

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Action No.: 3:17-cv-476

CHELSEA VIVIANI PIERCE,

Plaintiff,

vs.

CHRISTENBURY EYE CENTER, P.A.;
JONATHAN CHRISTENBURY, M.D.;
and ELLIE PENA-BENARROCH,

Defendants.

NOTICE OF REMOVAL

(28 U.S.C. §§ 1331, 1367, 1441, and 1446)

COME NOW Defendants Christenbury Eye Center, P.A., Jonathan Christenbury, M.D., and Ellie Pena-Benarroch, by and through their undersigned counsel and pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, and hereby file their Notice of Removal of this civil action from the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina (the “Superior Court”), to the Charlotte Division of the United States District Court for the Western District of North Carolina.

As grounds for removal, the Defendants respectfully show unto the Court the following:

1. On June 21, 2017, the Plaintiff initiated Case No. 17-CvS-11533 (the “Lawsuit”) in the Superior Court styled Chelsea Viviani Pierce, Plaintiff, v. Christenbury Eye Center, P.A.; Jonathan Christenbury, M.D.; and Ellie Pena-Benarroch, Defendants, by way of an Application and Order Extending Time to File Complaint (the “Application”). A true and accurate copy of the Application is attached hereto as Exhibit 1. True and accurate copies of the Summonses

issued to the Defendants in connection with the Application are attached hereto as Exhibits 2 and 3.

2. On July 11, 2017, the Plaintiff filed a Complaint in the Lawsuit. A true and accurate copy of the Complaint is attached hereto as Exhibit 4. True and accurate copies of the Delayed Service of Complaint documents issued by the Superior Court to the Defendants are attached hereto as Exhibits 5 and 6.

3. Defendants Christenbury Eye Center, P.A., and Ellie Pena-Benarroch were served with or otherwise received a copy of the Complaint and a Delayed Service of Complaint via Federal Express on July 12, 2017. Defendant Jonathan Christenbury, M.D., was served with or otherwise received a copy of the Complaint and a Delayed Service of Complaint via the Mecklenburg County Sheriff on July 28, 2017.

4. This Notice of Removal is timely filed within thirty (30) days of receipt by each of the Defendants of the initial pleading setting forth the claim for relief upon which this action is based, through service or otherwise, pursuant to 28 U.S.C. § 1446(b). None of the Defendants have previously filed any pleading in this action.

5. The Application, Summonses issued in connection therewith, Complaint, and Delayed Service of Complaint documents, copies of which are attached hereto as Exhibits 1-6, inclusive, and an Affidavit of Service, a true and accurate copy of which is attached hereto as Exhibit 7, constitute all of the process and pleadings served upon any of the Defendants in the Lawsuit. No Defendant is aware of any orders or other process or pleadings served in the Lawsuit.

6. The First Claim for Relief set forth in the Complaint purports to assert a cause of action pursuant to Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e, *et*

seq. Therefore, this Court has original federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331. As an action of a civil nature founded on a claim or right arising under the laws of the United States, this action may therefore be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441(a) and (b).

7. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over any state law cause of action asserted by the Plaintiff in this action, should it be determined to exist, as any such purported cause of action is alleged by the Plaintiff to derive with the above Title VII cause of action from a common nucleus of operative fact.

8. In accordance with 28 U.S.C. § 1446(d), after the filing of this Notice of Removal, the Defendants will give written notice thereof to the Plaintiff, and will file a copy of this Notice with the Clerk of the Superior Court. Attached hereto as Exhibit 8 is a copy of the Notice of Filing of Notice of Removal (without exhibits), which will be filed (with a file-stamped copy of this Notice) with the Clerk of the Superior Court.

Based on the foregoing, this action is hereby removed to the Charlotte Division of the United States District Court for the Western District of North Carolina pursuant to 28 U.S.C. §§ 1441 and 1446.

Respectfully submitted, this the 11th day of August, 2017.

s/ C. Grainger Pierce, Jr.
C. Grainger Pierce, Jr. N.C. Bar No. 27305
Attorney for Defendants
Nexsen Pruet, PLLC
227 West Trade Street, Suite 1550
Charlotte, NC 28202
Telephone: (704) 339-0304
Fax: (704) 805-4712
E-mail: gpierce@nexsenpruet.com

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing NOTICE OF REMOVAL with the Clerk of the court using the CM/ECF system, and I hereby certify that the foregoing document was duly served upon counsel for the Plaintiff in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure by depositing it in the United States Mail, first-class postage prepaid, addressed as follows:

Margaret B. Maloney
Maloney Law & Associates, PLLC
1824 East Seventh Street
Charlotte, NC 28204

This the 11th day of August, 2017.

s/ C. Grainger Pierce, Jr.
C. Grainger Pierce, Jr. N.C. Bar No. 27305
Attorney for Defendants
Nexsen Pruet, PLLC
227 West Trade Street, Suite 1550
Charlotte, NC 28202
Telephone: (704) 339-0304
Fax: (704) 805-4712
E-mail: gpierce@nexsenpruet.com

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Action No.: 3:17-cv-476

CHELSEA VIVIANI PIERCE,

Plaintiff,

vs.

CHRISTENBURY EYE CENTER, P.A.;
JONATHAN CHRISTENBURY, M.D.;
and ELLIE PENA-BENARROCH,

Defendants.

EXHIBIT INDEX

Exhibit	Description
1	Application and Order Extending Time to File Complaint
2	Summons Attached to Application (Pena-Benarroch)
3	Summons Attached to Application (Christenbury)
4	Complaint
5	Delayed Service of Complaint (Pena-Benarroch)
6	Delayed Service of Complaint (Christenbury)
7	Maloney Affidavit of Service
8	Notice of Filing of Notice of Removal

Exhibit 1

STATE OF NORTH CAROLINA

File No. 11533

17-CV-

Mecklenburg County

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Chelsea Viviani Pierce

FILED

VERSUS 2017 JUN 21 P 4:20

Name Of Defendant

Christenbury Eye Center, P.A., Jonathan Christenbury, M.D., and
Ellie Pena-Benarroch

APPLICATION AND ORDER EXTENDING TIME TO FILE COMPLAINT

G.S. 1A-1, Rule 3

APPLICATION

The undersigned requests permission to file a complaint in this action within twenty (20) days of any order granting this Application, as provided in Rule 3 of the Rules of Civil Procedure. The nature and purpose of the action are:

Name And Purpose Of The Action

Violations of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e et seq.; wrongful discharge in violation of public policy - North Carolina Equal Employment Practices Act; assault and battery; negligent/intentional infliction of emotional distress.

Date

06-21-2017

Signature

MS Maloney

☐ Applicant

☒ Attorney For Applicant

ORDER

The Court states that the nature and purpose of this action are as set forth above.

Therefore, it is ORDERED that permission is granted to the applicant to file a complaint in this action up to and including the date shown below.

File Complaint On Or Before

07-11-2017

Date Of Order

6.21.17

(Date must be within 20 days of date of Order.)

Signature

[Signature]

☒ Assistant Clerk Of Superior Court

☐ Clerk Of Superior Court

NOTE: Under Rule 3 of the Rules of Civil Procedure, upon entry of this Order, a summons shall be issued and the summons and a copy of this Order must be served in accordance with the provisions of Rule 4. A complaint must be filed in this action within the period provided above and that complaint must be served in accordance with the provisions of Rule 4 or by registered mail if the plaintiff so elects. If a complaint is not filed within the above period, the action shall abate.

Exhibit 2

STATE OF NORTH CAROLINA

Mecklenburg County

File No.

11533

17-CV-

Film No.

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Chelsea Viviani Pierce

VERSUS

Name Of Defendant(s)

Christenbury Eye Center, P.A., Jonathan Christenbury, M.D.,
and Ellie Pena-Benarroch**CIVIL SUMMONS
TO BE SERVED WITH
ORDER EXTENDING
TIME TO FILE COMPLAINT**

G.S. 1A-1, Rule 4

TO:

Name And Address Of Defendant 1

Ellie Pena-Benarroch
3621 Randolph Rd., #100
Charlotte, NC 28211

TO:

Name And Address Of Defendant 2

Ellie Pena-Benarroch
7009 Carnwarth Ln
Fort Mill, South Carolina 29707**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or the plaintiff's attorney within thirty (30) days after you have been served with the complaint as authorized in the attached order. You may serve your answer by delivering a copy to the plaintiff or the plaintiff's attorney or by mailing a copy to one of them at his/her last known address.
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Date

6-21-17

Time

4:22

☐ AM
☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

RETURN OF SERVICE

I certify that this Summons and a copy of the Order were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of this Summons and Order.
- ☐ By leaving a copy of this Summons and Order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Summons and Order to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Service Accepted By Defendant

Date Accepted	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature
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☐ Other Manner Of Service (specify)

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of this Summons and Order.
- ☐ By leaving a copy of this Summons and Order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Summons and Order to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Service Accepted By Defendant

Date Accepted	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature
---------------	--	-----------

☐ Other Manner Of Service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Date Received	Name Of Sheriff
Paid By	Date Of Return	County
		Deputy Sheriff Making Return

Exhibit 3

STATE OF NORTH CAROLINA

Mecklenburg County

File No.

11533

17-CV-3

Film No.

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Chelsea Viviani Pierce

VERSUS

Name Of Defendant(s)

Christenbury Eye Center, P.A., Jonathan Christenbury, M.D. and
Ellie Pena-Benarroch**CIVIL SUMMONS
TO BE SERVED WITH
ORDER EXTENDING
TIME TO FILE COMPLAINT**

G.S. 1A-1, Rule 4

TO:

Name And Address Of Defendant 1

Christenbury Eye Center, P.A.
c/o National Registered Agents, Inc.
160 Mine Lake Court, Ste 200
Raleigh, NC 27615**TO:**

Name And Address Of Defendant 2

Jonathan Christenbury, M.D.
2231 Thornridge Rd
Charlotte, NC 28226**A Civil Action Has Been Commenced Against You!**

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or the plaintiff's attorney within thirty (30) days after you have been served with the complaint as authorized in the attached order. You may serve your answer by delivering a copy to the plaintiff or the plaintiff's attorney or by mailing a copy to one of them at his/her last known address.
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Date

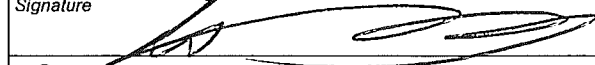
6.21.17

Time

4:22

☐ AM☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

RETURN OF SERVICE

I certify that this Summons and a copy of the Order were received and served as follows:

DEFENDANT 1

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
-------------	--	-------------------

- ☐ By delivering to the defendant named above a copy of this Summons and Order.
- ☐ By leaving a copy of this Summons and Order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Summons and Order to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Service Accepted By Defendant

Date Accepted	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature
---------------	--	-----------

☐ Other Manner Of Service (specify)☐ Defendant WAS NOT served for the following reason:**DEFENDANT 2**

Date Served	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Name Of Defendant
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- ☐ By delivering to the defendant named above a copy of this Summons and Order.
- ☐ By leaving a copy of this Summons and Order at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Summons and Order to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Service Accepted By Defendant

Date Accepted	Time Served <input type="checkbox"/> AM <input type="checkbox"/> PM	Signature
---------------	--	-----------

☐ Other Manner Of Service (specify)☐ Defendant WAS NOT served for the following reason:

Service Fee Paid \$	Date Received	Name Of Sheriff
Paid By	Date Of Return	County
		Deputy Sheriff Making Return

Exhibit 4

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
NO. 17-CVS-11533

CHELSEA VIVIANI PIERCE,
Plaintiff,

vs.

CHRISTENBURY EYE CENTER, P.A.;
JONATHAN CHRISTENBURY, M.D.; and
ELLIE PENA-BENARROCH,
Defendants.

2017-11-13 11:35
11:35:00
COMPLAINT
(JURY TRIAL DEMANDED)

Plaintiff Chelsea Viviani Pierce ("Plaintiff" or "Pierce") complains of Defendants Christenbury Eye Center, P.A. ("CEC"), Jonathan Christenbury, M.D. ("Christenbury"), and Ellie Pena-Benarroch ("Pena-Benarroch") (collectively, the "Defendants") and alleges as follows:

Nature of Action

1. Plaintiff, a former employee of Christenbury and CEC, brings this action against Christenbury and CEC for assault; battery; intentional infliction of emotional distress, and, *pled in the alternative*, negligent infliction of emotional distress; false imprisonment; and violations of Title VII of the Civil Rights Act of 1964 ("Title VII") and North Carolina's Equal Employment Practices Act ("NCEEPA") (N.C. Gen. Stat. § 143-422.2) by subjecting Plaintiff to *quid pro quo* sexual harassment, hostile work environment, retaliation, and wrongful termination. Plaintiff also alleges violations of the North Carolina Wage and Hour Act ("NCWHA") against Christenbury, CEC, and Pena-Benarroch. Plaintiff further alleges intentional infliction of emotional distress, and, *pled in the alternative*, negligent infliction of emotional distress against Pena-Benarroch for her participation in Christenbury's tortious conduct against Plaintiff. Plaintiff seeks punitive, consequential, general, special, and compensatory damages; injunctive relief to deter similar

misconduct in the future; back pay; front pay; damages for emotional distress; prejudgment interest; attorneys' fees; and the costs of this action. The EEOC issued a determination that Christenbury and CEC subjected Plaintiff to *quid pro quo* sexual harassment, hostile work environment, retaliation, and wrongfully terminated Plaintiff in violation of Title VII.

