned massage therapists who it knew or should have known were sexual predators and/or mentally ill.

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

- a. Failure to investigate the backgrounds of massage therapists in the employ or service of the Defendants;
- b. Failure to prohibit, restrict, or limit the activities of massage therapists

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

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

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

56. All Defendants failed to take reasonable steps to ensure that Deiter was psychologically fit to provide massage therapy services to female customers at Massage Envy franchise locations, including Massage Envy West Chester, after the Defendants knew, and/or should have known, of the dangers posed by Deiter. As a direct result of the Defendants' acts, Plaintiff suffered the injuries set forth in this Complaint.

57. In fact, Spa Dogs, Massage Envy and/or Roark Capital employed, retained, transferred, re-hired and/or assigned massage therapists who it knew and/or had reason to know

were psychologically unfit to provide massage therapy services to unsuspecting, innocent female customers, including, but not limited to, Deiter.

58. Spa Dogs, Massage Envy and/or Roark Capital employed, retained, transferred, re-hired and/or assigned massage therapists who it knew and/or had reason to know or should have known were sexual predators and/or mentally ill, including, but not limited to, Deiter.

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

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

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

Causes of Action

COUNT I – VICARIOUS LIABILITY
PLAINTIFF v. ALL DEFENDANTS

61. Plaintiff incorporates the averments of the preceding paragraphs as if each was set forth herein at length.

62. James Deiter engaged in unpermitted, harmful and offensive sexual conduct and contact upon the person of Plaintiff in violation of Pennsylvania State law. Said conduct was undertaken while Deiter was an employee and agent of Spa Dogs, Massage Envy and/or Roark Capital, while in the course and scope of employment with said Defendants, and/or was ratified by said Defendants.

63. 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 Deiter 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 Deiter, including, but not limited to, preventing or avoiding placement of Deiter 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 Spa Dogs, Massage Envy and/or Roark Capital 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.

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

65. 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, James Deiter.

66. 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, James Deiter, constituted a course of conduct through which acts of sexual perversion and the violation of female customers were condoned, approved, and effectively authorized.

67. 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, Spa Dogs, Massage Envy and/or Roark Capital ratified said actions and, accordingly, are vicariously liable for the actions of Deiter.

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

WHEREFORE, Plaintiff demands against all Defendants, jointly and severally, compensatory damages in an amount in excess of fifty thousand (\$50,000.00) dollars, together with punitive damages, interest, and damages for prejudgment and post-judgment delay.

COUNT II - NEGLIGENCE
PLAINTIFF v. MESSAGE ENVY AND ROARK CAPITAL

69. Plaintiff incorporates the averments of the preceding paragraphs as if each was set forth herein at length.

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

71. For years prior to the sexual assault of Plaintiff, as set forth in this Complaint, Defendants knew that there were more than fifty (50) allegations of sexual assaults by Massage Envy therapists occurring in approximately fifteen (15) different states.

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

73. Defendants 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.

74. Defendants 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.

75. Having been in the care of Defendants at the time under circumstances such as to deprive Plaintiff of her entitlement to safe care and protection, the Defendants 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.

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

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

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

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

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

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

82. As set forth in this Complaint, Defendants failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapists, including James Deiter.

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

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

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

- a) permitting massage therapists, including James Deiter, to sexually assault female customers, including Plaintiff;
- b) permitting massage therapists, including James Deiter, to engage in illegal sexual conduct with female customers, including Plaintiff, on the premises of Massage Envy franchise locations, including Massage Envy West Chester, during operating hours;
- c) permitting James Deiter to violate Pennsylvania criminal statutes (Title 18) prohibiting Aggravated Indecent Assault (§3125(a)(1));
- 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 Defendants, 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 James Deiter on Plaintiff;
- h) failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including James Dieter;
- i) breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Pennsylvania;
- j) failing to warn Plaintiff of the risk of harm posed by James Deiter 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 Pennsylvania;
- l) failing to warn Plaintiff of the risk of harm that Plaintiff may suffer as a result of contact with James Deiter;
- m) failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of Plaintiff;

- 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 James Deiter, 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 James Deiter posed;
- r) failing to prevent the sexual assault that was committed by James Deiter on Plaintiff and other women he sexually assaulted;
- s) allowing James Deiter 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 Chester.

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

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

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

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

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

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

91. Defendants hired, retained and/or assigned Deiter to Plaintiff knowing or having reason to know that Deiter was a sexual predator.

92. Defendants further breached their duty of care to Plaintiff by failing to protect the Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendants, including Deiter. Defendants further breached their duty of care by failing to warn Plaintiff of the propensities of Deiter and by failing to provide a safe and secure environment for the Plaintiff.

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

WHEREFORE, Plaintiff demands damages against Defendants, Massage Envy and Roark Capital, jointly and severally with the other defendants, an amount in excess of fifty

thousand (\$50,000.00) dollars in compensatory damages, together with punitive damages, interest, and damages for prejudgment and post-judgment delay.

