

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

----- X
JANE DOE,

Plaintiff,

VERIFIED COMPLAINT

-against-

Index No:

THE NEW YORK AND PRESBYTERIAN HOSPITAL,
NEWYORK-PRESBYTERIAN/QUEENS, NEW YORK-
PRESBYTERIAN HEALTHCARE SYSTEM, INC., ZHI
ALAN CHENG, M.D., SANG HOON KIM, M.D.,
KONSTANTIN KHARITON, D.O., ARTURO TORICES
DARDON, M.D., SAMSON FERM, M.D., CHRISTOPHER
DAVIESS, M.D., GRACE OGIEHOR-ENOMA, R.P.N.,
CHELSEA LAROSILIERE, R.P.N., LATANYA
BARTHOLOMEW, R.P.N., N.P., JOHN DOES #1-20,

Defendants.
----- X

Plaintiff JANE DOE, by her attorneys, LIAKAS LAW, P.C., complaining of the
defendants, respectfully alleges as follows:

PRELIMINARY STATEMENT

1. Jane Doe was only nineteen years old when she was admitted to the New
York Presbyterian Queens emergency room with abdominal pain caused by gallstones. She
spoke no English, as she had recently relocated from South America.

2. Polite, quiet, and trusting, Jane Doe believed that when she was admitted to
New York Presbyterian Hospital Queens, she would be treated with the care and skill
required and expected of a hospital in New York State. Instead, by the time she was
discharged five days later, she had been injected with an unknown drug, rendered
unconscious, and filmed being violently sexually assaulted by her doctor ZHI ALAN

CHENG, M.D.

3. Defendants, all employees, or contactors of Defendants THE NEW YORK AND PRESBYTERIAN HOSPITAL, NEWYORK-PRESBYTERIAN/QUEENS, NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC., [hereinafter collectively referred to as “the Corporate Defendants” or “Corporate Defendants”] knew that Jane Doe had been sexually assaulted by one of their doctors, but conspired to cover up her assault by failing to tell her what had happened, failing to test or treat her for the illegal and dangerous injection of drugs she had been given, refusing to call the police, and conspiring to alter, destroy, suppress and/or prevent the reporting and prosecution evidence of her sexual assault.

4. Worse still, Defendants allowed Defendant CHENG to continue to treat Jane Doe after his initial assault and continued to employ him as a doctor for nearly a year after, during which, upon information and belief, Defendant CHENG videotaped his sexual assaults of other women that he had drugged.

5. Jane Doe was not just violated by Defendant CHENG, but by each Defendant who allowed her assault to happen and each Defendant who participated in covering it up. The Defendants’ acts and omissions have caused immeasurable harm to Jane Doe and Defendant CHENG’s other victims.

6. Jane Doe must also live with the knowledge that Defendants’ failure to call the police or to intervene appropriately, means that the video of her violent sexual assault may one day surface on the internet if it has not already. Jane Doe will live the rest of her life in fear that that she will be identified by those who have viewed the most horrific and debasing 19 minutes of her life.

7. Defendant CHENG is at least the fourth doctor employed by or affiliated with the Corporate Defendants who has been accused of committing serial sexual assaults of patients.¹

8. Plaintiff Jane Doe brings this action seeking all available monetary, equitable and injunctive relief for Defendants' statutory and common law violations, including, without limitation, claims for negligence, violations of the Gender Motivated Violence Act, N.Y.C. Admin. Code § 8-901 et seq. ("GMVA"), the New York State Human Rights Law ("NYSHRL"), N.Y. Exec. Law § 290 et seq., the New York City Human Rights Law ("NYCHRL"), N.Y.C. Admin. Code § 8-101 et seq., N.Y.C. Admin. Code § 10-180 et seq., Unlawful Disclosure of an Intimate Image, New York State Civil Rights Law § 52-b; as well as claims for Assault and/or Battery and Intentional and/or Negligent Infliction of Emotional Distress.

9. All claims asserted herein are timely including all state law claims under the Adult Survivor's Act, Civil Practice Law & Rules §214-j ("ASA").