Jurisdiction and Venue

2. This Court has jurisdiction over each of the Defendants pursuant to N.C. Gen. Stat. § 1-75.4, because, upon information and belief, Christenbury is a citizen and resident of Mecklenburg County, North Carolina, and CEC is a North Carolina professional corporation with its principal office and place of business in Mecklenburg County, North Carolina. Upon information and belief, Pena-Benarroch lives in Fort Mill, York County, South Carolina and works at CEC in Mecklenburg County, North Carolina.

3. This Court has subject matter jurisdiction pursuant to N.C. Gen. Stat. §§ 7A-240 and 243 because the amount in controversy exceeds \$25,000.00, and the claims set forth herein are not otherwise delegated to the district courts.

4. Defendants individually, and in concert, committed wrongful acts in Charlotte, Mecklenburg County, North Carolina which caused injury in North Carolina and gave rise to the causes of action set forth herein. Because the wrongful acts as set forth herein took place and caused injury in Charlotte, Mecklenburg County, venue is proper in this Court.

The Parties

5. Plaintiff is a citizen and resident of Huntersville, North Carolina. At all times during which the events complained of in this Complaint occurred, Plaintiff was an employee of CEC, Christenbury, and Pena-Benarroch within the meaning of the North Carolina Wage and Hour Act, N.C.G.S. §§ 95-25.2(3) and (4); an employee of CEC and Christenbury within the meaning

of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e(f); and an employee within the meaning of all other applicable state and federal laws alleged herein.

6. CEC is a North Carolina professional association with its principal office and place of business at 3621 Randolph Road, Charlotte, North Carolina. CEC is an eye care center that offers general ophthalmology care, wavefront mapping technology, multi-focal IOL, optometry, laser vision correction, cataract surgery, glaucoma treatment, corneal and orbital surgery, and cosmetic and reconstructive surgery.

7. Upon information and belief, Christenbury is a citizen and resident of Charlotte, Mecklenburg County, North Carolina.

8. Upon information and belief, CEC is owned, operated, and controlled by Christenbury as a mere instrumentality. Christenbury is the sole or majority shareholder of CEC.

9. Upon information and belief, Christenbury is the President and Medical Director of CEC and retains ultimate dominion and control over all aspects of CEC.

10. At all relevant times, CEC and Christenbury were employers of Plaintiff within the meaning of the North Carolina Wage and Hour Act, N.C.G.S. §§ 95-25.2(3) and (5); Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e(b); and all other applicable state and federal laws alleged herein.

11. At all relevant times, CEC and Christenbury employed 15 or more employees.

12. Upon information and belief, Pena-Benarroch works and conducts substantial activity in Charlotte, Mecklenburg County, North Carolina. Previously, she was the Office Manager for CEC for several years.

13. At all relevant times, Pena-Benarroch was an employer of Plaintiff within the meaning of the North Carolina Wage and Hour Act, N.C.G.S. §§ 95-25.2(3) and (5), and all other applicable state and federal laws alleged herein.

Administrative Procedures

14. Plaintiff timely submitted a Charge of Discrimination ("Charge") against Christenbury and CEC with the Equal Employment Opportunity Commission ("EEOC") on or about November 11, 2015 alleging unlawful discrimination on the basis of her sex, female, retaliation, *quid pro quo* sexual harassment, hostile work environment, and wrongful termination.

15. The EEOC received the Charge on November 11, 2015.

16. On or about March 31, 2017, Plaintiff received a Notice of Right to Sue from the EEOC entitling her to commence this action within ninety (90) days of her receipt of that notice.

17. Plaintiff timely filed an Application and Order Extending Time to File Complaint on June 21, 2017.

18. Plaintiff has satisfied all private, administrative and judicial prerequisites to the institution of this action.

Background Facts

The Business

19. Christenbury is an ophthalmologist and surgeon who specializes in cataract and intra-ocular lens implant surgery, refractive surgery, including LASIK and refractive lens implants, and ophthalmic plastic surgery.

20. Christenbury promotes himself extensively through advertisements on the radio and television.

Unprofessional Workplace

21. Christenbury's workplace environment is unprofessional on many levels.
22. Christenbury is known to have given medical advice to patients through CEC employees who are not healthcare professionals, rather than directly to his patients, thus breaking doctor-patient confidentiality.
23. Christenbury also sends patient information in text messages to employee's personal phones.
24. Christenbury shows a strong preference for female patients over male patients. He is more conversational and interactive with female patients.
25. Christenbury is known to joke about his patients, even in public, including how female patients would show him their breasts or their "surgeries" (breast augmentation), or how a patient supposedly had a fit and jerked until her clothes supposedly flew up or came off until she was exposed.
26. Christenbury talks incessantly about himself and brags about his power, influence and wealth to employees.
27. Christenbury regularly makes inappropriate comments, including comments of a sexual nature, to employees.
28. Christenbury interferes with his employee's ability to get their work done as they are subjected to his unwelcome banter.
29. There is tremendous office-wide concern about and discomfort with Christenbury's harassing behavior.
30. Christenbury has clearly demonstrated that he is unwilling to act appropriately and professionally with his employees.

Unprofessional, Sexually Charged Environment

31. The office environment is not professional; instead, it is sexually charged and hostile based on Christenbury's conduct, which includes inappropriate sexual comments, unwanted touching, and *quid pro quo* harassment.

32. There is extremely high turnover among the support staff as a result.

Pattern and Practice

Office Mix

33. Christenbury has a pattern and practice of sexually harassing certain young and attractive targeted female employees whom he targets.

34. Christenbury has a pattern and practice to identify, recruit and hire young and beautiful females (in their mid to late 20s) for his support staff whom he finds sexually attractive.

35. Christenbury's pattern and practice is to avoid male staff because he does not want to compete for the attention of the attractive, young female employees whom he targets.

36. Christenbury's pattern and practice is to limit the male employees in the office.

37. Christenbury's pattern and practice is to search at certain restaurants and night clubs for potential staff hires, as well as modeling agencies and other venues where he thinks he can find attractive young women.

38. If he sees or meets attractive, young women personally, he gives them a business card and asks them to call for a position at CEC.

39. If he does not meet them personally, his pattern and practice is to ask to see a photograph before he will to interview or hire them at CEC.

40. During the 2014-2015 basketball season, Christenbury's pattern and practice of recruiting attractive young women focused on the dance team for the Charlotte Hornets

professional basketball team, the "Honey Bees," because they are young, beautiful women with bodies that appealed to him sexually, and who have a celebrity-like presence around the Charlotte area. Upon information and belief, he also wanted to add Honey Bees to the stable of women he could choose from to sexually harass and to solicit for potential sexual liaisons.

41. Christenbury's pattern and practice is to prefer beautiful young women over equally, or more qualified, candidates whom he does not find sexually attractive or who are male.

42. Christenbury has a pattern and practice of talking about employees' hair, lips, butts, legs, makeup, shoes, and clothes.

43. Upon information and belief, Christenbury's pattern and practice is to gain the trust, sympathy, and interest of his targets.

44. Christenbury's pattern and practice is to place the employees he targets sexually into positions where he has greater access to them at work or reasons to meet with them outside of the workplace, including positions like executive assistant, personal assistant, or marketing and business development positions.

Manipulation

45. Christenbury's pattern and practice is to describe himself as generous and as a philanthropist, brag about any good work he does for patients, employees, individuals, and nonprofits or other organizations.

46. Christenbury's pattern and practice is to make the employees he targets feel like they have a special relationship with him and special access to him.

47. Christenbury's pattern and practice is to tell employees to trust him and confide in him.

48. Christenbury's pattern and practice is to encourage employees to meet or call him after hours to talk so he can help their stress levels.

49. Christenbury's pattern and practice is to paint himself as the victim in his failed marriage, despite his infidelities.

50. Christenbury's pattern and practice is to present himself as a trusted and caring advisor and solicit detailed financial information from the employees he targets, such as their debts, expenses, and income, including other jobs, car payments, and monthly house or apartment expenses.

51. Christenbury's pattern and practice is to offer financial assistance to the employees he targets based on the personal and financial information he solicits from them.

52. Christenbury's pattern and practice is to present himself as a trustworthy and caring physician and then to ask the employees he targets about their medical history and or offer medical advice and counsel without request.

53. Christenbury's pattern and practice is to share personal information and then demand that the employees he targets do the same, to acquire sensitive personal information about them.

54. Upon information and belief, Christenbury's pattern and practice is to acquire sensitive personal information about the sexual history or interests of the employees he targets.

55. Christenbury's pattern and practice is to acquire information about the religious history, beliefs and practices of the employees he targets.

56. Christenbury's pattern and practice is to offer or provide gifts or special favors to make the employees he targets more receptive to his advances. In this category, his preferred offers are of lingerie, clothing, accessories, massages, or financial assistance.

57. Christenbury's pattern and practice is to use his wife as a backstop and claim that he and his wife are getting back together or have personal plans if his advances are rejected.

58. Christenbury has a pattern and practice of inappropriate banter with targets, including sharing descriptions of his personal sex life, sexual needs, sexual desires, interest in lingerie and thong underwear, sexual fantasies, libido, and energy level.

59. Christenbury's pattern and practice is to make inappropriate comments and ask inappropriate questions.

60. Christenbury's pattern and practice is to get frustrated if an employee only responds to his appropriate texts but not to his inappropriate texts, and to text them "?" to get them to answer the questions they are ignoring.

61. Christenbury's pattern and practice is to pretend he meant to send an inappropriate text to someone else if the employee he is targeting does not respond.

62. Christenbury's pattern and practice is to text "No hugs needed here" to the employees he targets if they do not respond to his advances by text.

63. Christenbury has a pattern and practice of describing himself to the employees he targets in a way he thinks they will find desirable, as someone who pleases women sexually, spoils them with expensive gifts, takes them on expensive vacations, and can provide them with anything they want. His pattern and practice includes offers of access to fancy cars, convertibles, and expensive restaurants, among other things.

64. Christenbury's pattern and practice is to encourage the employees he targets to drink alcohol, even in his office during work hours, or take prescription drugs such as Xanax, to help them relax, and to reduce their inhibitions to his advances.

65. Christenbury's pattern and practice is also to encourage the employees he targets to do illegal drugs with him such as marijuana or cocaine.

66. Christenbury has a pattern and practice of *quid pro quo* sexual harassment of the employees he targets.

67. Upon information and belief, Christenbury's pattern and practice is to intimidate the employees he targets by claiming he has great power and influence in his field, in the community, and over his businesses, and is very successful and well-known.

68. Christenbury's pattern and practice is to state the extent of his dominion and control over the workplace by referring to himself as "God" at CEC and as "God" among eye surgeons. He also says his word is "God."

69. Christenbury's pattern and practice is to display his anger in the workplace, and to intimidate the young female employees through angry outbursts where he yells, curses, becomes red in the face, and goes on angry rants. As a result, employees walk on eggshells and are afraid to disagree with him or object to his behavior.

70. Upon information and belief, Christenbury's pattern and practice is also to retaliate against attractive young female employees who do not agree to date him or otherwise agree to his demands to satisfy his need for personal and sexual gratification.

71. Christenbury has a pattern and practice of providing special duties or opportunities at work and extra compensation or benefits, which can be offered or withheld by him, depending on the receptiveness of the employees he targets for his advances.

72. Christenbury has a pattern and practice of retaliating against employees who reject his advances including angry rages, intimidation, threats, delayed payment of compensation, withholding compensation, drug testing, reneging on promises, disparagement,

misrepresentations, recharacterization of events, and demotions. Employees who complain about his sexual advances or the sexually hostile work environment he creates are terminated.

73. Upon information and belief, Christenbury's pattern and practice includes unwelcome touching of attractive young female employees in order to become sexually aroused and achieve his own sexual gratification.

74. Christenbury knows his conduct is inappropriate and unwelcome. Instead of stopping his sexual harassment, assaults, batteries, and retaliation, he sees what he can get away with, and just buys off anyone who asserts or communicates their intent to assert their legal rights against him and CEC.

75. Christenbury's pattern and practice is to mischaracterize his inappropriate advances, solicitations, assaults, and batteries after the fact.

76. Defendants' pattern and practice is to get the employees Christenbury has targeted to sign what he and Pena-Benarroch call a "receipt" for certain bonuses or services rendered, but which is actually a release of claims without consideration and is part of his overall pattern and practice of harassment and retaliation against employees of CEC.

77. Upon information and belief, Christenbury has a pattern and practice of using CEC to shield himself from personal liability in order to commit unlawful acts, perpetrate violations of statutory or other positive legal duties, and to commit dishonest or unjust acts in violation of the legal rights of persons he employs at CEC, including Plaintiff.

78. Upon information and belief, Christenbury is expressly and personally named as a "Released Party" together with CEC in what he and Pena-Benarroch call a "receipt" For payment of service provided to CEC.

79. Upon information and belief, Christenbury has paid for the silence of many young women who have resigned or were terminated by CEC, demanding confidentiality, non-disparagement, and a release of claims, and attempting to preclude them from telling what they witnessed or experienced.

80. Defendants' pattern and practice is to also include in the "receipts" a gag order against any discussion of Christenbury's inappropriate behaviors, hostile work environment, and *quid pro quo* harassment.

Plaintiff and Her Association with CEC and Christenbury

81. Plaintiff was 29 when she went to work for CEC and Christenbury. When she met directly with Christenbury, he hired her on the spot.