COUNT III-NEGLIGENCE
PLAINTIFF v. SPA DOGS, LLC

94. Plaintiff incorporates the averments of the preceding paragraphs as if each was set forth herein at length.

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

96. For months prior to the sexual abuse of Plaintiff, as set forth in this Complaint, Defendant knew that Deiter had sexually assaulted at least one female customer, Mary Doe.

97. Defendant knew, and/or should have known, that Deiter was likely to commit further acts of sexual assault.

98. Defendant 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 Deiter.

99. Defendant 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 Deiter.

100. Having been in the care of Defendant at the time under circumstances such as to deprive Plaintiff of her entitlement to safe care and protection, Defendant owed to 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.

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

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

103. Despite actual knowledge of Deiter committing at least one sexual assault on a female customer at Massage Envy West Chester and despite the foreseeable risk that Deiter 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 Deiter.

104. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of sexual predators, in the employ and/or service of Spa Dogs, Massage Envy and/or Roark Capital, including Deiter.

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

106. At all times relevant hereto, Defendant did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for the reporting to the

state board of massage therapy the presence of sexual predators, including Deiter, in the employ and/or service of Spa Dogs, Massage Envy and/or Roark Capital.

107. As set forth in this Complaint, Defendant failed to fulfill its legal duty to protect Plaintiff and other female customers from the depraved and vile acts of its massage therapist, James Deiter.

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

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

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

- a) permitting James Deiter to sexually assault female customers, including Plaintiff;
- b) permitting James Deiter to engage in illegal sexual conduct with female customers, including Plaintiff, on the premises of Massage Envy West Chester, during operating hours;

- c) permitting James Deiter to violate Pennsylvania criminal statutes (Title 18) prohibiting Aggravated Indecent Assault (§3125(a)(1));
- d) failing to properly and adequately supervise and discipline its employees to prevent the sexual assault that occurred to Plaintiff;
- e) failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of female customers who engaged the services of Defendant, including 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 James Deiter on Plaintiff;
- h) failing to adopt, enforce and/or follow policies and procedures to protect female customers against harmful contact by its massage therapists, including James Dieter;
- i) breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Pennsylvania;
- j) failing to warn Plaintiff of the risk of harm posed by James Deiter after Defendant knew or should have known of such risk;
- k) violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in Pennsylvania;
- l) failing to warn Plaintiff of the risk of harm that Plaintiff may suffer as a result of contact with James Deiter;
- m) failing to warn or otherwise make reasonably safe the property which Defendant possessed and/or controlled, leading to the harm of Plaintiff;
- n) failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, the state board of massage therapy and/or other authorities of sexual assaults by massage therapists, including James Deiter;
- o) failing to report sexual assaults by massage therapists, including James Deiter, 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 James Deiter posed and, in fact, recommending James Deiter to female customers after it knew of the danger he posed;
- r) failing to prevent the sexual assault that was committed by James Deiter on Plaintiff and other women he sexually assaulted;

- s) allowing James Deiter 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 West Chester.

110. Defendant explicitly and/or implicitly represented to the public in general, and to Plaintiff in particular, that the massage therapists, including Deiter, 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.

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

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

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

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

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

116. Defendant hired, retained and/or assigned Deiter to Plaintiff knowing or having reason to know that he was a sexual predator.

117. Defendant further breached its duty of care to Plaintiff by failing to protect Plaintiff from foreseeable harm from the sexual misconduct of employees of Defendant, including Deiter. Defendant further breached its duty of care by failing to warn Plaintiff of the propensities of Deiter and by failing to provide a safe and secure environment for the Plaintiff.

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

WHEREFORE, Plaintiff demands against Defendant, Spa Dogs, LLC, jointly and severally with the other defendants, an amount in excess of fifty thousand (\$50,000.00) dollars in compensatory damages, together with punitive damages, interest, and damages for prejudgment and post-judgment delay.

COUNT IV
NEGLIGENT PERFORMANCE OF UNDERTAKING TO RENDER SERVICES
PLAINTIFF v. ALL DEFENDANTS

119. Plaintiffs hereby incorporate the above paragraphs by reference.

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

121. All Defendants should have recognized as necessary the protection of the Plaintiff's person and physical/mental well-being.

122. The Plaintiff suffered severe and permanent harm as described above as a result of Spa Dogs, Massage Envy and/or Roark Capital's failure to exercise reasonableness in the performance of undertaking to provide massage therapy services to her.

123. All Defendants' failure to exercise such care increased the risk of harm to the Plaintiff and/or the Plaintiff was harmed because of her reliance upon Defendants' undertaking to provide massage therapy services to her.

WHEREFORE, Plaintiff demands judgment against all Defendants, jointly and severally, for a sum in excess of fifty thousand dollars (\$50,000.00) in compensatory damages, exclusive of pre-judgment interest, post-judgment interest, costs and punitive damages against Defendants.

