

2018CI08137

CAUSE NO. _____

JANE DOE 112, a pseudonym,

Plaintiff,

vs.

**MASSAGE HEIGHTS FRANCHISING,
LLC; JENNIFER BURLINGTON,
individually, and d/b/a JARA
MANAGEMENT, INC., MASSAGE
HEIGHTS LEON SPRINGS, TEXAS;
and ARTURO CHAMBERLAIN,**

Defendants.

IN THE DISTRICT COURT OF

BEXAR COUNTY, TEXAS

**285TH
____ JUDICIAL DISTRICT**

**PLAINTIFF’S ORIGINAL PETITION, REQUEST FOR JURY TRIAL,
AND REQUEST FOR DISCOVERY**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Jane Doe 112, a victim of sexual assault, using a pseudonym, and files this, her Plaintiff’s Original Petition, Request for Jury Trial, and Request for Discovery, complaining of and about the actions and inactions of Defendants, **MASSAGE HEIGHTS FRANCHISING, LLC** (“Massage Heights Franchising”), **JENNIFER BURLINGTON, INDIVIDUALLY AND d/b/a JARA MANAGEMENT, INC., MASSAGE HEIGHTS LEON SPRINGS, TEXAS** (“Massage Heights Leon Springs”); and **ARTURO CHAMBERLAIN** (“Chamberlain”) and prays for damages as follows¹:

¹ The Massage Heights entities and companies who are Defendants herein shall be collectively referred to as “Corporate Defendants.”

I.
DISCOVERY CONTROL PLAN

1.01. As required by TEX. R. CIV. P. 190.1, Plaintiff files this lawsuit under a Level 3 Discovery Control Plan (TEX. R. CIV. P. 190.4) and requests the Court enter an appropriate Scheduling Order.

II.
PARTIES

2.01. Plaintiff Jane Doe 112 (“Doe 112” or “Doe”) resides in Bexar County, Texas. The last three digits of her Social Security number are 027; the last three digits of her drivers license number are 754.

2.02. Plaintiff Doe 112 is an adult female who files this lawsuit using a pseudonym in order to protect her privacy as a victim of sexual assault because she fears further psychological and physical harm if her name were publicly disclosed as this lawsuit involves facts of the utmost intimacy regarding the sexual assault and molestation she suffered. Her identity will be made known to Defendants.

2.03. Defendant Massage Heights Franchising, LLC (“Massage Heights Franchising”), is a corporation or business organization organized under the laws of the State of Texas with its principal place of business in San Antonio, Bexar County, Texas and may be served with process by serving its registered agent, Shanna Schulze, 13750 U.S. Hwy. 281 North, Suite 230, San Antonio, Texas 78232, or wherever she may be found. Massage Heights Franchising LLC was the franchiser of the spa facility where the incidents made the basis of this lawsuit occurred.

2.04. Defendant Jara Management, Inc., Massage Heights Leon Springs, Texas (“Jara”), is a corporation or business organization organized under the laws of the State of Texas with its

principal place of business in San Antonio, Bexar County, Texas, and may be served with process by serving its registered agent, Cook Legal Group, LLP, 790 West Sam Houston Parkway North, Suite 202, Houston, Texas 77024, or wherever it may be found. Jara was the franchisee of the Massage Heights where the incidents made the basis of this lawsuit occurred.

2.05. Defendant, Jennifer Burlington is an individual who is the owner/franchisee of the Massage Heights in Leon Springs, Texas, where the sexual abuse of Plaintiff occurred. She may be served at her place of business, 23535 Interstate 10 Frontage Road, Suite 2104, San Antonio, Texas 78257, or wherever she may be found.

2.06. The Corporate Defendants herein are sued in all of their assumed, common, or business names pursuant to TEX. R. CIV. P. 28.

2.07. Defendant, Arturo Chamberlain may be served with process by delivering a copy of this petition with citation to his last known residence, 716 Leopard Hollow, San Antonio, Texas 78251, or wherever he may be found. Chamberlain is the individual who sexually assaulted the Plaintiff and other women.