¹ See e.g., Meko, Hurubie, "Columbia University to Pay \$165 Million to Victims of Former Doctor," The New York Times (Oct. 7, 2022) available at: <https://www.nytimes.com/2022/10/07/nyregion/columbia-university-robert-hadden-settlement.html>; Shanahan, Ed, "Doctor Is Charged With Sexually Abusing 2 Patients When They Were Minors," The New York Times (Apr. 11, 2023) available at: <https://www.nytimes.com/2023/04/11/nyregion/doctor-sexual-abuse-minors.html>; Lampen, Claire, "They thought they were lucky to get an appointment Dr. Joseph Silverman promised treatment for anorexia. Two patients say he raped them repeatedly," New York Magazine (July 31, 2021), available at: <https://www.thecut.com/2021/07/dr-joseph-silverman-raped-anorexia-patients-lawsuits-say.html>.

INJUNCTIVE RELIEF

10. In addition to all other relief requested, Plaintiff Jane Doe seeks injunctive relief to ensure that other patients of the Corporate Defendants will not have to suffer the way she and others have. The requested injunctive relief includes, but is not limited to:

- A. The imposition of a Court-ordered monitor to ensure that all complaints of sexual misconduct, inappropriate drug administration, drug diversion reporting, unlawful surveillance and/or recording and/or photography of patients, HIPAA violations, negligent security, failures to intervene, failures to report crimes and sexual assaults, failure to train hospital staff to recognize, intervene, document, and report alleged or suspected sexual assaults by staff, failures to train, monitor, supervise, and obtain informed consent for invasive examinations which are known to have the potential to be performed for sexual gratification and/or to overpower or humiliate patients, including breast, rectal, pelvic and vaginal and other genital examinations and procedures, failures and/or refusal to report never/sentinel events, failures and/or refusals to provide victims of sexual assault with appropriate assistance and/or disclosure pertinent information to the patient about their sexual assault and their medical conditions, performing medical testing without informed consent, and other violations found to be occurring at any premises fully or partially owned, operated, staffed, and/or controlled by Defendants, their parents and subsidiary corporations, successors and assigns.

- B. A publicly published independent third-party investigation and report regarding

the Corporate Defendants' actual and/or constructive notice of Defendants' conduct, and that of any other agents, servants, and employees who are found or suspected to have committed sexual offenses against patients at the subject hospital, and the steps taken in response to any such notice, if any. The report must be investigated and authored by a law firm and/or investigative firm that is free of conflicts of interest with the parties and their firms and is ranked by Chambers and Partners. Plaintiff and her counsel must be consulted in the selection of the firm and approve of same. The firm selected will work with the Court-ordered monitor, an advisory panel including Defendants' victims and their legal representatives, and experts in the field of sexual misconduct. Defendants will bear the expense of the investigation, panel fees, and report. The report will be published with the identities of any victims and/or other patients sufficiently obscured.

- C. Ordering Defendants to provide Plaintiff with all records in their possession relating to her medical treatment, sexual assault, and the investigation described herein, including all metadata associated therewith.
- D. Ordering Defendants to provide Plaintiff with all photographs, video, data, and/or recordings of Plaintiff or purporting to be Plaintiff in their possession or on any electronic devices in their possession and control and to identify the physical location and owner all such materials that they claim exist outside of their possession and control.
- E. Ordering Defendants to identify the syringe and drug, solution, and/or substance

that Defendant ZHI ALAN CHENG, M.D. used to incapacitate Plaintiff and provide all records associated with the prescription, storage, acquisition, theft, diversion, use and/or contamination of said syringe and/or drug, solution, and/or substance prior to and after its use on Plaintiff.

- F. Ordering Defendants to provide, written notice to all known, suspected, and/or potential victims of Defendant ZHI ALAN CHENG, M.D. and to provide a complete set of each victim's medical records in digital PDF and/or printed format free of charge and within 10 days of the patient's request and/or a request made on behalf of a patient by an authorized representative pursuant New York State Public Health Law § 18.
- G. That Defendants will cease and desist contacting the Plaintiff and the other victims of Defendant ZHI ALAN CHENG, M.D. offering to provide "therapy" at their facilities as Defendants have an established conflict of interest with these patients and are clearly using their belated offers to provide "therapy" as a method to obtain information about Defendants' potential liability and/or to reduce Defendants' liability by gathering information about Defendants' victims.
- H. Creation of and/or revisions to the Corporate Defendants' policies, directives, practices, and/or training with respect to, inter alia, pre-employment screening, mandatory reporting of sexual misconduct, complaint and investigation procedures, disciplinary practices, and anti-retaliation procedures, drug diversion, victim notification and supportive services, with such creations

and/or revisions to be publicly published and supervised by the Court-ordered monitor.