82. Within days after she went to work for Christenbury, Christenbury promoted Plaintiff to be Christenbury's Executive Assistant, where she reported directly to him and was forced to spend a lot of time alone with him in his office.

83. Christenbury's office was in the back of the building, isolated from the rest of the office, with a private bathroom and an office door to the hallway that locks automatically from the outside when the door shuts. Plaintiff observed that Christenbury kept a key fob with him at all times for admittance to his locked office.

84. Since the Executive Assistant position had far more extensive duties and responsibilities than the receptionist position, and involved more work directly for Christenbury, Christenbury offered more compensation for this increase in responsibility. The additional compensation was primarily in the form of cash compensation. For the cash compensation, she was required to sign what Christenbury described as a "receipt" for purposes of recording the additional compensation paid in cash.

85. Plaintiff was uncomfortable being alone with Christenbury in his office due to all of his inappropriate and sexually-charged comments and, later, due to unwanted sexual solicitations and assaults and batteries, but when she expressed discomfort, she was told it was a job requirement to be in his office with him when he was not with patients.

86. The type of comments Christenbury made to Plaintiff while she was alone with him in his office included:

a) Wife:

- i. Disparaging and inappropriate comments about his wife, including how she cannot satisfy him sexually,
- ii. Detailed descriptions of how little sex they had and how unsatisfactory it was for him;
- iii. Information about his wife's medical diagnoses;
- iv. Blaming the failure of his marriage on his wife;
- v. Telling Plaintiff that Plaintiff would make a perfect wife/that Plaintiff was perfect marriage material;

b) Girlfriend

When he had a girlfriend, he talked to Plaintiff about her incessantly; including:

- i. Their sex life, and the frequency of sex and orgasms;
- ii. His desire for a three-way sexual encounter;
- iii. How much he liked her thong underwear;
- iv. Her jealousies when she found lingerie or lipstick or makeup in his house that did not belong to her;
- v. Her jealousy when she learned from a friend that he attended the Honey Bees Fashion Show at the nightclub Label;
- vi. That she wanted him to be her baby daddy;
- vii. That she would not have sex with him without a negative STD test;

c) Family

To gain sympathy he would brag about how he cared for his family, including:

- i. That he is the only family member who cares for his mother;
- ii. That his sister would not help her;
- iii. That he would drive hours just to help his mother;
- iv. He had Plaintiff arrange for movers to help his mother when her apartment flooded;

d) His sexual prowess, needs and desires:

- i. That he was a nymphomaniac;
- ii. That he needed sex frequently;
- iii. That he enjoyed sex frequently;
- iv. That he had the sex drive of a much younger man;
- v. He had great endurance while having sex;
- vi. That he could please women sexually, and could always make them achieve orgasm;
- vii. That he was a pleaser;
- viii. That he wanted a woman who was interested in frequent sex;
- ix. That he was interested in three-way sexual encounters;
- x. That he was interested in sexual fetishes such as toe sucking and the practice of Bondage, Domination, Sadism, & Masochism ("BDSM");
- xi. That he liked submissive people;
- xii. That women were interested in him sexually and as a partner;

e) Terms of Endearment:

- i. Using terms of affection which are generally seen as inappropriate for workplace use, particularly between a superior and his subordinate;
- ii. Telling Plaintiff that he adored her;
- iii. Calling Plaintiff "dear;"
- iv. Calling Plaintiff "sweetie;"
- v. Calling Plaintiff the "bomb;"

f) Compliments on Appearance:

- i. Commenting frequently on Plaintiff's physical appearance and attractiveness;
- ii. Calling Plaintiff beautiful;
- iii. Complimenting Plaintiff's hair as thick and beautiful;
- iv. Stating that he wanted to pull Plaintiff's hair;
- v. Describing Plaintiff's lips as looking soft and luscious;

g) Financial

- i. Asking about her expenses and if she had debts;
- ii. Paying for her move instead of allowing her to take PTO for her move;
- iii. Paying for her time off for recovery following gallbladder surgery;
- iv. Offering to pay for Plaintiff's insurance and cell phone;
- v. Showing her how much money he made on a good day at the office;
- vi. Bragging about how much money he made in the past;
- vii. Bragging about his expensive cars and vacations;
- viii. Telling Plaintiff he wanted to help her meet her financial needs so she could focus on keeping him happy "in his bubble";

h) Power and Control

- i. Bragging about his power and control;
- ii. Calling himself God and that what he said was the word of God;
- iii. Making clear that he could terminate employees;

i) Inappropriate Requests:

- i. Telling Plaintiff to wear high heels to work;
- ii. Telling Plaintiff she should consider taking the "pink pill" to increase her sex drive;
- iii. Telling Plaintiff she should go on a diet because then she would be a "knock out;"
- iv. Asking Plaintiff to give him a massage;
- v. Directing Plaintiff to advise a coworker about his medical conclusion and advice for her, instead of advising the coworker directly as he would a patient;

j) Quid Pro Quo:

- i. Asking what Plaintiff would do for him if he paid her a special bonus;
- ii. Asking Plaintiff what she would do for him if he paid her "\$" or "more" money;
- iii. Telling her that he would surprise her and she could surprise him;
- iv. Offering special treatment, special benefits, if she would make him "happy;"
- v. Offering to have his housekeeper clean her house because she did good work for him, and then withdrawing the offer after Plaintiff refused to submit to his advances;
- vi. Offering to take Plaintiff lingerie shopping for her birthday;
- vii. Asking Plaintiff to accompany him on vacation;
- viii. Telling Plaintiff there was nothing he could not get for her;
- ix. Plaintiff rejected all of Christenbury's sexual advances;

k) To Relax or Relieve Stress:

- i. Asking Plaintiff to give him a massage and, when Plaintiff did not agree, asking if Plaintiff would ever be willing to give him a massage;
- ii. Asking Plaintiff to drink alcohol with him in his personal office to "help" her "relax";
- iii. Asking Plaintiff to smoke marijuana with him at his apartment and telling her that he purchased a vaporizer in California and could easily get marijuana in California, saying that he needed it for headaches;
- iv. Telling her that he could "pound the stress" out of her on his desk;
- v. Telling her that he could use his "long warm tongue" on her;
- vi. He would make Plaintiff talk to him while he sat in the massage chair in his office with the lights out;

l) Pornography:

- i. Telling Plaintiff he wanted to send her a naughty photo;
- ii. Showing Plaintiff photographs of naked women on his phone;

- iii. Leaving porn up on his computer for Plaintiff to see;

m) Inappropriate Questions:

- i. Asking Plaintiff about her sex drive;
- ii. Asking Plaintiff how many times a week she liked to have sex;
- iii. Asking Plaintiff whether she had ever had a three-way sexual encounter;
- iv. Asking Plaintiff about the sexual preferences of staff members;
- v. Asking Plaintiff if women liked men to "cum" on their face during sex;
- vi. Asking Plaintiff if she liked sexual partners with foot fetishes and if she would let someone suck her toes as part of a sexual encounter;
- vii. Asking Plaintiff if she would let someone tie her up as part of a sexual encounter and whether Plaintiff was into BDSM;
- viii. Asking Plaintiff how much hair he should have waxed from his genitals (all or partial);

n) Inappropriate Instructions:

- i. Telling Plaintiff to delete her text messages from him;
- ii. Telling Plaintiff she could have photos of her kids at work, but not of her husband;

Hostile Work Environment

87. Throughout Plaintiff's employment, Christenbury subjected Plaintiff to a hostile work environment and *quid pro quo* sexual harassment, including sexual overtures; repeated inappropriate remarks, requests, and actions; and otherwise getting overly personal and sharing details about his personal life that are inappropriate for an employer/employee relationship. Indeed, he fosters a hostile and sexually charged work environment by making harassing and inappropriate comments and engaging in highly inappropriate conduct.

88. Christenbury had no reason to believe that Plaintiff would be interested in any sort of personal or sexual relationship with him. Plaintiff is only a few years older than Christenbury's daughter, and Plaintiff is married with two young children. Christenbury is over sixty years old; twice her age; old enough to be her father. Even if she was not married and Christenbury was not her employer, she would never be interested in any sort of romantic or physical relationship with him.

89. In May 2015, Christenbury offered to pay for Plaintiff to hire a moving company to help her move so she did not need to take off work to move. He presented this as a bonus for her good work in the past and for agreeing not to take time off when he wanted her at work. She did not solicit it.

90. When Plaintiff had to be out for gallbladder surgery in June 2015, Christenbury provided Plaintiff with two weeks' paid leave. Again, he said this was for her good work so she could get well and return to work quicker and healthier.

91. Upon information and belief, Christenbury wanted Plaintiff to return to work as soon as possible after her surgery so that he could continue to have access to her.

92. Christenbury asked to visit Plaintiff at home while she was recovering but Plaintiff was uncomfortable and declined.

93. When Plaintiff returned to the office, he asked to see her surgical scars. She did not show him. Before her surgery he asked her questions about her medical history, past surgeries, and experience with anesthesia, and gave her medical advice.

94. Christenbury's inappropriate oversharing continued when he gave Plaintiff the results of his personal test for sexually transmitted diseases ("STD"), much later than the date on the test. He did not claim that the test was work related or tell her what he wanted her to do with it.

Assaults and Batteries by Christenbury

95. Plaintiff did not like being alone with Christenbury in his office because he subjected her to uncomfortable banter, inappropriate questions, and interfered with her ability to do her work, and because she could not always avoid his unwanted hugs when she left his office.

96. Throughout the majority of Plaintiff's employment, she was subjected to repeated unwanted hugs and other unwanted touching from Christenbury.

97. At the end of meetings between them in his office, Christenbury would get up before Plaintiff to go stand between her and the door. When she could not get out of the office before he got between her and the door, he would grab her and hug her with entirely too much frontal bodily contact.

98. She did not encourage him. Plaintiff made her lack of interest in an inappropriate relationship with him clear by avoiding physical contact, and avoiding and ignoring or diverting inappropriate communications, by telling him that she was married and had strong values, and said "stop." However, Christenbury was unrelenting, to the point of forced, unwanted touching for sexual gratification.

99. Plaintiff tried to avoid proximity where Christenbury could trap her into a hug or any physical contact.

100. In May 2015, Christenbury became more aggressive and sexual with Plaintiff. He grabbed her hair; pulled her against his body, and smacked her butt. He said he wanted to kiss her. He said her lips looked soft and luscious. She was stunned and repulsed by his inappropriate behavior and statements. She told him "no," that she was married, she pushed him off her and rushed out of his office.

101. Days later, he texted her "Why do I want to show you a naughty photo." She did not respond.

102. Christenbury showed Plaintiff photographs of naked women on his phone. Plaintiff indicated her discomfort.

103. Christenbury once left porn up on his personal laptop computer for Plaintiff to see. She closed the lid.

104. Christenbury even tried to get Plaintiff to drink liquor with him in his office to help her "relax," she declined and said she rarely drinks. He told her she would be more fun if she drank.

105. In July 2015, Christenbury again forcibly hugged Plaintiff and she felt his erect penis as he pressed his body against her. He stated in a creepy manner, "I got an erection," drawing out the last word ("e-rec-tion"). She was disgusted and told him "no," and pushed him away. Christenbury responded in an incredibly unprofessional and inappropriate manner by saying he liked the challenge of a young woman who told him "no."

106. On another occasion, when Christenbury and Plaintiff were sitting in his office discussing business, Christenbury announced out of the blue that he had an erection. Plaintiff was very uncomfortable that he shared this with her and got up and left.

107. At the end of July 2015, Christenbury told Plaintiff that he wanted to have his maid clean her house so she could focus more on him. He sent his housecleaner to inspect Plaintiff's house on July 29, 2015 and said his housecleaner would start cleaning Plaintiff's house regularly at his expense.

108. Later, Christenbury asked Plaintiff to sit on his lap while they were both in his office. She told him "no" and walked out.

109. In retaliation, Christenbury delayed payment of her July 2015 cash bonus, and on August 3, 2015, he texted Plaintiff that he would not provide house cleaning for her.

110. Days later there was another disturbing incident – the "Neck Licking Assault." Plaintiff was in Christenbury's office for a meeting. At the end of the meeting, Christenbury got

between her and the door before she could leave. He grabbed her, pulled her against him, sniffed her hair, and licked her neck. He was so worked up that he banged his head against the side of her head and ear so hard that the back of her stud earring punctured her skin. She felt his erect penis against her body.

111. Plaintiff got away from Christenbury and went into the employee bathroom. She was so distressed that she vomited. She was crying in the bathroom stall when another employee came in and asked if Plaintiff was alright. The employee saw how upset Plaintiff was and noticed blood on the right side of Plaintiff's neck which was punctured by her earring. The coworker helped Plaintiff clean up the blood.

112. On August 12, 2015, Christenbury asked Plaintiff by text if she would rub a tight muscle for him. His text to her asked:

Can you run a tight muscle for me?
Rub
Have a massage for my tight muscle at 1:15
Would you do that for me?
I did not mean today, but in general

The "Personal Massage Request" frightened Plaintiff since it followed so closely after the Neck Licking Assault.

113. The next day, Christenbury had Plaintiff sign a "receipt" to receive her cash bonus.

114. Plaintiff left the office to have a bike rack installed on Christenbury's SUV.

115. When she got back to the office, she received a text from Dr. Christenbury asking Plaintiff what he could get from her that day if he gave her "More!" "\$." When she did not respond to that text he texted "I will surprise you, you can surprise me." This "Sexual Solicitation Text" frightened Plaintiff even more.