III. **JURISDICTION AND VENUE**

3.01. Pursuant to Texas Rules of Civil Procedure 47, relief is sought for damages within the jurisdictional limits of this court.

3.02. Venue is proper in Bexar County, Texas, pursuant to Texas Civil Practice and Remedies Code Section 15.002(a)(1) in that all or substantial part of the acts and/or omissions took place in Bexar County.

IV.
FACTUAL BACKGROUND

4.01. On or about July 12, 2016, Plaintiff went to a facility owned and/or operated by the Corporate Defendants called “Massage Heights Leon Springs,” located at 23535 Interstate 10 Frontage Road, Suite 2104, San Antonio, Texas 78257, for the purpose of getting a massage. Plaintiff had a current paid membership with this facility. At all relevant times, there was an employer-employee relationship between Defendant Arturo Chamberlain and the Corporate Defendants. The Leon Springs premises was under the exclusive management, control, and possession of the Corporate Defendants at the time of the sexual assault of the Plaintiff. At the time of the occurrence in question, Plaintiff was an invitee and/or authorized visitor and paying client/member on the Defendants’ premises to whom Defendants owed a duty to use ordinary care, including the duty to protect and to safeguard Plaintiff from conditions or employees on the premises that posed an unreasonable risk of harm or to warn of the existence of such conditions. As a result of their negligence, the Corporate Defendants breached such duties owed to Plaintiff. Such negligence was a proximate cause of the occurrence and of Plaintiff’s injuries and damages herein.

4.02. That day, Plaintiff’s massage therapist, an employee and/or agent or ostensible agent of the Corporate Defendants, was Defendant Arturo “Art” Chamberlain (“Chamberlain”). Chamberlain negligently or intentionally sexually assaulted Plaintiff during the course of the massage by suddenly leaning over Jane Doe ’s body, placing his hands on her breasts, stomach and hips and then moving his hands towards Doe’s pubic area. In order to protect herself, Doe pushed hard with her arms to push Chamberlain away. This movement immediately caused injury and pain to Doe’s shoulder.

4.03. As Plaintiff got dressed and exited the massage room, Defendant Chamberlain was standing by the door and asked her: "Did you enjoy my services?" Plaintiff sought immediate treatment for this traumatic event and suffered damages as a result of this traumatic event and/or the negligence and/or intentional misconduct of Defendant Chamberlain. Based upon information and belief, Defendant Chamberlain has assaulted other women while performing massage services before and after this incident.

4.04. As soon as she was able to escape the massage room, Doe went to the front desk and asked for a manager but was told a manager was not there. Doe was in shock. She was afraid and embarrassed. She did not want to speak to at the front counter with Chamberlain, employees and other customers around so she left the premises. But, the next morning, Doe called and again asked for a manager or the owner. Doe told the person at Massage Heights who answered the telephone about the sexual assault and was told Chamberlain would be immediately taken off the schedule and someone would call her back. Doe told the Massage Heights employee that "Art" must be terminated and his license taken away, because she was very concerned due to the manner he spoke to her after the assault and the brazenness of what he did and that it could happen again to other women. Doe was assured that Chamberlain would not be placed on the Massage Heights schedule and reported. Later that same day, manager Chad Reid, called Doe and stated Chamberlain would be terminated. However, Chamberlain was not and he sexually assaulted another woman, JV that same day. After this woman came forward to law enforcement, Plaintiff reported her assault to the police.

4.05. Plaintiff did not invite, induce, ratify, implicitly consent, or comply with this sexual contact. To the contrary, Plaintiff was mortified and disgusted at Chamberlain's actions. She felt

paralyzed in disbelief at this violation by a licensed massage therapist.