- I. That Plaintiff be permitted to use her pseudonym “Jane Doe” to maintain her confidentiality and that Defendants, and their attorneys be ordered to not disclose her true identity.

11. Absent these and other injunctive measures, the Defendants cannot be trusted to protect the patients under their care.

ADMINISTRATIVE PROCEDURES & STATUTES OF LIMITATION

12. Pursuant to NYCHRL § 8-502, Plaintiff will serve a copy of this Complaint upon the New York City Commission on Human Rights and the New York City Law Department, Office of the Corporation Counsel, thereby satisfying the notice requirements of that section.

13. Any and all other prerequisites to the filing of this suit have been met.

14. Pursuant to the New York State Adult Survivors Act (ASA), a one-year “look back window” has been created for victims of certain sexual offenses to assert claims that may have otherwise been time barred. The ASA’s look back window runs from November 24, 2022, through November 23, 2023. Defendants’ unlawful conduct and the claims asserted herein are all covered by the ASA’s expanded time limitations period.

PARTIES

15. At all times herein mentioned, Plaintiff JANE DOE was a resident of Queens County.

16. JANE DOE is a pseudonym used to protect Plaintiff's identity due to the severe and complex nature of her injuries, the extreme emotional distress she has suffered, and her ongoing need for mental health treatment and privacy and concerns for her safety and well-being.

17. At all times herein mentioned, Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

18. At all times herein mentioned, Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL maintained its principal place of business in New York County.

19. At all times herein mentioned, Defendant NEWYORK-PRESBYTERIAN/QUEENS was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

20. At all times herein mentioned, Defendant NEWYORK-PRESBYTERIAN/QUEENS maintained its principal place of business in Queens County.

21. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC., was a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York.

22. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC., maintained its principal place of business in New York County.

23. At all times herein mentioned, Defendant, ZHI ALAN CHENG, M.D. was a

physician licensed to practice medicine in the State of New York as a medical resident.

24. Defendant, ZHI ALAN CHENG, M.D. was arrested by the New York City Police Department on or about December 27, 2022.

25. Defendant, ZHI ALAN CHENG, M.D. is currently being prosecuted and/or investigated by the Queens County District Attorney's Office for multiple sex offenses including sex offenses committed against JANE DOE.

26. Defendant, ZHI ALAN CHENG, M.D. was indicted by a grand jury on or about December 29, 2022, for multiple sex offenses.

27. Defendant, ZHI ALAN CHENG, M.D. was indicted for offenses including rape and sexual abuse against a victim who was rendered physically helpless and unable to consent; assault with drugs and/or substances; and unlawful surveillance and recording of his criminal sexual acts.

28. Defendant, ZHI ALAN CHENG, M.D. has a *modus operandi* of sedating his victims with drugs including drugs injected into their IVs and/or with inhalant substances to render them helpless to sexual assault.

29. Defendant, ZHI ALAN CHENG, M.D. has a *modus operandi* of videotaping his sexual assaults.

30. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant, ZHI ALAN CHENG, M.D.

31. At all times herein mentioned, Defendant, ZHI ALAN CHENG, M.D, was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

32. At all times herein mentioned, Defendant, ZHI ALAN CHENG, M.D, was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

33. At all times herein mentioned, Defendant, ZHI ALAN CHENG, M.D, was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

34. At all times herein mentioned, Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL was the owner of a hospital doing business as New York Presbyterian Hospital Queens [hereinafter as “NYP Hospital Queens”] and located at 56-45 Main Street, Flushing, New York 11355.

35. At all times herein mentioned, Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL operated, managed, staffed, and controlled NYP Hospital Queens.

36. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

37. At all times herein mentioned, Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL was the owner of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

38. At all times herein mentioned, Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL operated, managed, staffed, and controlled Defendant NEWYORK-PRESBYTERIAN/QUEENS.

39. At all times herein mentioned, Defendant NEWYORK-PRESBYTERIAN/QUEENS was the owner of NYP Hospital Queens doing business as New

York Presbyterian Hospital Queens and located at 56-45 Main Street, Flushing, New York 11355.

40. At all times herein mentioned, Defendant NEWYORK-PRESBYTERIAN/QUEENS operated, managed, staffed, and controlled NYP Hospital Queens.

41. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

42. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC. was the owner of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

43. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC. was the owner of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

44. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC. operated, managed, staffed, and controlled Defendant NEWYORK-PRESBYTERIAN/QUEENS.

45. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC. operated, managed, staffed, and controlled Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

46. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC. was the owner of NYP Hospital Queens doing business as New York Presbyterian Hospital Queens and located at 56-45 Main Street, Flushing, New

York 11355.

47. At all times herein mentioned, Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC. operated, managed, staffed, and controlled NYP Hospital Queens.

48. At all times herein mentioned, Plaintiff JANE DOE was a patient and/or intended beneficiary of healthcare services and staff provided by Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

49. At all times herein mentioned, Defendant SANG HOON KIM, M.D. was a medical doctor, licensed to practice medicine in the state of New York.

50. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant, Defendant SANG HOON KIM, M.D.

51. At all times herein mentioned, Defendant, SANG HOON KIM, M.D. was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

52. At all times herein mentioned, Defendant, SANG HOON KIM, M.D. was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

53. At all times herein mentioned, Defendant, SANG HOON KIM, M.D. was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

54. At all times herein mentioned, Defendant SANG HOON KIM, M.D. was the Chief of the NYP Hospital Queens's Division of Gastroenterology (also called the gastroenterology service).

55. At all times herein mentioned, Defendant KONSTANTIN KHARITON, D.O. had the duty to supervise, monitor, control, and train the residents, fellows, nurses, and other staff at NYP Hospital Queens including, but not limited to: Defendants CHENG, SAMSON FERM, M.D.

56. At all times herein mentioned, Defendant SAMSON FERM, M.D. was a medical doctor, licensed to practice medicine in the state of New York.

57. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant SAMSON FERM, M.D.

58. At all times herein mentioned, Defendant, SAMSON FERM, M.D. was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

59. At all times herein mentioned, Defendant, SAMSON FERM, M.D. was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

60. At all times herein mentioned, Defendant, SAMSON FERM, M.D. was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

61. At all times herein mentioned, Defendant SAMSON FERM, M.D. was a resident physician in the NYP Hospital Queens's Gastroenterology fellowship program.

62. At all times herein mentioned, Defendant KONSTANTIN KHARITON, D.O., was a medical doctor, licensed to practice medicine in the state of New York.

63. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant KONSTANTIN KHARITON, D.O.

64. At all times herein mentioned, Defendant, KONSTANTIN KHARITON, D.O. was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

65. At all times herein mentioned, Defendant, KONSTANTIN KHARITON, D.O. was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

66. At all times herein mentioned, Defendant, KONSTANTIN KHARITON, D.O. was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

67. At all times herein mentioned, Defendant KONSTANTIN KHARITON, D.O. was the general surgery attending physician assigned to Plaintiff's treatment and care.

68. At all times herein mentioned, Defendant KONSTANTIN KHARITON, D.O. had the duty to supervise, monitor, control, and train the residents, fellows, nurses, and other staff at NYP Hospital Queens including, but not limited to: Defendants CHENG, FERM, and ARTURO TORICES DARDON, M.D.

69. At all times herein mentioned, Defendant ARTURO TORICES DARDON, M.D. was a medical doctor.

70. Defendant ARTURO TORICES DARDON, M.D. is presently licensed to practice medicine in Pennsylvania.

71. It is unclear whether Defendant ARTURO TORICES DARDON, M.D. has ever been licensed to practice medicine in New York State.

72. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant ARTURO TORICES DARDON, M.D.

73. At all times herein mentioned, Defendant ARTURO TORICES DARDON, M.D. was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

74. At all times herein mentioned, Defendant ARTURO TORICES DARDON, M.D. was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

75. At all times herein mentioned, Defendant, ARTURO TORICES DARDON, M.D. was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

76. At all times herein mentioned, Defendant ARTURO TORICES DARDON, M.D. was the general surgery resident assigned to Plaintiff's treatment and care.

77. At all times herein mentioned, Defendant CHRISTOPHER DAVIESS, M.D., was a medical doctor, licensed to practice medicine in the state of New York.

78. At all times herein mentioned, Defendant, CHRISTOPHER DAVIESS, M.D. was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

79. At all times herein mentioned, Defendant, CHRISTOPHER DAVIESS, M.D. was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

80. At all times herein mentioned, Defendant, CHRISTOPHER DAVIESS, M.D. was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

81. At all times herein mentioned, Defendant GRACE OGIEHOR-ENOMA, R.P.N. was a Registered Professional Nurse licensed to practice in the State of New York.

82. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant GRACE OGIEHOR-ENOMA, R.P.N.

83. At all times herein mentioned, Defendant GRACE OGIEHOR-ENOMA, R.P.N. was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

84. At all times herein mentioned, Defendant GRACE OGIEHOR-ENOMA, R.P.N., was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

85. At all times herein mentioned, Defendant, GRACE OGIEHOR-ENOMA, R.P.N., was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

86. At all times herein mentioned, Defendant GRACE OGIEHOR-ENOMA, R.P.N., was the Nurse Administrator of NYP Hospital Queens.

87. At all times herein mentioned, Defendant GRACE OGIEHOR-ENOMA, R.P.N., was the Nurse Administrator of NYP Hospital Queens.

88. At all times herein mentioned, Defendant GRACE OGIEHOR-ENOMA, R.P.N., had the duty and responsibility to supervise the nurses on her staff including Defendants CHELSEA LAROSILIERE, R.P.N., LATANYA BARTHOLOMEW, R.P.N., N.P.

89. At all times herein mentioned, Defendant CHELSEA LAROSILIERE, R.P.N., was a Registered Professional Nurse licensed to practice in the State of New York.

90. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant CHELSEA LAROSILIERE, R.P.N.

91. At all times herein mentioned, Defendant CHELSEA LAROSILIERE, R.P.N., was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

92. At all times herein mentioned, Defendant CHELSEA LAROSILIERE, R.P.N., was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

93. At all times herein mentioned, Defendant, CHELSEA LAROSILIERE, R.P.N., was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

94. At all times herein mentioned, Defendant LATANYA BARTHOLOMEW, R.P.N., N.P. was a Registered Professional Nurse, licensed to practice in the State of New York.

95. At all times herein mentioned, Defendant LATANYA BARTHOLOMEW, R.P.N., N.P. was a Registered Nurse Practitioner, licensed to practice in the State of New York.

96. At all times herein mentioned, Plaintiff JANE DOE was a patient of Defendant LATANYA BARTHOLOMEW, R.P.N., N.P.

97. At all times herein mentioned, Defendant LATANYA BARTHOLOMEW, R.P.N., N.P. was an agent, servant, and/or employee of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

98. At all times herein mentioned, Defendant LATANYA BARTHOLOMEW, R.P.N., N.P. was an agent, servant, and/or employee of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

99. At all times herein mentioned, Defendant, LATANYA BARTHOLOMEW, R.P.N., N.P. was an agent, servant, and/or employee of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

100. At all times herein mentioned, Defendant JOHN DOES 1-20 were medical providers, officers, executives, and other staff who conspired with their fellow Defendant or Defendants, to prevent the reporting, investigation, and prosecution of Defendant CHENG's sex crimes, including the crimes committed against Plaintiff.

101. At all times herein mentioned, Defendant JOHN DOES 1-20, were agents, servants, executives, officers, and/or employees of Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL.

102. At all times herein mentioned, Defendant JOHN DOES 1-20, were agents, servants, executives, officers, and/or employees of Defendant NEWYORK-PRESBYTERIAN/QUEENS.

103. At all times herein mentioned, Defendant JOHN DOES 1-20, were agents, servants, executives, officers, and/or employees of Defendant NEW YORK-PRESBYTERIAN HEALTHCARE SYSTEM, INC.

104. At all times herein mentioned, Defendant JOHN DOES 1-20 permitted, allowed, encouraged, and/or failed to intervene in or prevent Plaintiff's sexual assaults.

105. At all times herein mentioned, Defendant JOHN DOES 1-20 permitted, allowed, encouraged, and/or failed to intervene in and/or failed to prevent Defendant CHENG from leaving the premises with a video of his sexual assault of Plaintiff.

106. At all times herein mentioned, all of the physicians, nurses, and other medical personnel involved in the diagnosis, treatment, care, and observation of JANE DOE were agents, servants, and/or employees of the Corporate Defendants.

107. At all times herein mentioned, the Corporate Defendants had a duty to supervise, monitor, observe, discipline, and control those providing medical care at the aforementioned hospital, including the other Defendants.