116. After she received this text, she told her original supervisor, Adria Smith ("Smith") about Christenbury's text asking her to massage him, and said that Christenbury was making her uncomfortable by doing and saying inappropriate things. Smith did not ask what Christenbury was doing or saying to make Plaintiff uncomfortable. Smith simply responded, "He's like that" and "Sorry." Smith also did not offer any reassurances that Plaintiff would be protected from retaliation.

117. Plaintiff was so frightened that she took the next work day off and left town.

118. On August 14, 2015, while Plaintiff was out of town, Christenbury texted Plaintiff and instructed her to take back her complaint about his request for a massage, and to tell Smith and Pena-Benarroch that he just wanted Plaintiff to schedule a massage. This was not true and Plaintiff did not follow his directive.

119. On the evening of Friday, August 14, 2015, Christenbury texted Plaintiff to ask how she was and whether she needed to talk to him. She did not respond. Within an hour, he texted her again and said "[looking] forward to seeing you back on Mon."

120. The next day, Christenbury texted: "Would appreciate you telling me if everything is ok between us." When she did not respond, he texted: "Ohh, I got it."

Notice to the Company

121. Pena-Benarroch has worked for and protected Christenbury for 10 years, repeatedly facilitating and covering up his sexual harassment of young female employees during her tenure.

122. She also actively participates in the retaliation against his targets, including disparagement and termination of employment.

123. Due to Christenbury's inappropriate conduct including inappropriate commentary, Plaintiff became uncomfortable in Christenbury's office and tried to avoid being alone with him in his office. She complained about it to Smith and Pena-Benarroch.

124. Pena-Benarroch called Plaintiff and directed her to stay with Christenbury in his office when he was alone and not in surgery or with patients. When Plaintiff pushed back, Pena-Benarroch said it was a job requirement.

125. Plaintiff explained that he talked all the time about personal things, including his girlfriend and their sex life, although Plaintiff thought he was married. Plaintiff explained that she could not get her work done in his office and had lots of work to do.

126. Pena-Benarroch did not ask Plaintiff what else Christenbury talked to her about other than his girlfriend and his sex life, and did not ask what he did that made her uncomfortable. Pena-Benarroch also did not ask Plaintiff how she could help her and did not offer to protect Plaintiff in any way. Christenbury did not change his conduct after this conversation.

127. Plaintiff felt compelled to be in the office alone with Christenbury or risk losing her job.

128. Later, when Pena-Benarroch came to Charlotte, she and Plaintiff went to lunch. Plaintiff again told Pena-Benarroch that she was uncomfortable spending time alone with Christenbury in his office. Pena-Benarroch told her that she understood, but it was part of Plaintiff's job. Pena-Benarroch did not ask her what Christenbury did to make Plaintiff uncomfortable.

129. Upon information and belief, Pena-Benarroch did not need to ask, because she was familiar with Christenbury's pattern of sexual harassment, retaliation, assaults and batteries of the young female employees he targeted.

130. On August 13, 2015, Christenbury required Plaintiff to sign a "receipt" with a release to receive her earned bonus for working the additional duties of Executive Assistant. He paid these bonuses in cash.

131. Also on August 13, 2015, Christenbury then tried to manipulate and make Plaintiff feel bad, sending her a harsh text, whining about his lunch:

I felt ill this afternoon because I was starved! What happened to my good lunch that I deserved? Odd experience doing so much complex and stressful surgery and no one thought to give me lunch. You cannot depend on others unless you tell them EXACTLY what to give me to eat. I felt neglected and felt ill for no good reason.

He was angry because Plaintiff was out of the office dealing with his bike rack and someone else brought him lunch.

132. Due to her fear of continued unwanted contact with Christenbury, Plaintiff did not go to work the following day, Friday, and took PTO.

133. Plaintiff was afraid to make a formal sexual harassment complaint. She felt certain that once she made a formal complaint, she would be terminated. A formal complaint about Christenbury would be pointless because he owned and controlled the business and operated it as an extension of himself. Her fears were well founded.

134. When she got back to work, Christenbury told Plaintiff he was going to get a coworker terminated. Previously, he had asked that coworker and Plaintiff to go on vacation with him. Neither agreed to go. On August 17, 2015, Pena-Benarroch told Plaintiff to send the coworker to be drug tested because they wanted to find a reason to fire her.

135. Also on August 17, 2015, Christenbury told Plaintiff he thought an employee who was a Honey Bee must be a lesbian and also said he was going to send her to be drug tested. Upon information and belief, that employee previously refused his advances.

136. Plaintiff was hurt physically and emotionally by the hostile work environment and assaults and batteries. Christenbury was sexually frustrated and persistent. As he said to her, he liked the challenge of a young woman who told him "no."

137. Plaintiff was understandably quite frightened by Christenbury's escalating behavior and requests, as well as the fact that Smith and Pena-Benarroch did nothing to help her.

138. Plaintiff finally complained in detail to Pena-Benarroch on Friday August 21, 2015, before Plaintiff left for the day.

139. Pena-Benarroch told Plaintiff she was going to investigate, talk with Christenbury about Plaintiff's complaint, and call Plaintiff back later that evening.

140. Pena-Benarroch did not call Plaintiff that evening or the following day.

141. At about 5:51 p.m. on August 21, 2015, Christenbury texted Plaintiff: "You have been doing a good job and staff like you. You left before 5 pm and I was looking for you. What is going on with you? You ok? Worried about you?"

142. Then Christenbury talked to Pena-Benarroch who informed him of Plaintiff's more detailed complaints and they decided to terminate Plaintiff. He texted again at 6:34 p.m.: "I will miss you, never met yor [sic] girls! Please come back. If you want to talk anytime, let me know Chelsea. If you need a letter of reference or help fining [sic] another position, let me know. I will help any way I can."

143. When Plaintiff received that text, she had not yet received direct notice of her termination. That happened two days later.

144. On Sunday, August 23, 2015, Pena-Benarroch terminated Plaintiff by phone, and gave two reasons: (1) Plaintiff confided in a coworker about the sexual harassment she was experiencing at work, and (2) they were eliminating Plaintiff's position.

145. Based on the timing and stated reasons, it was obvious to Plaintiff that her termination was in direct retaliation for her complaints and refusal to comply with Christenbury's sexual advances.

146. Upon information and belief, Plaintiff's position was not eliminated and her position was filled by another young, attractive female.

147. Plaintiff was a dedicated and highly competent employee who took pride in her job and worked well with others. As stated above, Plaintiff just wanted Christenbury to leave her alone so she could do her job, something he was unwilling to do. Due to the inappropriate behavior of Defendants, Plaintiff has experienced extreme emotional distress from sexual harassment, retaliation, unwanted touching, and fear of a more serious assault and battery.

148. Plaintiff has experienced depression and anxiety, stomach problems, vomiting, changes in her relationships, nightmares, sleep problems, anxiety, and has been diagnosed with post-traumatic stress disorder ("PTSD").

149. Christenbury's conduct towards Plaintiff is particularly egregious because it is part of a longstanding pattern and practice of *quid pro quo* and hostile work environment harassment at CEC.

150. Christenbury was and is unwilling to stop his inappropriate conduct, which constitutes a hostile work environment and *quid pro quo* sexual harassment, including assaults and batteries, although he knows that they caused extreme emotional distress for Plaintiff and knows or should have known that his conduct is likely to cause emotional distress in other target-employees.

Christenbury's Use of Fake Releases or "Receipts"

151. Christenbury tells his targets he will pay weekly and monthly cash bonuses in exchange for their performance of additional tasks at work, including his personal errands such as picking up his lunch and dry cleaning. After his targets do the work, Christenbury then requires them to sign "receipts" containing false and unenforceable release language to manipulate his targets into believing he can legally fire them for complaining about his sexual abuse and harassment. Christenbury refuses to pay his targets their earned bonuses for work they have already performed unless and until they sign his fake releases or "receipts." He did the same thing to Plaintiff.

152. Christenbury uses the releases or "receipts" to protect and perpetuate his behavior. He is taking preemptive steps to allow himself the ability to continue to prey on the young women he hires to work for him. He does not intend to stop.

153. On or about August 25, 2015 (the "August 26, 2015 Letter"), counsel for Plaintiff sent a letter to CEC and Christenbury to demand that he cease further retaliation of Plaintiff by providing her with her full compensation and benefits through her termination date, including bonuses, unused PTO, and a positive reference letter.

154. Rather than assuring Plaintiff's counsel that there would be no further retaliation, Christenbury's email response to the August 25, 2015 stated "[b]efore proceeding, please read the attached full release of claims she signed, and respond to [my attorney]" referring to the receipt Plaintiff signed for her bonus on August 13, 2015.

155. Upon information and belief, Pena-Benarroch is complicit in and unwilling to take actions to stop Christenbury's inappropriate conduct, which constitutes a hostile work environment, *quid pro quo* sexual harassment, assaults and batteries, and retaliation, although she knows that they cause extreme emotional distress to employees like and including Plaintiff.

156. Christenbury is the owner and director of CEC and, as such, CEC is responsible for Christenbury's wrongful conduct on a *respondent superior* basis.

157. CEC's Harassment Policy provides that "[h]arassment based on certain protected characteristics is both unlawful and against CEC's policy and culture. It has no place in the working environment. CEC will not tolerate harassment in any form."

158. CEC's Harassment Complaint Procedure states "Any employee who feels victimized by harassment should immediately report the alleged harassment to: 1. his/her supervisor[;] 2. Human Resource Manager[;] 3. Office Manager." It goes on to state "Any harassment complaints are subject to termination of employment."

159. CEC's complaint procedure did not provide any explicit or implied protection from retaliation for an employee who reports harassment, instead the procedure actively sought to discourage reporting by subjecting any harassment complaints to termination.

160. CEC's Non-Fraternization Policy provides that CEC "strives to employ doctors, executives, and managers who will maintain professional-only relationships with subordinate employees for the best interest of the Center, themselves, and the subordinate employees. This includes engaging in off-site social, non-work related relationships with any subordinate employee of the Center."

161. Christenbury did not follow CEC's own harassment policy, although the handbook did not specifically address sexual harassment. Christenbury also failed to follow CEC's anti-fraternization policy.

EEOC Determination

162. On or about November 11, 2015, Plaintiff filed an EEOC charge for hostile work environment, *quid pro quo* harassment, retaliation, and wrongful termination. A copy of the charge is attached to this complaint as Exhibit A and incorporated herein by reference.

163. On or about September 30, 2016, the EEOC issued its Determination and found that "Examination of the evidence supports Charging Party's [Plaintiff] allegations and does not support Respondent's [CEC] defenses." A copy of this Determination is attached to this complaint as Exhibit B and incorporated herein by reference.

164. In addition to finding that Plaintiff was subjected to "unwelcome conduct based on her sex," it found that she was subjected to *quid pro quo* sexual harassment, and CEC terminated her employment because of her multiple complaints about Christenbury's sexual harassment and her refusal to comply with his sexual advances, which constituted protected activity.

165. The EEOC further found that "Evidence obtained during the investigation of this charge shows that Respondent created and maintains a sexually hostile work environment for female employees..." (emphasis added).

Wage and Hour Violations

166. During the course of Plaintiff's employment, Defendants modified her compensation so that she received a weekly cash bonus of \$300.00, and a monthly bonus paid by check of \$700.00, in addition to her salary of \$2,400.00 every four weeks.

167. On or about August 15, 2015, CEC and Christenbury terminated Plaintiff without cause.

168. At the time of Plaintiff's termination, Pena-Benarroch on behalf of CEC and Christenbury agreed to pay Plaintiff her unpaid PTO, any remaining unpaid salary, \$300.00 remaining due from her weekly July cash bonuses, and \$4,300.00 in separation pay (\$2,400.00

plus \$1,200.00 plus \$700.00) in exchange for an agreement not to compete against Defendants or solicit customers and employees of Defendants.

169. On September 2, 2015, Plaintiff requested a copy of the agreement Defendants wished her to sign before they would pay the remaining compensation promised to her.

170. On September 2, 2015, Defendants provided Plaintiff with a general release agreement which was not what was represented to Plaintiff when Defendants promised to pay her \$4,300.00 in separation pay.

171. On or about September 2, 2015, Plaintiff advised Pena-Benarroch that she would not be signing a general release agreement in exchange for the compensation due to her and that all further communications from CEC should be directed through Plaintiff's attorney.

172. Upon information and belief, Plaintiff directly reported to Christenbury and Pena-Benarroch, who made pay decisions.

173. Upon information and belief, Pena-Benarroch managed the office operations for CEC and Christenbury, and made pay decisions for them, with the involvement of Christenbury.

174. Defendants collectively denied Plaintiff payment of the compensation due to her.

175. Defendants and their counsel did not contact Plaintiff's counsel to dispute the compensation due, they simply failed to pay the compensation due.

Improper Bankruptcy

176. Defendants have been on notice of Plaintiff's claims since on or about August 25, 2015. During that time, Defendants CEC and Christenbury have been spending lavishly and fraudulently transferring and secreting assets with the assistance of those acting in concert with them.

177. Upon information and belief, Christenbury has indicated that he would rather file bankruptcy than pay any settlement amount or damage award for his inappropriate and offensive conduct.

178. Upon information and belief, in anticipation of this sexual harassment lawsuit, Christenbury and CEC began hiding assets.