4.06. Corporate Defendants and Jennifer Burlington knew or should have know of Chamberlain's sexually predatory conduct. In October of 2012, he was charged with harassing a teenage girl when he was her coach. In August 2014, Chamberlain was disciplined by the massage disciplinary board for inappropriate sexual contact with a female client, R.C., during a massage. R.C. reported the assault to law enforcement and the spa facility owner. The day after Jane Doe 112's attack, on July 13, 2016, Chamberlain assaulted another female client, J.V.

4.07. The massage industry has a substantial problem with sexual abuse and/or sexual assault that is or should be known to corporate Defendants. The problem is the sheer number of acts of sexual battery, sexual assaults, acts of sexual malfeasance, and acts of sexual misconduct committed nationwide by its male massage therapists upon female clients and is a foreseeable hazard in the spa industry². It is of such magnitude as to constitute a corporate pattern and practice of negligence and gross negligence in allowing sexually abusive therapists to be hired and retained, placing women in danger of sexual assault.

4.08. Sexual battery, sexual assault, sexual misconduct, and sexual malfeasance are generally foreseeable consequences of the nature of work involved in the massage industry and is an unfortunate reality engendered by the type of work Defendants' massage therapists are paid to perform. This fact is or should be well known to management of Defendants.

4.09. The Corporate Defendants negligently selected, hired, retained, and supervised Defendant Chamberlain when they knew or should have known that Defendant Chamberlain was

² At least 180 people have filed sexual assault civil suits, police reports, or complaints to state boards against Massage Envy, its franchises and their employees, according to a [BuzzFeed News](https://www.usatoday.com/story/news/nation/2017/11/27/massage-envy-therapists-accused-180-sexual-assaults/896972001/) investigation. <https://www.usatoday.com/story/news/nation/2017/11/27/massage-envy-therapists-accused-180-sexual-assaults/896972001/>

a danger to their female customers. At the very least, based on information and belief, Defendants knew or should have known that Defendant Chamberlain had sexually assaulted at least one other woman before Plaintiff was sexually assaulted because he was reprimanded by the licensing board two years earlier in 2014. The very existence of Defendant Chamberlain on the Leon Springs premises made the premises unreasonably dangerous since Defendants knew or should have known that Defendant Chamberlain was unfit for the intimate duties assigned and a palpable risk in that he did not maintain appropriate boundaries with women, was sexually inappropriate with female clients, and/or posed a real danger of perpetuating unwanted sexual contact upon them.

4.10. Corporate Defendants failed to properly train and supervise its franchise owners and their employees.

4.11. Corporate Defendants have fostered an environment conducive to sexual misconduct by its massage therapists by allowing them to commit sexual misconduct without the consequence that law enforcement would be notified. Corporate Defendants and their massage therapists are actually emboldened by the knowledge that most clients will never report their incidents of sexual battery/assault/misconduct/malffeasance. On its own, the spa will not readily report such incidents to the Texas Department of Health or Law Enforcement agencies.

4.12. Corporate Defendants negligently actively advertised and promoted Massage Heights Leon Springs as a safe facility yet failed to ensure that patrons, such as Plaintiff, would be safe from sexually predatory massage therapists.

V.

CAUSES OF ACTION AGAINST ALL DEFENDANTS

5.01. On the occasion in question, Defendants and their agents, servants, and employees, including Chamberlain, who were at all times acting in the course and scope of their employment,

were guilty of negligence toward Plaintiff. Defendants are further liable for the negligent acts of their agents, servants, or employees, including Chamberlain, under the legal doctrine of *respondent superior*. At all relevant times, Defendant Chamberlain was an agent/apparent or ostensible agent of the Corporate Defendants and/or Jennifer Burlington. Such negligence was a proximate cause of the sexual assault of Plaintiff, including, but not limited to, the Defendants' negligence in:

- A. Creating a condition on Defendants' premises that posed an unreasonable risk of harm to women such as Plaintiff;
- B. Failing to make a safe condition on Defendants' premises which Defendants knew or in the exercise of ordinary care should have known posed an unreasonable risk of harm to individuals such as Plaintiff;
- C. Failing to warn Plaintiff of Defendant Chamberlain's prior allegations of sexual assault;
- D. Negligently hiring Defendant Chamberlain in a position requiring him to have close personal contact with the public, including Plaintiff;
- E. Negligently allowing Defendant Chamberlain access to a massage room when Defendants and its representatives knew, or in the exercise of ordinary care should have known, that Defendant Chamberlain had prior allegations for inappropriate sexual behavior;
- F. Negligently retaining Defendant Chamberlain in its employ in a position that involved close personal contact with members/clients and members of the public;
- G. Negligently and inadequately supervising its employees, including Defendant Chamberlain, whose actions were committed in the actual or apparent course and

scope of his employment with Massage Heights Leon Springs;

- H. Negligently authorizing and entrusting Defendant Chamberlain to be alone with Plaintiff in a dimly lit room while Plaintiff was undressed and in a prone and vulnerable position;
- I. Failing to create and/or enforce safety rules, policies, and procedures governing massage therapists' conduct during massage sessions;
- J. Failing to create and/or enforce policies, procedures, and safety rules that would prohibit its employees with a history of inappropriate conduct from giving massages;
- K. Failing to create and/or enforce policies, procedures, and safety rules mandating a complete and thorough background check of any and all employees, including Defendant Chamberlain;
- L. Negligently marketing and advertising massage services sold to Plaintiff;
- M. Negligently representing to the public, including Plaintiff, that they offered professional services and trained their employees and agents for such professional services;
- N. Negligently representing to the public, including Plaintiff, of the quality and safety of the massage services offered by Defendants;
- O. Failing to warn Plaintiff of the inappropriate and substandard hiring and retention, training, and supervision of their employees, including Defendant Chamberlain;
- P. Negligently allowing Defendant Chamberlain to interact with Plaintiff and inappropriately touch her, and/or commit "battery" against her under common law;
- Q. Negligently aiding Defendant Chamberlain to accomplish the tort upon Plaintiff by

the existence of his agency relationship with Massage Heights. Specifically, Defendant Chamberlain used the authority actually delegated to him by Massage Heights to initiate sexual contact with Plaintiff while she was undressed and lying in a prone, vulnerable position seeking relaxation. She was in this vulnerable position with Defendant Chamberlain precisely because of Massage Heights's agency relationship with Defendant Chamberlain;

- R. Negligently assessing the risk of sexual misconduct, protecting its female clients, properly training Defendant Chamberlain, implementing quality control measures, placing limitations on Defendant Chamberlain's employment and otherwise reducing the risk of sexual misconduct to its female clients. In short, Defendants took no meaningful action to protect its female clients from the risk of harm by Defendant Chamberlain;
- S. Negligently failing to disclose to Plaintiff the high rate of sexual contact being committed in a spa setting and instructions on how to prevent, be prepared for, and respond to such foreseeable harm;
- T. Negligently failing to take reasonable steps to ensure the safety of Plaintiff by installing panic buttons in the massage therapy rooms;
- U. Negligently failing to implement a policy whereby all incidents of alleged sexual misconduct are reported to the Texas Department of Health and local law enforcement;
- V. Negligently failing to train their staff on how to respond and report to law enforcement all incidents involving inappropriate situations with clients;

W. Negligently failing to train their staff on how to respond and report to Defendant Massage Heights hierarchy all incidents involving inappropriate situations with clients; and

X. Plaintiff pleads fraud against the Corporate Defendants for intentional misrepresentations as well as non-disclosure related to Arturo Chamberlain's character and propensity to sexually assault female clients.

5.02. Plaintiff asserts that Defendants are further liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 302B, under the legal doctrine of negligent assumption of risk of intentional or criminal conduct.

An act or an omission may be negligent if the actor realizes or should realize that it involves an unreasonable risk of harm to another through the conduct of the other or a third person which is intended to cause harm, even though such conduct is criminal.