108. At all times herein mentioned, the Corporate Defendants and SANG HOON KIM, M.D., KONSTANTIN KHARITON, D.O., and GRACE OGIEHOR-ENOMA, R.P.N., as well as any JOHN DOE Defendants with supervisory responsibility [hereinafter as “Supervisory Defendants”], had a duty develop, implement, and enforce policies and procedures to ensure adequate supervision of the medical residents and nursing staff in their charge, including ZHI ALAN CHENG, M.D, the other Defendants other medical staff members.

109. At all times herein mentioned, the Corporate Defendants and the Supervisory Defendants, had a duty develop, implement, and enforce policies and procedures to ensure adequate security and safety of the patients under their care or under the care of those in their charge, including Plaintiff.

110. At all times herein mentioned, the Corporate Defendants and Supervisory Defendants, had a duty to develop, implement, and enforce policies and procedures to ensure that the medical residents and hospital staff in their charge, including ZHI ALAN CHENG, M.D., and the other resident Defendants, and other staff, did not engage in discriminatory, unlawful, and/or violent acts against the female patients of the hospital, including Plaintiff.

111. At all times herein mentioned, the Corporate Defendants and Supervisory Defendants had a duty develop, implement, and enforce policies and procedures to ensure that the medical residents and hospital staff in their charge, including ZHI ALAN CHENG, M.D., and the other resident Defendants, were not alone with female patients.

112. At all times herein mentioned, Defendants had a duty to report inappropriate behavior including known or suspected sexual assaults by medical staff.

113. At all times herein mentioned, the Defendants were agents, servants, and/or employees of each other.

FACTUAL ALLEGATIONS

114. On or about the early afternoon of June 18, 2021, Plaintiff arrived at Defendants' NYP Hospital Queens by ambulance.

115. Plaintiff had been suffering from severe abdominal pain, nausea, and vomiting.

116. Plaintiff was admitted to the NYP Hospital Queens's Emergency Department where she was diagnosed with cholelithiasis and choledocholithiasis.²

117. On or about June 18, 2021, the corporate defendants' Emergency Department staff ordered a gastroenterology consultation for Plaintiff.

118. On or about June 18, 2021, Plaintiff was admitted to the pediatric unit at NYP Hospital Queens.

119. Plaintiff, who was nineteen on the date of incident, was only 4 feet 10 inches tall and appeared much younger than her age.

120. On or about June 19, 2021, Plaintiff was brought to a private room, specifically room 4107, in the pediatric unit at NYP Hospital Queens.

121. The pediatric unit at NYP Hospital Queens is located on the fourth floor of the hospital and contains about 20 beds.

² Cholelithiasis is the presence of gallstones in the gallbladder and choledocholithiasis is the presence of one or more gallstones in the common bile duct.

122. On the morning of June 19, 2021, Plaintiff was seen in her room by a group of surgical residents on rounds.

123. Upon information and belief, Defendant ZHI ALAN CHENG, M.D., may have been present during this June 19, 2021, visitation, but Defendants failed to document those in attendance.

124. During rounds on June 19, 2021, one surgical resident noted that nursing staff on the pediatric unit had failed to record basic information about Plaintiff's medical care including the input/ouptake of fluids.

125. Given the lack of input/ouptake records, it was evident that nursing was not appropriately monitoring Plaintiff and that they were not visiting her room with any regularity.

126. Nothing was done to ensure that the nursing staff were doing their rounds and appropriately monitoring and caring for the patients on the pediatrics floor, including Plaintiff.

127. One the morning of June 19, 2021, a consultation with NYP Hospital Queens's gastroenterology service was ordered.

128. The gastroenterology service was consulted so that they could perform an endoscopic retrograde cholangiopancreatography (ERCP)³ procedure on plaintiff prior to her having a cholecystectomy surgery to remove her gallbladder.

129. At or about 4:30 pm on June 20, 2021, Defendants ZHI ALAN CHENG, M.D., performed an examination on Plaintiff pursuant to the gastroenterology consultation request.

³ ERCP can be used to remove gallstones from the common bile duct.

130. All or most of Defendant ZHI ALAN CHENG, M.D.'s examination of Plaintiff was performed without any other staff member present.

131. Defendant ZHI ALAN CHENG, M.D., performed an invasive rectal examination on Plaintiff under the guise of medical treatment.

132. Defendant ZHI ALAN CHENG, M.D., described his rectal examination of Plaintiff within her medical record as follows: "Rectal exam: No external hemorrhoids, no anal fissure, normal sphincter tone, no masses seen at the anus, no massess (sic) palpated in the rectal vault, brown stool."