179. A bankruptcy petition is considered to be made in bad faith if it is intended to delay or frustrate a plaintiff's attempt to collect on a judgment. See In re Crown Financial, Ltd., 183 B.R. 719, 722 (Bankr. M.D.N.C. 1995) ("Therefore, the court concludes that this case was not filed with any actual intent to use the provisions of Chapter 11 to reorganize or rehabilitate any ongoing or planned business enterprise nor to preserve going concern value which is nonexistent. Instead, this case was filed in order to stall and delay the [plaintiff's] efforts to collect on their judgment in the pending state court case.")

180. Even if Christenbury were to successfully petition for bankruptcy, bankruptcy cannot discharge debt that arises from a "willful and malicious injury by the debtor to another entity or to the property of another entity." 11 U.S.C. § 523(a)(6) (2016).

181. Judgments including compensatory damages, punitive damages, and attorney's fees should not be discharged when the judgment included sufficient findings of fact to support the willful and malicious injury standard. See In re Beale, 253 B.R. 644, 651 (Bankr. D. Md. 2000) (finding that judgment could not be discharged in sex discrimination case against doctor who caused a willful and malicious injury when he created a hostile work environment).

COUNT ONE

(Violations of Title VII, 42 U.S.C. § 2000e, et seq. Based on Sex, Quid Pro Quo Sexual Harassment, Hostile Work Environment Based on Sex, Retaliation, and Wrongful Termination Against CEC and Christenbury)

182. The allegations of the previous paragraphs are realleged and incorporated herein by reference.

183. CEC and Christenbury regularly employed 15 or more employees at all relevant times.

184. Plaintiff is female, and is thus a member of a protected class.

Sexual Harassment – *Quid Pro Quo* and Hostile Work Environment

185. Christenbury retains dominion and control over CEC, which had knowledge of and ratified Christenbury's pattern and practice of behaviors, as described above, including unwelcome sexual advances toward Plaintiff, assaults and batteries, inappropriate comments about Plaintiff, inappropriate comments about his sexual needs and desires, the Erection Hugs, the Neck Licking Assault, the Sexual Solicitation Text, and other inappropriate texts and behavior.

186. CEC's and Christenbury's conduct was sufficiently severe or pervasive to alter the terms and conditions of Plaintiff's employment, and created a hostile work environment on the basis of Plaintiff's sex.

187. A reasonable female in Plaintiff's circumstances would consider the working environment to be abusive or hostile.

188. Plaintiff subjectively perceived the working environment as abusive and hostile.

189. CEC and Christenbury engaged in *quid pro quo* sexual harassment by conditioning Plaintiff's receipt of job benefits, including bonuses, on acceptance or rejection of his sexual advances.

190. Pena-Benarroch, as the COO, and acting on behalf of CEC, further perpetuated the harassment and retaliation by not protecting Plaintiff from his pattern and practice of behaviors as described previously, ignoring Plaintiff's complaints, and instructing her that it was a job requirement to be alone with Christenbury in his office despite her knowledge of what

Christenbury did to his targets, including Plaintiff, when they were alone together in his office. Pena-Benarroch contributed to further retaliation by withholding Plaintiff's wages and ultimately terminating her employment.

191. Christenbury's pattern and practice of inappropriate sexual conduct and Pena-Benarroch's protection of such behaviors, and failure to investigate and remediate, has continued despite numerous complaints about such behaviors, EEOC charges by multiple employees, and the present action. Defendants continue and will continue to persist with their offensive behavior and practices and will not take any steps to stop such behavior voluntarily.

Retaliation and Wrongful Termination

192. Plaintiff engaged in legally protected activities by reporting and opposing Christenbury's unlawful sexual harassment to CEC employees Smith and Pena-Benarroch.

193. Defendants retaliated against Plaintiff by terminating her employment and withholding wages just a few days after she reported Christenbury's unlawful sexual conduct to Smith and Pena-Benarroch.

194. Had Plaintiff not complained of sexual harassment as described herein or objected to Christenbury's sexual advances and sexual batteries against Plaintiff, she would not have been terminated.

195. A causal connection exists between Plaintiff's protected activities and CEC and Christenbury's adverse, retaliatory termination of Plaintiff.

196. To the extent that CEC and Christenbury purport to have had legitimate, non-discriminatory reasons for taking adverse actions against Plaintiff, such reasons are pretexts for the true reasons, which are her legally protected activities and sex (female) as described herein.

197. CEC's and Christenbury's conduct as described above was without justification or excuse, is reprehensible, and occurred despite Plaintiff's efforts to prevent, halt, and reserve the discrimination and harassment.

198. CEC's and Christenbury's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of CEC's and Christenbury's conduct, Plaintiff is entitled to recover punitive damages.

199. As a direct and proximate result of CEC's and Christenbury's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages, compensation, other monetary and non-monetary benefits, and medical and other expenses due to her, in amounts to be proven at trial.

200. CEC and Christenbury's wrongful actions against Plaintiff did in fact cause her to suffer severe emotional distress, including, but not limited to, her diagnosis of PTSD and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

201. As a result, Plaintiff is entitled to recover from Defendants CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action.

COUNT TWO
(Wrongful Discharge in Violation of Public Policy Based on Sex -- North Carolina Equal Employment Practices Act N.C. Gen. Stat. § 143-422.1, et. seq. Against CEC and Christenbury)

202. The allegations of the previous paragraphs are realleged and incorporated herein by reference.

203. Plaintiff was an employee at-will of Defendants CEC and Christenbury.

204. The public policy of the State of North Carolina, as set forth in N.C.G.S. § 143-422.2(a), North Carolina's Equal Employment Practices Act (NCEEPA"), prohibits employers from discriminating against employees on the basis of their sex or for opposing an employer's unlawful sexual harassment and hostile work environment on the basis of their sex.

205. CEC and Christenbury violated the public policy of North Carolina as set forth in N.C.G.S. § 143-422.1 *et seq.* by terminating Plaintiff because she is female, and because she complained about sexual harassment, retaliation, hostile work environment, and sex discrimination.

206. Christenbury's offensive and inappropriate sexual harassment, hostile work environment, discrimination, and retaliation of Plaintiff was not investigated or remedied by CEC after she reported it to the EEOC.

207. Plaintiff's termination occurred after she engaged in the protected activity of complaining about sexual harassment, retaliation, hostile work environment, and sex discrimination; this wrongful termination violates the public policy of the State of North Carolina.

208. CEC and Christenbury's conduct, as described above, was without justification or excuse, is reprehensible, and occurred despite Plaintiff's efforts to prevent, halt, and reserve the discrimination and harassment.

209. CEC and Christenbury's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of CEC's and Christenbury's conduct, Plaintiff is entitled to recover punitive damages.

210. As a direct and proximate result of CEC's and Christenbury's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages,

compensation, monetary and non-monetary benefits, medical and other expenses due to her, in amounts to be proven at trial.

211. CEC and Christenbury's wrongful actions against Plaintiff did in fact cause her to suffer severe emotional distress, including, but not limited to, her diagnosis of PTSD and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

212. As a result, Plaintiff is entitled to recover from Defendants CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action.

COUNT THREE
(Assault on a Female Against CEC and Christenbury)

213. Plaintiff realleges and incorporates by reference the paragraphs above.

214. Christenbury intentionally threatened Plaintiff with imminent bodily injury and offensive contact when he got between her and the door before she could leave his office, when he forcibly grabbed her, put his hand on her buttocks, and pulled her body tightly against his, which made her extremely uncomfortable and frightened.

215. Christenbury intentionally threatened Plaintiff with imminent bodily injury and offensive contact when he again forcibly hugged Plaintiff to the point where she felt, and he announced, his erect penis against her, which made her extremely uncomfortable and frightened.

216. Christenbury intentionally threatened Plaintiff with imminent bodily injury and offensive contact when he sniffed her hair, licked her neck, and banged his head against the side of her head so hard that the back of her stud earring punctured her skin, causing her to bleed.

217. Christenbury's office is in the back of the building, isolated from the rest of the office, and automatically locks from the outside when the door shuts, thus preventing people outside his office from getting in.

218. Plaintiff had an objectively reasonable apprehension of imminent bodily injury and offensive contact to her person when Christenbury physically obstructed her path to exit his office, and when he repeatedly, forcibly, and aggressively grabbed her in his locked, isolated office.

219. CEC is owned, dominated, and controlled by Christenbury.

220. CEC had knowledge of, authorized, and ratified Christenbury's conduct.

221. Christenbury committed these acts in his office within the course and scope of his employment and business with CEC.

222. In so acting, CEC and Christenbury either intended to cause or were recklessly indifferent to the likelihood that such conduct would cause injury to Plaintiff.

223. As a direct and proximate result of CEC's and Christenbury's conduct, Plaintiff has been injured.

224. CEC's and Christenbury's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of CEC's and Christenbury's conduct, Plaintiff is entitled to recover punitive damages.

225. As a direct and proximate result of CEC and Christenbury's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages, compensation, monetary and non-monetary benefits, medical and other expenses due to her, in amounts to be proven at trial.

226. CEC and Christenbury's wrongful actions against Plaintiff did in fact cause her

to suffer severe emotional distress, including, but not limited to, her diagnosis of PTSD and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

227. As a result, Plaintiff is entitled to recover from Defendants CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action.

COUNT FOUR
(Battery Against CEC and Christenbury)

228. Plaintiff realleges and incorporates by reference the paragraphs above.

229. Christenbury intentionally touched and caused unwanted, harmful, and offensive bodily contact with Plaintiff when he got between her and the door before she could leave his office, when he forcibly grabbed her, put his hand on her buttocks, and pulled her body tightly against his, which made her extremely uncomfortable and frightened.

230. Christenbury intentionally touched and caused unwanted, harmful, and offensive bodily contact with Plaintiff when he again forcibly hugged Plaintiff to the point where she felt, and he announced, his erect penis against her, which made her extremely uncomfortable and frightened.

231. Christenbury intentionally touched and caused unwanted, harmful, and offensive bodily contact with Plaintiff when he sniffed her hair, licked her neck, and banged his head against the side of her head so hard that the back of her stud earring punctured her skin, causing her to bleed.

232. Christenbury's bodily contact offended Plaintiff's reasonable sense of personal

dignity.

233. Plaintiff did not consent to Christenbury's touching and bodily contact.

234. CEC is owned, dominated, and controlled by Christenbury.

235. CEC had knowledge of, authorized, and ratified Christenbury's conduct.

236. Christenbury committed these acts in his office within the course and scope of his employment and business with CEC.

237. In so acting, CEC and Christenbury either intended to cause or were recklessly indifferent to the likelihood that such conduct would cause injury to Plaintiff.

238. As a direct and proximate result of CEC and Christenbury's conduct, Plaintiff has been injured.

239. CEC's and Christenbury's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of CEC's and Christenbury's conduct, Plaintiff is entitled to recover punitive damages.

240. As a direct and proximate result of CEC and Christenbury's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages, compensation, other monetary and non-monetary benefits, medical and other expenses due to her, in amounts to be proven at trial.

241. CEC and Christenbury's wrongful actions against Plaintiff did in fact cause her to suffer severe emotional distress, including, but not limited to, her diagnosis of PTSD and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

242. As a result, Plaintiff is entitled to recover from Defendants CEC and Christenbury,

jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action.

COUNT FIVE

(Intentional Infliction of Emotional Distress Against Christenbury and CEC)

243. Plaintiff realleges and incorporates by reference the paragraphs above.

244. Christenbury engaged in extreme and outrageous conduct by sexually assaulting and battering Plaintiff, and by harassing, intimidating, and retaliating against her.

245. Christenbury intended to cause, or acted with reckless indifference to the likelihood that such conduct would cause severe emotional distress to Plaintiff.

246. Christenbury's actions were atrocious, utterly intolerable in a civilized community, and exceed all bounds usually tolerated by a decent society.

247. Separate and apart from its own tortious conduct, CEC is liable for the tortious acts of Christenbury, its owner and agent, because:

- a. at the time of the acts of assault, battery, harassment, and intimidation against Plaintiff, Christenbury owned, dominated, and controlled CEC, and held his position of authority over Plaintiff;
- b. the assault and battery occurred within the course and scope of Christenbury's employment and in furtherance of CEC's business given that, among other things, the incidents occurred on work premises owned by Christenbury, during work time, during and after meetings, and Plaintiff was an employee of Christenbury and CEC;

- c. upon information and belief, Christenbury has a pattern and practice of using CEC to commit unlawful acts against his targets, including Plaintiff, in an attempt to shield himself from personal liability for his actions;
- d. CEC had knowledge of, authorized, and ratified Christenbury's tortious conduct;
- e. upon information and belief, Christenbury has a pattern and practice of hiring young, attractive females so he can sexually assault, batter, harass, and intimidate them; and
- f. in other ways to be proven at trial.

248. Christenbury, by sexually assaulting and battering Plaintiff, and by harassing, intimidating, and retaliating against her, and CEC, by authorizing and ratifying Christenbury's conduct, each intended to cause, or recklessly disregarded the likelihood that such actions would cause Plaintiff to suffer severe emotional distress.

249. CEC and Christenbury's wrongful actions against Plaintiff did in fact cause her to suffer severe emotional distress, including, but not limited to, her diagnosis of PTSD and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

250. CEC and Christenbury's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of CEC and Christenbury's conduct, Plaintiff is entitled to recover punitive damages.

251: As a direct and proximate result of CEC and Christenbury's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages,

compensation, other monetary and non-monetary benefits due to her, medical and other expenses in amounts to be proven at trial.

250. As a result, Plaintiff is entitled to recover from Defendants CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action.