Restatement (Second) of Torts, Section 302B.28.

5.03. Plaintiff asserts further that Defendants are liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 311, under the legal doctrine of negligent misrepresentation involving risk of physical harm.

(1) One who negligently gives false information to another is subject to liability for physical harm caused by action taken by the other in reasonable reliance upon such information, where such harm results

(a) to the other, or

(b) to such third persons as the actor should expect to be put in peril by the action taken.

(2) Such negligence may consist of failure to exercise reasonable care

(a) in ascertaining the accuracy of the information, or

(b) in the manner in which it is communicated.

Restatement (Second) of Torts, Section 311.

5.04. Defendants are further liable to Plaintiff for premises liability. Plaintiff was an invitee by the Massage Heights Leon Springs premises. Defendants owed a duty of care to those who may be harmed by criminal acts on its premises where it conducted its business when the risk of criminal conduct is so great that it is both unreasonable and foreseeable. Defendants were aware of or should have been aware of criminal acts of sexual assault by Defendant Chamberlain on its property. Defendants thus breached its duty of care to Plaintiff when it allowed Chamberlain to remain on its property, thus harming Doe 112.

5.05. Such other and further acts of negligence as shown in the trial of this case.

5.06. Each of the foregoing negligent acts and omissions described above, whether taken singularly or in any combination, was a proximate cause of Plaintiff's injuries and damages which are described below.

VI.
CAUSES OF ACTION AGAINST ARTURO CHAMBERLAIN

6.01. Defendant Arturo Chamberlain was at all relevant times a licensed massage therapist subject to the laws of the State of Texas governing his profession.

6.02. Defendant Arturo Chamberlain knew of his own dangerous sexual propensities toward women (See 4.05 above for additional details). Plaintiff therefore relies on Chamberlain's mental and/or emotional condition as part of her claims. (See Texas Rules of Evidence 509(e)(4) and 510(d)(5)).

6.03. Defendant Arturo Chamberlain sexually assaulted Jane Doe 112 on July 12, 2016.

6.04. Defendant Arturo Chamberlain made unwanted physical and sexual contact with

Plaintiff by placing his hands and fingers around her breasts and toward her pubic area and thereby assaulted her when he knew or should have reasonably believed that such contact would be unwanted and offensive to Plaintiff. Plaintiff thus pleads sexual assault, assault and battery against Defendant Arturo Chamberlain.

6.05. Defendant Arturo Chamberlain's physical and sexual abuse resulted in the infliction of physical and emotional distress on Plaintiff.

6.06. Defendant Arturo Chamberlain violated the Texas Penal Code when he engaged in the above-described sexual contact with Plaintiff. Defendant Arturo Chamberlain also violated 25 Tex. Admin. Code 140.305 in that during a massage session he made improper sexual contact with Plaintiff. Such violations of these criminal and administrative laws of Texas constitute negligence *per se*.

6.07. Plaintiff pleads that Defendant Arturo Chamberlain was negligent in his conduct towards Plaintiff when he failed to use ordinary care in his conduct with Plaintiff when he was aware of his own illegal sexual proclivities.

6.08. Plaintiff pleads fraud against Defendant Arturo Chamberlain for intentional misrepresentations as well as non-disclosure related to his character and propensity to sexually assault women.

6.09. Plaintiff pleads Defendant Arturo Chamberlain acted at the time and on occasions in question with heedless and reckless disregard for the safety and welfare of Plaintiff, which disregard was the result of conscious indifference to the rights, welfare, and safety of the Doe 112. Plaintiff pleads that the Defendant Arturo Chamberlain's conduct on the occasion in question constituted gross negligence.

VII.
GROSS NEGLIGENCE (ALL DEFENDANTS)

7.01. Sexual assault is utterly reprehensible. It cannot be tolerated in any society, yet alone a civilized society. Defendants at the time and on the occasions in question, acted with heedless and reckless disregard for the safety of Jane Doc 112 and other vulnerable, unsuspecting women, which disregard was the result of conscious indifference to the rights, welfare, and safety of Plaintiff in violation of the laws of the State of Texas.