COUNT V - NEGLIGENCE PER SE
PLAINTIFF v. ALL DEFENDANTS

124. Plaintiff incorporates the above paragraphs by reference.

125. All Defendants' involving, permitting, and/or failing to prevent indecent contact between Deiter and Plaintiff constitutes a per se violation of 18 Pa.C.S. § 3126 Relating to Indecent Assault.

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

WHEREFORE, Plaintiff, Mary Doe, demands judgment against all Defendants, jointly and severally with all Defendants named herein, for a sum in excess of fifty thousand dollars (\$50,000.00) in compensatory damages, exclusive of pre-judgment interest, punitive damages, post-judgment interest and costs.

COUNT VI - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
PLAINTIFF v. ALL DEFENDANTS

127. Plaintiffs incorporate the above paragraphs by reference.

128. Spa Dogs, Massage Envy and/or Roark Capital, by and through their contact with Plaintiff, as described above, negligently and/or recklessly committed multiple acts of extreme and outrageous conduct which caused severe emotional, psychological, and psychiatric injuries, distress, and harm to plaintiff, which also manifested in physical injuries to Plaintiff as set forth above in an extreme, outrageous and harmful manner.

WHEREFORE, Plaintiff, Mary Doe, demands judgment against all Defendants, jointly and severally with all Defendants named herein, for a sum in excess of fifty thousand dollars (\$50,000.00) in compensatory damages, exclusive of pre-judgment interest, punitive damages, post-judgment interest and costs.

COUNT VII - NEGLIGENT MISREPRESENTATION
PLAINTIFF v. ALL DEFENDANTS

129. Plaintiff incorporates each and every preceding averment as though fully set forth herein.

130. All Defendants negligently misrepresented material facts to Plaintiff, namely that James Deiter was fit to render adequate, competent and appropriate massage therapy services to Plaintiff and that he was not a danger to Plaintiff.

131. Spa Dogs, Massage Envy and/or Roark Capital made these misrepresentations under circumstances and at a time when they knew or should have known of the falsity of these representations.

132. Spa Dogs, Massage Envy and/or Roark Capital made these representations with a reckless disregard for the truth or falsity of such statements and/or with an intent to induce Plaintiff to act on the representations, which, in turn, exposed Plaintiff to harm.

133. Plaintiff's justifiable reliance on Defendants' misrepresentations resulted directly in injury to Plaintiff as described above and such injuries and damages were legally caused by

the justifiable reliance upon Defendants' misrepresentations.

WHEREFORE, Mary Doe, demands judgment against all Defendants, jointly and severally with all Defendants named herein, for a sum in excess of fifty thousand dollars (\$50,000.00) in compensatory damages, exclusive of pre-judgment interest, punitive damages, post-judgment interest and costs.

COUNT VIII - RECKLESSNESS
PLAINTIFF v. ALL DEFENDANTS

134. Plaintiff incorporates the averments of the preceding paragraphs as if each was set forth herein at length.

135. Upon information and belief, the all Defendants, for months prior to the sexual assault upon Plaintiff which is the subject of this action, knew and/or had reason to know, that Deiter was a sexual predator and/or otherwise so mentally ill as to pose a clear and present danger to female Massage Envy customers who would reasonably be expected to come into contact with him.

136. Despite knowing or having reason to know of the dangerous propensities of Deiter, Spa Dogs, Massage Envy and/or Roark Capital assigned, authorized the assignment, promoted the assignment and/or participated in the assignment of Deiter to a position which was likely to entail interaction with female customers in a vulnerable position, including Plaintiff.

137. All Defendants knew or had reason to know that Deiter's continued employment presented a great danger to unsuspecting female customers, including, but not limited to, Plaintiff.

138. All Defendants committed the acts alleged herein, which constituted reckless misconduct.

139. As a direct and proximate result of all Defendants' reckless misconduct, Plaintiff

sustained the injuries set forth in this Complaint.

WHEREFORE, Plaintiff demands damages against the Defendants, individually and jointly and severally with the other defendants, in an amount in excess of fifty thousand (\$50,000.00) dollars, together with punitive damages, interest, and damages for prejudgment and post-judgment delay.

LAFFEY, BUCCI & KENT, LLP

A handwritten signature in black ink, appearing to read 'B. D. Kent', written over a horizontal line.

By:

BRIAN D. KENT, ESQUIRE
JEFFREY F. LAFFEY, ESQUIRE
SAMUEL I REICH, ESQUIRE
Attorneys for Plaintiff, Mary Doe

Dated: September 14, 2015

VERIFICATION

The facts contained in the foregoing Complaint-Civil Action are true based upon the signer's personal knowledge or information and belief. If the foregoing contains averments which are inconsistent in fact, signer has been unable, after reasonable investigation, to ascertain which of the inconsistent averments are true, but signer has knowledge or information sufficient to form a belief that one of them is true. This Verification is made subject to the penalties of the 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read 'B. D. Kent', written over a horizontal line.

BRIAN D. KENT, ESQUIRE

Dated: September 14, 2015