COUNT SIX

(Intentional Infliction of Emotional Distress Against Pena-Benarroch)

251. Plaintiff realleges and incorporates by reference the paragraphs above.

252. Pena-Benarroch engaged in extreme and outrageous conduct when she facilitated and acted to cover up Christenbury's acts of assault, battery, harassment, intimidation, and retaliation against Plaintiff, knowing his history and pattern and practice of this behavior.

253. Pena-Benarroch, by helping facilitate and allowing Christenbury to sexually assault, batter, harass, intimidate, and retaliate against Plaintiff, ratified and participated in Christenbury's conduct, and intended to cause, or recklessly disregarded the likelihood that such actions would cause Plaintiff to suffer severe emotional distress.

254. At the time of the acts against Plaintiff, Pena-Benarroch, was a supervisor, manager and COO of CEC.

255. After Plaintiff told Pena-Benarroch she was uncomfortable being alone with Christenbury in his office, Pena-Benarroch instructed Plaintiff that it was a job requirement to be alone in his office despite knowing what Christenbury did to his targets, including Plaintiff, when they were alone together in his office.

256. Pena-Benarroch's actions were atrocious, utterly intolerable in a civilized community, and exceed all bounds usually tolerated by a decent society.

257. Pena-Benarroch had knowledge of all material facts related to Christenbury's conduct because she has worked for and protected him for over 10 years, actively participating in and covering up his conduct.

258. Pena-Benarroch's wrongful actions against Plaintiff did in fact cause her to suffer severe emotional distress, including, but not limited to, her diagnosis of PTSD and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

259. Pena-Benarroch's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of Pena-Benarroch's conduct, Plaintiff is entitled to recover punitive damages.

260. As a direct and proximate result of Pena-Benarroch's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages, compensation, other monetary and non-monetary benefits due to her, medical and other expenses in amounts to be proven at trial.

261. As a result, Plaintiff is entitled to recover from Defendant Pena-Benarroch damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this actions.

COUNT SEVEN
(Negligent Infliction of Emotional Distress Against CEC and Christenbury)
pled in the alternative

262. Plaintiff realleges and incorporates by reference the paragraphs above.

263. CEC and Christenbury owed to Plaintiff, by virtue of her status as an employee of CEC and Christenbury, owed duty of care, including a duty to protect her from harm in the workplace.

264. CEC and Christenbury breached their duty to Plaintiff by sexually assaulting, battering, harassing, intimidating, and retaliating against Plaintiff, and by terminating her when she complained about this conduct to Smith and Pena-Benarroch as described herein.

265. CEC and Christenbury's actions as described above constitute negligence in that it was reasonably foreseeable that such conduct would cause Plaintiff severe emotional distress.

266. Separate and apart from its own tortious conduct, CEC is liable for the tortious acts of Christenbury, its owner and agent, because:

- a. at the time of the acts of assault, battery, harassment, and intimidation against Plaintiff, Christenbury owned, dominated, and controlled CEC, and held his position of authority over Plaintiff;
- b. the assault and battery occurred within the course and scope of Christenbury's employment and in furtherance of CEC's business given that, among other things, the incidents occurred on work premises owned by Christenbury, during work time, during and after meetings, and Plaintiff was an employee of Christenbury and CEC;
- c. upon information and belief, Christenbury has a pattern and practice of using CEC to commit unlawful acts against his targets, including Plaintiff, in an attempt to shield himself from personal liability for his actions;
- d. CEC had knowledge of, authorized, and ratified Christenbury's tortious conduct;

- e. upon information and belief, Christenbury has a pattern and practice of hiring young, attractive females so he can assault, batter, sexually harass, and intimidate them; and
- f. in other ways to be proven at trial.

267. CEC and Christenbury's failure to exercise reasonable care was a proximate cause of severe emotional distress to Plaintiff as demonstrated by her PTSD diagnosis and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

268. CEC and Christenbury's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of CEC and Christenbury's conduct, Plaintiff is entitled to recover punitive damages.

269. As a direct and proximate result of CEC and Christenbury's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages, compensation, monetary and non-monetary benefits due to her, and medical and other expenses in amounts to be proven at trial.

270. As a result, Plaintiff is entitled to recover from Defendants CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action.

COUNT EIGHT
(Negligent Infliction of Emotional Distress Against Pena-Benarroch)
pled in the alternative

271. Plaintiff realleges and incorporates by reference the paragraphs above.

272. Pena-Benarroch, by virtue of her position as a supervisor, manager and COO of CEC, owed a duty of care to Plaintiff, including a duty to protect her from harm in the workplace.

273. Pena-Benarroch has worked for and protected Christenbury for 10 years, facilitating and covering up his sexual harassment and tortious conduct toward young female employees during her tenure.

274. She also actively participates in the retaliation against his targets, including disparagement and termination of employment.

275. Pena-Benarroch failed to exercise reasonable care when she did not take any steps to stop Christenbury's behavior and actions from occurring.

276. Pena-Benarroch breached her duty of care when she instructed Plaintiff that it was a job requirement to be alone in Christenbury's office after Plaintiff told Pena-Benarroch that she was uncomfortable being alone with Christenbury in his office.

277. Pena-Benarroch, despite knowing what Christenbury did to his targets, including Plaintiff, when they were alone together in his office, facilitated and allowed Christenbury to assault, batter, harass, intimidate, and retaliate against Plaintiff, and ratified and participated in Christenbury's conduct.

278. Pena-Benarroch's failure to exercise reasonable care was a proximate cause of severe emotional distress to Plaintiff as demonstrated by her PTSD diagnosis and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

279. Pena-Benarroch's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of Pena-Benarroch's conduct, Plaintiff is entitled to recover punitive damages.

280. As a direct and proximate result of Pena-Benarroch's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages, compensation, monetary and non-monetary benefits due to her, and medical and other expenses in amounts to be proven at trial.

281. As a result, Plaintiff is entitled to recover from Defendant Pena-Benarroch damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action.

COUNT NINE

(Violations of the North Carolina Wage and Hour Act Against All Defendants)

282. Plaintiff realleges and incorporates by reference the paragraphs above.

283. Defendants were Plaintiff's employers within the meaning of the North Carolina Wage and Hour Act, which states that an "employer" "includes any person acting directly or indirectly in the interest of an employer in relation to an employee." N.C. Gen. Stat. § 95-25.2(5).

284. One of the primary functions of an employer is to ensure that the employee is compensated in full and on time. Defendants intentionally failed and refused to do this for Plaintiff.

285. N.C. Gen. Stat. § 95-25.2 (16) defines "wage" to include compensation, overtime, bonuses, accrued and unpaid vacation time, and other amounts promised when the employer has a policy or practice of making such payments.

286. N.C. Gen. Stat. § 95-25.7 requires that an employee whose employment is "discontinued" for any reason shall be paid all wages, including compensation, overtime, bonuses, accrued and unpaid vacation time, or paid time off, on the first regular payday after the amount

becomes calculable when a separation occurs. Such wages may not be forfeited unless the employee has been notified in writing or through a posting available to all employees, in accordance with N.C. Gen. Stat. § 95-25.13, of a policy or practice which results in forfeiture.

287. Defendants had a policy or practice of paying Plaintiff and other employees bonuses for performing additional work beyond the scope of their duties as well as paying accrued but unused vacation time or paid time off.

288. Failure to pay all compensation due and owing to Plaintiff by the next regular pay date after her separation from employment is a violation of the North Carolina Wage and Hour Act, N.C. Gen. Stat. 95-25.1 *et seq.*

289. Defendants have not paid Plaintiff the bonuses and accrued but unused vacation time or paid time off owed on her termination date or at any time thereafter.

290. N.C. Gen. Stat. § 95-25.7A provides that where compensation or wages are in dispute, the employer shall pay wages, or that part of the wages, which the employer concedes to be due without condition...and that the employee retains all remedies that the employee might otherwise be entitled to regarding any balance of wages claimed by the employee; and acceptance of a partial payment of wages under this section by the employee does not constitute a release of the balance of the claim; further, any release of the claim required by an employer as a condition of partial payment is void.

291. Defendants have not paid Plaintiff the full wages payable to her on the next regular pay date following her separation from employment or at any time thereafter.

292. N.C. Gen. Stat. § 95-25.22 provides that any employer who violates the provisions of the wage payment laws of the State of North Carolina "shall be liable to the employees" for

“unpaid amounts due” and other compensation, interest at the legal rate from the date due until paid in full, liquidated (double) damages, and attorneys’ fees.

293. As a result, Plaintiff is entitled to recover from Defendants, jointly and severally, all unpaid wages and compensation in the principal amount of \$4,600, plus interest at the legal rate from the date due until paid in full, liquidated damages, attorneys’ fees, and costs, in an amount in excess of \$9,200 to be proven at trial.

COUNT TEN
(False Imprisonment Against CEC and Christenbury)

294. Plaintiff realleges and incorporates by reference the paragraphs above.

295. CEC and Christenbury illegally restrained Plaintiff against her will and intentionally threatened Plaintiff with imminent bodily injury and offensive contact when he got between her and the door before she could leave his office, when he forcibly grabbed her as she tried to leave, put his hand on her buttocks, and pulled her body tightly against his, which made her extremely uncomfortable and frightened that he would do worse.

296. CEC and Christenbury illegally restrained Plaintiff by force, or by express or implied threat of force against her will.

297. Christenbury’s office is in the back of the building, isolated from the rest of the office, and automatically locks from the outside when the door shuts, thus preventing people outside his office from getting in.

298. Separate and apart from its own tortious conduct, CEC is liable for the tortious acts of Christenbury, its owner and agent, because:

- a. at the time of the acts of assault, battery, false imprisonment, harassment, and intimidation against Plaintiff, Christenbury owned, dominated, and controlled CEC, and held his position of authority over Plaintiff;

- b. the false imprisonment, assault, and battery occurred within the course and scope of Christenbury's employment and in furtherance of CEC's business given that, among other things, the incidents occurred on work premises owned by Christenbury, during work time, during and after meetings, and Plaintiff was an employee of Christenbury and CEC;
- c. upon information and belief, Christenbury has a pattern and practice of using CEC to commit unlawful acts against his targets, including Plaintiff, in an attempt to shield himself from personal liability for his actions;
- d. CEC had knowledge of, authorized, and ratified Christenbury's tortious conduct;
- e. upon information and belief, Christenbury has a pattern and practice of hiring young, attractive females so he can assault, batter, harass, and intimidate them; and
- f. in other ways to be proven at trial.

299. CEC and Christenbury's actions were done maliciously, willfully or wantonly or in a manner that demonstrates a reckless disregard for Plaintiff's rights. As a result of CEC and Christenbury's conduct, Plaintiff is entitled to recover punitive damages.

300. As a direct and proximate result of CEC and Christenbury's unlawful conduct, Plaintiff is now and will continue to be unlawfully deprived of income in the form of wages, compensation, monetary and non-monetary benefits due to her, and medical and other expenses in amounts to be proven at trial.

301. CEC and Christenbury's wrongful actions against Plaintiff did in fact cause her

to suffer severe emotional distress, including, but not limited to, her diagnosis of PTSD and symptoms including depression, helplessness, anxiety, sleeplessness, intestinal issues, vomiting, stomach problems, crying, and other stress related symptoms.

302. As a result, Plaintiff is entitled to recover from Defendants CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; prejudgment interest; attorneys' fees; and the costs of this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays the Court that:

1. Pursuant to Count One (Violations of Title VII, 42 U.S.C. § 2000e, et seq.), that Plaintiff have and recover from CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

2. Pursuant to Count Two (Wrongful Discharge in Violation of Public Policy Based on Sex), that Plaintiff have and recover from CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

3. Pursuant to Count Three (Assault on a Female Against CEC and Christenbury), that Plaintiff have and recover from Defendants, jointly and severally, damages in excess of twenty-

five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

4. Pursuant to Count Four (Battery Against CEC and Christenbury), that Plaintiff have and recover from Defendants, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

5. Pursuant to Count Five (Intentional Infliction of Emotional Distress Against Christenbury and CEC), that Plaintiff have and recover from Defendants Christenbury and CEC, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

6. Pursuant to Count Six (Intentional Infliction of Emotional Distress Against Pena-Benarroch), that Plaintiff have and recover from Pena-Benarroch damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this actions;

7. Pursuant to Count Seven (Negligent Infliction of Emotional Distress Against CEC and Christenbury, *pled in the alternative*), that Plaintiff have and recover from Defendants, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages;

back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

8. Pursuant to Count Eight (Negligent Infliction of Emotional Distress Against Pena-Benarroch, *pled in the alternative*), that Plaintiff have and recover from Pena-Benarroch damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

9. Pursuant to Count Nine (Violations of the North Carolina Wage and Hour Act Against all Defendants), that Plaintiff have and recover from Defendants, jointly and severally, all unpaid wages and compensation in the principal amount of \$4,600, plus interest at the legal rate from the date due until paid in full, liquidated damages, attorneys' fees, and costs, in an amount in excess of \$9,200 to be proven at trial;

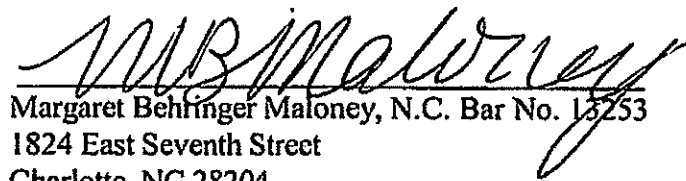
10. Pursuant to Count Ten (False Imprisonment Against CEC and Christenbury), that Plaintiff have and recover from Defendants CEC and Christenbury, jointly and severally, damages in excess of twenty-five thousand dollars (\$25,000.00) in an amount to be proven at trial, including punitive, consequential, general, special, and compensatory damages; injunctive relief to deter similar misconduct in the future; back pay; front pay; damages for emotional distress; pre- and post-judgment interest; attorneys' fees; and the costs of this action;

11. That the Court order injunctive relief against Defendants CEC and Christenbury to cease the pattern and practice of discrimination and retaliatory actions against Plaintiff and others as monetary relief alone is insufficient to provide Plaintiff with complete relief and cause Defendants to cease such wrongful practices;

12. That Defendants be held jointly and severally liable;
13. The cost of this action be taxed against the Defendants;
14. This matter proceed to trial before a jury; and
15. Plaintiff have such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 11th day of July, 2017.