7.02. Further, Tex. Civ. Prac. & Rem. Code § 41.005(a) does not apply to bar punitive damages in this matter because the Defendants were criminally complicit. Tex. Civ. Prac. & Rem. Code § 41.005(b)(2) provides an exception when a Defendant is criminally responsible as a party to the criminal act. Under Chapter 7 of the Texas Penal Code, specifically § 7.02(a), a person is criminally responsible for an offense committed by the conduct of another if:

- (1) acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense;

or

- (2) having a legal duty to prevent commission of the offense and acting with intent to promote or assist its commission, he fails to make a reasonable effort to prevent commission of the offense.

7.03. Tex. Pen. Code Ann. § 7.02(a)(2). The provisions of this statute are met because Defendants assisted and aided Defendant Arturo Chamberlain in the commission of the sexual assault on Plaintiff by allowing him access to Plaintiff.

7.02. Further, provisions of Tex. Pen. Code Ann. § 7.02(a)(3) are met because Defendants

had a duty to prevent the sexual assault of Plaintiff. Defendant knew or should have known of Defendant Arturo Chamberlain's sexual misconduct yet, despite that knowledge, did not terminate him but placed him in environments where he could prey upon vulnerable women like Plaintiff.

7.03. Additionally, Tex. Pen Code Ann. §§ 7.21-7.23 encompass the criminal responsibility of corporations or associations and provide that a corporation or association is criminally responsible for the conduct of its agent if it was authorized, performed or recklessly tolerated by a high managerial agent. The Defendants not only tolerated it, they aided and abetted Defendant Arturo Chamberlain in acquiring more victims. Plaintiff would show that Defendants recklessly tolerated and allowed the conduct of Chamberlain and are therefore subject to punitive damages in this matter.

7.04. Plaintiff incorporates by reference the facts and allegations asserted above regarding Defendants' negligence. Each and all of the foregoing negligent acts and omissions, taken singularly or in combination, constitute grossly negligent conduct on the part of Defendants in that such conduct, when viewed objectively from the standpoint of Defendants at the time of its occurrence, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others and of which Defendants had actual, subjective awareness of risk involved, yet nevertheless proceeded with conscious indifference to the rights, safety, and welfare of Plaintiff.

7.05. As a direct and proximate result of the gross negligence of Defendants, Plaintiff suffered harm , injuries, losses, and damages. She is further entitled to exemplary damages in an amount within the jurisdictional limits of this Court for which Plaintiff also brings suit. In assessing an award of punitive damages, the jury should also take into account the net worth of Defendants.

VIII. **DAMAGES FOR PLAINTIFF**

8.01. As a result of this occurrence, Plaintiff, Jane Doe 112 has suffered and seeks the

following damages:

- a. Medical Expenses: Plaintiff has incurred medical and counseling expenses in the past and will continue to incur medical and counseling expenses in the future. These expenses were incurred for reasonable and necessary care and treatment of these injuries. The charges incurred are reasonable and were the usual and customary charges for the same or similar services at the time and place rendered. Plaintiff also expects to incur medical and counseling expenses in the future in an amount within the jurisdictional limits of this Court;
- b. Physical Pain and Suffering: Plaintiff has endured severe physical pain and suffering in the past and will continue to endure severe physical pain and suffering in the future;
- c. Mental Anguish: Plaintiff has endured severe mental anguish in the past and will continue to endure severe mental anguish in the future;
- d. Physical Impairment: Plaintiff has suffered physical impairment in the past and will continue to suffer physical impairment in the future; and
- e. Lost Wages: Plaintiff has suffered lost wages in the past and will continue to suffer lost wages in the future.
- f. Plaintiff seeks exemplary damages based on Defendants' gross negligence.
- g. As a result of the above, Plaintiff seeks damages within the jurisdictional limits of the Court for which she seeks recovery from Defendants, jointly and severally.