133. Defendant ZHI ALAN CHENG, M.D.'s notes written in Plaintiff's medical record indicate that he penetrated Plaintiff anally during this June 20, 2021, examination.

134. There was no legitimate reason to perform an invasive rectal examination on Plaintiff.

135. The invasive rectal examination performed by Defendant CHENG was not medically indicated or necessary.

136. Defendant CHENG's rectal examination of Plaintiff was done for his own perverse pleasure and sexual gratification.

137. Upon information and belief, Defendant CHENG's rectal examination of Plaintiff was done to test whether it would cause KIM or anyone else who viewed Plaintiff's medical chart to approach CHENG with concerns about his examination.

138. At or about 7:45 pm on June 20, 2021, Defendant SANG HOON KIM, M.D., signed off CHENG's examination of plaintiff with boilerplate language: "I saw and evaluated the patient and agree with the PA/NP/resident's/fellow's history, physical exam, assessment and plan of care. Cholecholithiasis Ercp (sic) tomorrow"

139. Defendant KIM did not even bother to change the template language “PA/NP/resident’s/fellow’s” that he appears to have copied and pasted into the entry.

140. As Defendant CHENG was a resident, Defendant KIM was required to supervise him in all aspects of patient care.

141. As Defendant CHENG was a resident, Defendant KIM was required to review Defendant CHENG’s notes in Plaintiff’s medical record to ensure that the care he delivered was appropriate and medically necessary.

142. Defendant KIM failed to read or otherwise notice that Defendant CHENG had performed an unnecessary and invasive rectal examination on Plaintiff without anyone else present.

143. Defendant KIM failed to intervene or alert anyone to what Defendant CHENG had done to Plaintiff.

144. At or about 9:29 pm on June 20, 2021, Defendant CHENG entered Plaintiff’s room on the pediatric unit.

145. Defendant CHENG was wearing hospital scrubs and was alone.

146. Defendant CHENG had entered the pediatrics unit from the 4GT stairwell which requires an employee identification tag to unlock the stairwell door.

147. The pediatric floor is supposed to be one of the most secure areas in the hospital.

148. Pediatric units are known target area of criminal activity due to the vulnerability of the patients who are lodged there.

149. Defendant CHENG entered via the stairwell to avoid cameras and the nursing station on the pediatrics floor.

150. Defendant CHENG knew that the pediatrics unit nurses, including the nurse assigned that night, Defendant LAROSILIERE, were not visiting Plaintiff with any regularity.

151. When Defendant CHENG entered Plaintiff's room, he told her to turn away from him while he used a syringe to inject an unknown substance into the IV in place in Plaintiff's left arm.

152. Plaintiff believed that Defendant CHENG was there to provide her medical treatment.

153. After Defendant CHENG injected Plaintiff, she immediately felt a painful sensation travel from her left arm throughout her body, after which, she quickly lost consciousness.

154. In the approximately 19 minutes that Defendant CHENG was alone in Plaintiff's room, he rendered her unconscious by injecting a drug or substance into her IV.

155. When Plaintiff was rendered unconscious, Defendant CHENG proceed to sexually assault Plaintiff.

156. Defendant CHENG video recorded portions of his sexual assault of Plaintiff.

157. Plaintiff's face is visible in the video.

158. Defendant CHENG left Plaintiff's room alone at 9:48 pm with the footage of his sexual assault and violation Plaintiff's unconscious body.

159. Defendant LAROSILIERE did not visit Plaintiff's room for more than an hour after Defendant CHENG left.

160. When she entered the room, Defendant LAROSILIERE found Plaintiff alone and in extreme distress.

161. Plaintiff told Defendant LAROSILIERE that she had ten out of ten (10/10) pain in her lower abdomen.

162. Plaintiff told Defendant LAROSILIERE that the pain in her lower abdomen felt like “someone was twisting and pulling” inside her lower abdominal area.

163. This pain is completely different than the gallstone pain that Plaintiff had experienced earlier and was in a different area, specifically inside her lower abdomen.

164. Plaintiff demonstrated for Defendant LAROSILIERE that she could not sit up because parts of her lower body were numb.

165. Plaintiff described to Defendant LAROSILIERE that an Asian male doctor appeared in her room, alone, and injected her with drugs that caused her pain and made her lose consciousness.

166. Defendant LAROSILERE obtained a syringe of morphine and injected Plaintiff with it.

167. Defendant LAROSILERE told Plaintiff that the Morphine would take a few minutes to work, and left Plaintiff alone in the room.