MALONEY LAW & ASSOCIATES, PLLC



Margaret Behringer Maloney, N.C. Bar No. 15253

1824 East Seventh Street


Charlotte, NC 28204

mmaloney@maloneylegal.com

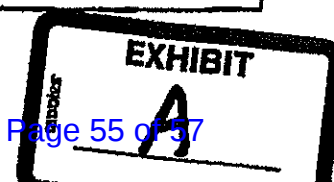
Telephone: 704-632-1622

Facsimile: 704-632-1623

Attorney for Plaintiff

CHARGE OF DISCRIMINATION		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 430-2015-02009
This form is affected by the Privacy Act of 1974; See Privacy Act Statement		and EEOC	
State or local Agency, if any			S.S. No.
NAME (Indicate Mr., Ms., Mrs.) Chelsea Viviani Pierce		HOME TELEPHONE (Include Area Code) (704) - 934 - 5516	
STREET ADDRESS 8026 Caisbrooke Drive, Huntersville NC, 28078		CITY, STATE AND ZIP CODE DATE OF BIRTH 07/25/1985	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME 3621 Christenbury Eye Care Center	NUMBER OF EMPLOYEES, MEMBERS 15 plus	TELEPHONE (Include Area Code) 704-332-9365	
STREET ADDRESS Randolph Road, Charlotte, NC 28211		CITY, STATE AND ZIP CODE COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE EARLIEST (ADE/FEPA) LATEST Throughout my employment;	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>I. I work for Christenbury Eye Care Center ("CEC"). CEC is owned and controlled by Dr. Jonathan Christenbury. Initially, I worked as a Front Desk employee, but eventually I transitioned into executive assistant to Dr. Jonathan Christenbury.</p> <p>II. I worked as Dr. Christenbury's executive assistant, a job that required that I interact with him in close proximity each day. After I was hired he began a continued, persistent, and escalating pattern of sexually suggestive and aggressive behavior towards me. Despite my repeated efforts to make clear that I was not, and would never be interested in a sexual relationship with him, he continued to escalate his behavior. In August 2015 he asked me to go on a vacation with him, licked the stress out of [me] on [his] desk, etc. He offers more money and benefits for sexual favors and retaliated if you do not go along with him. His activities are systemic and built into his work practice. He is aware of the inappropriate nature of his comments and actions. When I complained to my supervisor about Dr. Christenbury's sexually inappropriate actions Dr. Christenbury told me to withdraw my complaints about him. When I refused to do so I was terminated.</p> <p>III. CEC through Dr. Christenbury has engaged in hostile environment and <i>quid pro quo</i> sexual harassment and retaliation in violation of Title VII.</p> <p>III. I was sexually harassed and retaliated against for not submitting to Dr. Christenbury's sexual advances, all in violation of Title VII.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - (When necessary for State and Local Requirements)	
		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.  Date 11/11/15 Charging Party (Signature)		SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	

EEOC FORM 5 (Test 10/94)





U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Charlotte District Office

129 West Trade Street, Suite 400
Charlotte, NC 28202
Intake Information Group: 800-669-4000
Intake Information Group TTY: 800-669-8820
Charlotte Status Line: (888) 408-8075
Direct Dial: (704) 344-8886
TTY (704) 344-8884
FAX (704) 954-8410
Website: www.eeoc.gov

EEOC No: 430-2015-02009

Chelsea Viviani-Pierce
8026 Cottsbrooke Drive
Huntersville, NC 28078

Charging Party

Christenbury Eye Center
3621 Randolph Road
Charlotte, NC 28211

Respondent

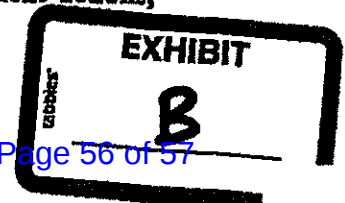
DETERMINATION

I issue the following determination as to the merits of subject charge. Respondent is an employer within the meaning of Title VIII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq. ("Title VII"). Timeliness and all other requirements for coverage have been met.

Charging Party alleges Respondent violated Title VII by subjecting her to a sexually hostile work environment and *quid pro quo* sexual harassment, based on her sex (female). Charging Party further alleges that Respondent terminated her employment in retaliation for engaging in protected activity, also in violation of Title VII. Respondent denies all allegations. Examination of the evidence supports Charging Party's allegations and does not support Respondent's defenses.

The evidence shows that from on or about April 23, 2015 through in or about August 2015, Respondent subjected Charging Party to unwelcome conduct based on her sex. The evidence further shows that the conduct was sufficiently severe or pervasive to alter Charging Party's working conditions, and that liability may be imputed to Respondent. Further, Respondent subjected Charging Party to *quid pro quo* sexual harassment. Charging Party's reaction to the harassment affected tangible aspects of her employment. Respondent knew of the harassment but took no effective remedial action. The evidence also shows that Charging Party engaged in multiple acts of protected activity that were known to Respondent. Respondent discharged Charging Party on or about August 21, 2015. The evidence establishes a causal connection between Charging Party's protected activity and her discharge. Accordingly, there is reasonable cause to believe Respondent violated Title VII.

Evidence obtained during the investigation of this charge shows that Respondent created and maintains a sexually hostile work environment for female employees at its Charlotte, North Carolina facility. Evidence further shows that employees are given no meaningful opportunity to complain and that employees who do complain are subjected to adverse employment actions,



including termination. Therefore, the Commission finds that since at least April 2015, Respondent has subjected female employees to a sexually hostile work environment at its Charlotte, North Carolina facility. The Commission further finds that since at least August 2015, Respondent has subjected female employees who engaged in protected activity to adverse employment actions. The aforementioned harassment and retaliation practices constitute a pattern or practice of discrimination against women.

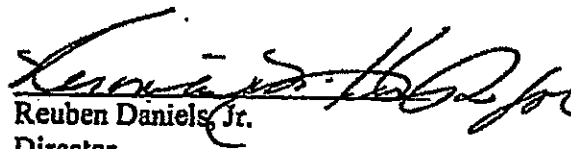
Upon finding that there is reason to believe that a violation has occurred, the Commission attempts to eliminate the alleged unlawful practice by informal methods of conciliation. Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Section 706 and 709 of Title VII and Commission Regulations apply to information obtained during conciliation.

If the Respondent declines to discuss settlement or when, for any other reason, a settlement acceptable to the Office Director is not obtained, the Director will inform the parties and advise them of the court enforcement alternatives available to aggrieved persons and the Commission. A Commission representative will contact each party in the near future to begin conciliation.

You are reminded that Federal law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe may violate the law. Discrimination against persons who have cooperated in Commission investigations is also prohibited. These protections apply regardless of the Commission's determination on the merits of the charge.

On Behalf of the Commission:

September 29, 2016
Date


Reuben Daniels, Jr.
Director
Charlotte District Office

cc: Meg Maloney
Maloney Law and Associates, PLLC
1824 E. Seventh Street
Charlotte, NC 28204

C. Grainger Pierce, Jr.
Nexsen Pruet, PLLC
Carillon Building
227 West Trade Street, Suite 1550
Charlotte, NC 28202

Exhibit 5

STATE OF NORTH CAROLINA

MECKLENBURG County

File No.

17CVS11533

Film No.

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Chelsea Viviani Pierce

VERSUS

Name Of Defendant

Christenbury Eye Center. P.A., et al

TO:

Name And Address Of Defendant 1

Ellie Pena-Benarroch
c/o Christenbury Eye Center
3621 Randolph Road, #100
Charlotte, NC 28211

TO:

Name And Address Of Defendant 2

Ellie Pena-Benarroch
7009 Carnwarth Lane
Fort Mill, SC 29707

DELAYED SERVICE OF COMPLAINT

G.S. 1A-1, Rules 3 & 4

You are being served with a copy of the complaint in this action, the delayed filing of which was ordered when the summons was issued. You must:

1. Serve a copy of your written answer to the complaint upon the plaintiff or the plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or the plaintiff's attorney or by mailing a copy to one of them at his/her last known address.
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Margaret B. Maloney
Maloney Law & Associates, PLLC
1824 East Seventh Street
Charlotte, NC 28204

Date

7/11/17

Time

1:31

☐ AM

☒ PM

Signature

[Handwritten Signature]

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

RETURN OF SERVICE

I certify that this Document and a copy of the Complaint were received and served as follows:

DEFENDANT 1

Date Served

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of this Document and Complaint.
- ☐ By leaving a copy of this Document and Complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Document and Complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Service Accepted By Defendant

Date Accepted

Signature

☐ Other Manner Of Service (specify)

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of this Document and Complaint.
- ☐ By leaving a copy of this Document and Complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Document and Complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Service Accepted By Defendant

Date Accepted

Signature

☐ Other Manner Of Service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid

\$

Date Received

Name Of Sheriff

Paid By

Date Of Return

County

Deputy Sheriff Making Return

Exhibit 6

STATE OF NORTH CAROLINAMECKLENBURG County

File No.

17CVS11533

Film No.

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Chelsea Viviani Pierce

VERSUS

Name Of Defendant

Christenbury Eye Center, P.A., et al

**DELAYED SERVICE
OF
COMPLAINT**

G.S. 1A-1, Rules 3 & 4

TO:

Name And Address Of Defendant 1

Christenbury Eye Center, P.A.
c/o National Registered Agents, Inc., Registered Agent
160 Mine Lake Court, Suite 200
Raleigh, NC 27615

TO:

Name And Address Of Defendant 2

Jonathan Christenbury, M.D.
2231 Thornridge Road
Charlotte, NC 28226

You are being served with a copy of the complaint in this action, the delayed filing of which was ordered when the summons was issued. You must:

1. Serve a copy of your written answer to the complaint upon the plaintiff or the plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or the plaintiff's attorney or by mailing a copy to one of them at his/her last known address.
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Margaret B. Maloney
Maloney Law & Associates, PLLC
1824 East Seventh Street
Charlotte, NC 28204

Date

8.11.17

Time

4:31

☐ AM☒ PM

Signature

☒ Deputy CSC☐ Assistant CSC☐ Clerk Of Superior Court

RETURN OF SERVICE

I certify that this Document and a copy of the Complaint were received and served as follows:

DEFENDANT 1*Date Served**Name Of Defendant*

- ☐ By delivering to the defendant named above a copy of this Document and Complaint.
- ☐ By leaving a copy of this Document and Complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Document and Complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)☐ Service Accepted By Defendant*Date Accepted**Signature*☐ Other Manner Of Service (specify)☐ Defendant WAS NOT served for the following reason:**DEFENDANT 2***Date Served**Name Of Defendant*

- ☐ By delivering to the defendant named above a copy of this Document and Complaint.
- ☐ By leaving a copy of this Document and Complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of this Document and Complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)☐ Service Accepted By Defendant*Date Accepted**Signature*☐ Other Manner Of Service (specify)☐ Defendant WAS NOT served for the following reason:*Service Fee Paid*

\$

*Date Received**Name Of Sheriff**Paid By**Date Of Return**County**Deputy Sheriff Making Return*

Exhibit 7

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

2017 AUG -3 P 2:34

CHELSEA VIVIAN PIERCE, CO., C.S.C.

Plaintiff,

v.

CHRISTENBURY EYE CENTER, P.A.,
JONATHAN CHRISTENBURY, M.D.; and
ELLIE PENA-BENARROCH,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

17-CVS-11533

AFFIDAVIT OF SERVICE

The undersigned, being first duly sworn, deposes and says:

1. A copy of the Application and Order Extending Time to File Complaint, Civil Summons to be Served with Order Extending Time to File Complaint, Complaint, and Delayed Service of Complaint in this action were sent by FedEx on July 11, 2017 to Ellie Pena-Benarroch at her home address of 7009 Camworth Lane, Fort Mill, SC 29707 and the business address of Christenbury Eye Center, P.A. at 3621 Randolph Road, Suite 100, Charlotte, NC 28269. Such copies were in fact delivered to Ms. Pena-Benarroch at the above-listed addresses on July 12, 2017, as evidenced by the delivery receipts attached hereto as **Exhibit A**.