IX.

CLAIM FOR PRE-JUDGMENT AND POST JUDGMENT INTEREST

9.01. Plaintiff claims interest in accordance with § 304.104, et seq., Texas Finance Code and any other applicable law.

X.

REQUESTS FOR DISCLOSURE

10.01. Pursuant to Tex. R. Civ. P. 194, Plaintiff requests that Defendants disclose, within 50 days of service of this request, the information or material described in Rule 194.2 of the Texas Rules of Civil Procedure.

XI.
NOTICE OF SELF-AUTHENTICATION OF DOCUMENTS

11.01. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives written notice of the intent to self-authenticate any and all documents produced in discovery, and that such documents may be used against the party producing same at any pre-trial proceeding or hearing and at the time of any trial, post-trial matter, or appeal regarding this case.

XII.
NOTICE PURSUANT TO T.R.C.P. 193.7

12.01. Plaintiff provides notice to Defendants pursuant to Rule 193.7 of the Texas Rules of Civil Procedure that Plaintiff may utilize as evidence during the trial of this lawsuit all documents exchanged by the parties in written discovery.

XIII.
SPOILIATION OF DOCUMENTS AND EVIDENCE

13.01. Defendants are hereby given notice that any document or other material, including electronically stored information, that may be relevant to any issue in this case is to be preserved in its present form until this litigation is concluded. Plaintiff alleges that to the extent Defendants have intentionally and/or negligently destroyed documents and other evidence pertinent to this case, Jane Doe 112 requests the court issue proper sanctions, including an instruction to the jury presuming all things are against Defendants (*omnia praesumuntur contra spoliatorem* — all things are presumed against a despoiler).

XIV.
ALTERNATIVE CLAIMS FOR RELIEF AUTHORIZED

14.01 Plaintiff intend to exercise their right to plead multiple causes of action in *Plaintiffs' Original Petition* and to invoke the right of disparate pleadings as set forth in Texas Rule of Civil

Procedure 48. Where, in this pleading or any supplemental pleadings, the statement of claims vary, they are to be construed as alternative claims for relief. No claim for relief shall be construed as waived or abandoned where it is otherwise contradicted in whole or in part in another portion of Plaintiffs' pleading.

XV.
REQUEST FOR PRODUCTION

15.01 Each Defendant is requested to produce the following materials within 50-days of service of this *Plaintiffs' Original Petition* as they relate to Arturo Chamberlain, unless otherwise specified:

- a. The personnel and/or employment file of Arturo Chamberlain;
- b. Reports from anyone referring or concerning Arturo Chamberlain and sexual misconduct;
- c. Statements of Arturo Chamberlain concerning the incident made the basis of this lawsuit;
- d. Reports to or from any law enforcement concerning complaints of sexual misconduct by Arturo Chamberlain; and
- e. The franchise agreement between Jara and Massage Heights Franchising LLC;
- f. The franchise agreement between Jennifer Burlington and Massage Heights Franchising LLC; and
- g. Articles of Incorporation for Jara.

XVI.
DEMAND FOR JURY TRIAL

16.01 Plaintiff hereby demands that a jury of her peers be empaneled to hear and decide the issues presented in this case.

XVII.
PRAYER

FOR THE REASONS STATED ABOVE, Plaintiff Jane Doe 112 respectfully requests that Defendants be cited to appear and answer and, on final trial, that Plaintiff have judgment, jointly and severally, against Defendants for:

- a. Actual damages;
- b. Punitive damages;
- c. Prejudgment and post judgment interest in accordance with § 304.104, et seq., Texas Finance Code and any other applicable law;
- d. Costs of suit; and
- e. Any further relief, either at law or in equity, to which Plaintiff is justly entitled.

RESPECTFULLY SUBMITTED,

TAHIRA KHAN MERRITT P.L.L.C.

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