2. A copy of the Application and Order Extending Time to File Complaint and Civil Summons to be Served with Order Extending Time to File Complaint in this action were sent by Certified Mail on June 22, 2017 to Christenbury Eye Center, P.A. at the registered agent address of 160 Mine Lake Court, Suite 200, Raleigh, NC 27615. Such copies were in fact delivered to the registered agent for Christenbury Eye Center, P.A. at the above-listed addresses on June 26, 2017, as evidenced by the delivery receipt attached hereto as **Exhibit B1**. A copy of the Complaint and

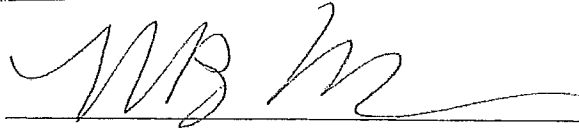
Delayed Service of Complaint in this action were sent by FedEx on July 11, 2017 to Christenbury Eye Center, P.A. at the registered agent address of 160 Mine Lake Court, Suite 200, Raleigh, NC 27615. Such copies were in fact delivered to the registered agent for Christenbury Eye Center, P.A. at the above-listed addresses on July 12, 2017, as evidenced by the delivery receipt attached hereto as **Exhibit B2**.

3. A copy of the Application and Order Extending Time to File Complaint, Civil Summons to be Served with Order Extending Time to File Complaint, Complaint, and Delayed Service of Complaint in this action were served by Mecklenburg County Sheriff on July 28, 2017 to Jonathan Christenbury, M.D., as evidenced by the attached **Exhibit C**.

5. Therefore, all Defendants have been duly served in accordance with Rule 4(j)(1) and 4(j)(6) of the North Carolina Rules of Civil Procedure.

This, the 3rd day of August, 2017.

MALONEY LAW & ASSOCIATES, PLLC



Margaret Behringer Maloney, N.C. Bar No. 13253

Jennifer Spyker, N.C. Bar No. 46048

1824 E. Seventh Street

Charlotte, NC 28204

mmaloney@maloneylegal.com

jspyker@maloneylegal.com


Telephone: 704-632-1622

Facsimile: 704-632-1623

Attorneys for Plaintiff

Sworn to and subscribed before me,

This, the 3rd of August, 2017.



Notary Public

My commission expires:

May 6, 2019

MELISSA B. HALL
NOTARY PUBLIC
MECKLENBURG COUNTY
MY COMMISSION
EXPIRES
05-06-2019
NORTH CAROLINA

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **AFFIDAVIT OF SERVICE** was served by depositing same in the U.S. mail, postage prepaid and addressed as follows:

Christenbury Eye Center, P.A.
c/o National Registered Agents, Inc.
160 Mine Lake Court, Ste 200
Raleigh, NC 27615


Dr. Jonathan Christenbury
2231 Thornridge Road
Charlotte, NC 28226

Ellie Pena-Benarroch
c/o Christenbury Eye Center
3621 Randolph Rd., #100
Charlotte, NC 28211

Ellie Pena-Benarroch
7009 Carnwarth Lane
Fort Mill, SC 29707

This the 3rd day of August, 2017.

MALONEY LAW & ASSOCIATES, PLLC



Margaret Behringer Maloney, N.C. Bar No. 13253
1824 East Seventh Street
Charlotte, NC 28204
mmaloney@maloneylegal.com
Telephone: 704-632-1622
Facsimile: 704-632-1623
Attorney for Plaintiff

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Margaret Maloney

779607381955

Tue 7/11/2017

**Delivered**

Wed 7/12/2017 1:03 pm

1824 East 7th St.
Charlotte, NC US 28204
704 632-19227009 Cammorth Lane
FORT MILL, SC US 29707
800 600 3000**Travel History**

Date/Time	Activity	Location
7/12/2017 - Wednesday		
1:03 pm	Delivered	Fort Mill, SC
8:31 am	On FedEx vehicle for delivery	Fort Mill, SC
7:13 am	Arrived FedEx facility	Fort Mill, SC
7/11/2017 - Tuesday		
9:43 am	At destination sort facility	Fort Mill, SC
9:15 pm	Left FedEx origin facility	Fort Mill, SC
7:32 pm	Picked up	Fort Mill, SC
5:17 pm	Shipment information sent to FedEx	Fort Mill, SC

Shipment Facts

Tracking number	779607381955	Service	FedEx Standard Overnight
Weight	0.5 lbs 0.23 oz	Signature services	Direct signature required
Delivery attempts	1	Delivered To	Residence
Total pieces	1	Total shipment weight	0.5 lbs 0.23 oz
Terms	Net 30	Shipper reference	OP
Packaging	FedEx Envelope	Special handling	Domestic Priority, Restricted, Delivery Direct Signature Required
Standard transit	7/12/2017 by 8:00 am		

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[Small Business Center](#)
[Service Guide](#)
[Customer Support](#)

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Margaret Maloney

779607249504

Tue 7/11/2017

1824 East 7th St
Charlotte, NC US 28214
704.632.1322**Delivered**

Wed 7/12/2017 9:47 am

Christenbury Eye Center

#100
3321 Randolph Road
CHARLOTTE, NC US 28211
000 000-0000

Travel History

▲ Date/Time	Activity	Location
7/12/2017 - Wednesday		
9:47 am	Delivered	CHARLOTTE, NC
8:20 am	On FedEx website for delivery	CHARLOTTE, NC
7:05 am	Arrived FedEx facility	CHARLOTTE, NC
7/11/2017 - Tuesday		
9:45 am	At destination sort facility	CHARLOTTE, NC
9:15 pm	Left FedEx origin facility	CHARLOTTE, NC
7:30 pm	Picked up	CHARLOTTE, NC
5:08 pm	Shipment information sent to FedEx	

Shipment Facts

Tracking number	779607249504	Service	FedEx Standard Overnight®
Weight	0.5 lbs 1.22 kg	Signature services	Direct signature required
Delivery attempts	1	Delivered To	Reception at front desk
Total pieces	1	Total shipment weight	0.5 lbs 1.22 kg
Terms	Not Available	Shipper reference	OP
Packaging	FedEx Envelope	Special handling section	Deliver Wednesday Direct Signature Required
Standard transit	7/12/2017 by 1:30 PM		

Search or tracking number

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[Small Business Center](#)
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[FedEx Ship Manager Software](#)
[FedEx Mobile](#)

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Christenbury Eye Center, P.A.
c/o National Registered Agents, Inc.
160 Mine Lake Court, Ste 200
Raleigh, NC 27615



9590 9402 1856 6104 1657 64

2. Article Number (Transfer from service label)

7016 1370 0000 1121 6486

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

6/22/17

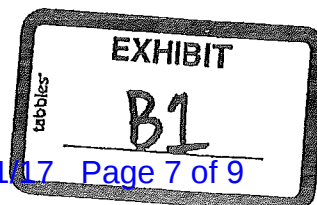
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured®
- ☐ Registered Mail®
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt



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Margaret Maloney

779607307978

Tue 7/11/2017

Maloney Law & Associates, PLLC

1824 East 7th St.
Charlotte, NC US 28204
704 632-1622**Delivered**

Wed 7/12/2017 11:30 am

Christianbury Eye Center, P.A.

Suite 200
180 Mira Lake Court
RALEIGH, NC US 27615
000 000-0000

Travel History

Date/Time	Activity	Location
7/12/2017 - Wednesday		
11:30 am	Delivered	Christianbury Eye Center, P.A.
8:15 am	On FedEx vehicle for delivery	Charlotte, NC
7:40 am	At local FedEx facility	Charlotte, NC
6:12 am	At destination sort facility	Charlotte, NC
3:43 am	Departed FedEx location	Charlotte, NC
7/11/2017 - Tuesday		
10:57 am	Arrived at FedEx location	Charlotte, NC
9:15 am	Left FedEx origin facility	Charlotte, NC
7:32 am	Picked up	Charlotte, NC
5:17 am	Shipment information sent to FedEx	Charlotte, NC

Shipment Facts

Tracking number	779607307978	Service	FedEx Standard Overnight®
Weight	0.5 lbs 10.23 kg	Signature services	Direct signature required
Delivery attempts	1	Delivered To	Receptionist Front Desk
Total pieces	1	Total shipment weight	0.5 lbs 10.23 kg
Terms	Not Available	Shipper reference	CP
Packaging	FedEx Envelope	Special handling section	Deliver Weekend, Direct Signature Required
Standard transit	7/12/2017 by 9:00 pm		

Search or tracking number

Customer Focus
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[Customer Support](#)

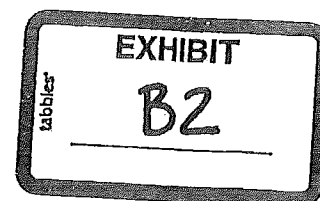
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MECKLENBURG COUNTY Sheriff's Office

Sheriff Irwin Carmichael

Civil Pleading Lookup

Welcome to the Mecklenburg County Sheriff Civil Pleading Lookup.

To check on a civil proces, please search by Name, Business Name, Order Number or by Document Number.

Please Note: If you don not find your civil process, please check the following site - Civil Pleading Lookup system

Last Name / Business Name

christenbury

First Name

Order #

File #

	Name / Involvement	File # / Order #	Date Issued / Date Received	Received Method	Process Type	Status Description	Status Date
1	CHRISTENBURY HILLS HOMEOWNERS ASSOCIATION (PLAINTIFF)	16S004371 (CWDEZEQY)	11/16/2016 (11/16/2016)	MECKLENBURG COUNTY	FORECLOSURE - NOTICE OF HEARING	SERVED - SENT TO CLERK	11/16/2016
2	CHRISTENBURY, WALLACE (DEFENDANT)	16CVM24020 (CWEY1ZCKW)	10/12/2016 (10/13/2016)	MECKLENBURG COUNTY	MAGISTRATES SUMMONS	SERVED - SENT TO CLERK	10/24/2016
3	CHRISTENBURY, BRANDON (DEFENDANT)	16CVM26102 (CWBABE1WK)	10/27/2016 (11/01/2016)	MECKLENBURG COUNTY	SUMMARY EJECTMENT	SERVED - SENT TO CLERK	11/03/2016
4	CHRISTENBURY, RONALD (DEFENDANT)	17CVM515 (CWMU1ZASC)	01/11/2017 (01/12/2017)	MECKLENBURG COUNTY	SUMMARY EJECTMENT	SERVED - SENT TO CLERK	01/17/2017
5	CHRISTENBURY, JONATHAN (DEFENDANT)	17CVS7313 (CWAR1A3QM)	04/19/2017 (04/20/2017)	MECKLENBURG COUNTY	ALIAS AND PLURIES	SERVED - SENT TO CLERK	05/03/2017
6	CHRISTENBURY, JEFFREY (DEFENDANT)	17CVM10098 (CW61URUR)	05/03/2017 (05/04/2017)	MECKLENBURG COUNTY	MAGISTRATES SUMMONS	SERVED - SENT TO CLERK	05/14/2017
7	JONATHAN CHRISTENBURY, M D (DEFENDANT)	17CVS11533 (CCK7UJ111K)	06/21/2017 (06/19/2017)	MECKLENBURG COUNTY	COMPLAINT CIVIL SUMMONS	SERVED - SENT TO CLERK	07/28/2017
8	CHRISTENBURY, JONATHAN (DEFENDANT)	17CVS11532 (CCK3SXAY4)	07/17/2017 (07/18/2017)	MECKLENBURG COUNTY	COMPLAINT CIVIL SUMMONS	SERVED - SENT TO CLERK	07/26/2017

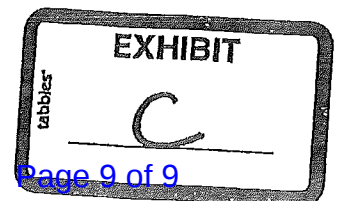


Exhibit 8

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
17-CvS-11533

CHELSEA VIVIANI PIERCE,

Plaintiff,

v.

CHRISTENBURY EYE CENTER, P.A.;
JONATHAN CHRISTENBURY, M.D.;
and ELLIE PENA-BENARROCH,

Defendants.

**NOTICE OF FILING OF
NOTICE OF REMOVAL**

TO: Clerk of Superior Court of Mecklenburg County
Mecklenburg County Courthouse
P.O. Box 37971
Charlotte, NC 28237-7971

Margaret B. Maloney
Maloney Law & Associates
1824 East Seventh St.
Charlotte, NC 28204
Attorney for Plaintiff

Notice is hereby given that on August 11, 2017, counsel for Defendants filed a Notice of Removal of this action, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, in the United States District Court for the Western District of North Carolina, Charlotte Division (the "United States District Court"). A copy of the Notice of Removal is attached hereto as Exhibit A. Please take further notice that the filing of the Notice of Removal in the United States District Court, together with the filing and service of this Notice of Filing, effects the removal of this action to the United States District Court.

This the 11th day of August, 2017.



C. Grainger Pierce, Jr.
N.C. State Bar No. 27305
Attorney for Defendants

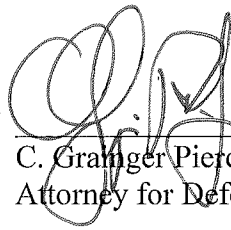
OF COUNSEL:
NEXSEN PRUET, PLLC
227 West Trade Street, Suite 1550
Charlotte, NC 28202
(704) 339-0304

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing NOTICE OF FILING OF NOTICE OF REMOVAL was duly served upon counsel for the Plaintiff in accordance with the provisions of Rule 5 of the North Carolina Rules of Civil Procedure by depositing a copy of the same in the United States Mail, first-class postage prepaid, addressed as follows:

Margaret B. Maloney
Maloney Law & Associates, PLLC
1824 East Seventh Street
Charlotte, NC 28204

This the 11th day of August, 2017.

A handwritten signature in black ink, appearing to read 'C. Granger Pierce, Jr.', is written over a horizontal line.

C. Granger Pierce, Jr.
Attorney for Defendants