168. Defendant LAROSILERE failed to immediately report the incident to anyone or note it in Plaintiff’s medical record at this time.

169. Plaintiff’s mother arrived at about 11pm and after speaking to Plaintiff, began questioning Defendant LAROSILERE.

170. Plaintiff’s mother began demanding to know what her daughter was injected with and why it was causing her extreme pain.

171. Defendant LAROSILERE did not explain to Plaintiff or her mother that she believed that Plaintiff had been sexually assaulted but instead notified Defendant BARTHOLOMEW.

172. On or about June 21, 2021, at approximately midnight, Defendant BARTHOLOMEW reviewed the security footage from the pediatrics unit.

173. Defendant BARTHOLOMEW later noted “an individual in blue scrubs was seen entering the unit from the 4Gt stairwell and then entering patients (sic)room at 9:29p. The individual was then seen exiting patients (sic) room and then exiting the unit at 9:48p through main unit doors. Waiting for security to verify the name on the ID that was swiped to unlock the 4Gt stairwell door.”

174. Defendants never updated Plaintiff’s medical record with the identity of the person whose identification card was used to unlock the stairwell door.

175. On or about June 21, 2021, and after Defendant BARTHOLOMEW had viewed the security footage, she and Defendants LAROSILERE, TORICES, and KHARITON, went to Plaintiff’s room and questioned her about the incident.

176. Plaintiff told Defendants that the Asian doctor who came into her room, touched her stomach, and gave her an injection that hurt her was the same doctor that had visited her earlier on June 20, 2021.

177. Defendants knew that Defendant CHENG was the individual Plaintiff described.

178. Defendants did not tell Plaintiff or her mother that they viewed the footage and confirmed that a doctor had entered her room.

179. Defendants did not tell Plaintiff or her mother that they knew or believed she had been sexually assaulted.

180. Defendant BARTHOLMEW instead called Defendant GRACE OGIEHOR-ENOMA, R.P.N.

181. Defendants LAROSILERE, TORICES, KHARITON, and BARTHOLOMEW, OGIEHOR-ENOMA, along with the members of the unidentified JOHN DOE defendants, formed a lineup of male employees and asked Plaintiff to identify if any of the male employees gave her the injection.

182. Plaintiff immediately identified Defendant CHENG.

183. Defendants did not include any notes about the lineup that they performed anywhere in the medical records.

184. Defendants recorded and/or conspired to record incorrect, inaccurate, and/or false information in Plaintiff's medical record in order to protect Defendant CHENG and the hospital and cast doubt on Plaintiff's recollection of events.

185. Defendants failed to call the police.

186. Defendants failed to suspend or terminate Defendant CHENG.

187. Defendants failed to collect any evidence including Plaintiff's hospital robe or bed sheets.

188. Defendants failed to offer Plaintiff any counseling or the services of a forensic sexual assault examiner.

189. Defendants failed to test Plaintiff's blood to determine what she was injected with.

190. Defendants knew that Plaintiff had not been prescribed any medication that would have caused her to lose consciousness or any of her other symptoms.

191. Defendants knew that the injection of medication Plaintiff was given was not recoded in her medical records.

192. Defendants knew that it was likely that Plaintiff had been injected with a partially used syringe of Propofol or a similar medication used to anesthetize patients for surgical procedures.

193. Defendants did not tell Plaintiff that she had likely received an injection from a used and/or contaminated syringe or offer her any prophylactic medication to prevent disease transmission.

194. Defendants did not offer Plaintiff a forensic sexual assault examination because they knew that if Plaintiff were to have one, it would prove what they all knew and/or believed – that Plaintiff had been vaginally and/or anally raped and/or otherwise sexually assaulted by Defendant CHENG.

195. Defendants conspired to keep their knowledge to themselves and from Plaintiff and he mother.

196. Defendants did not tell Plaintiff that they believed she had been sexually assaulted.

197. Defendants did not tell Plaintiff or her mother what Plaintiff had been injected with despite the fact that they continually asked for this information.

198. Defendants failed to prevent or delay Plaintiff's ERCP surgery given that she had just been injected with an unknown substance or determine if she was medically safe to have the surgery despite her drugging.

199. Although ERCP can be performed during surgery, including during Plaintiff's already cholecystectomy which was already scheduled, Defendants forced the ERCP to go forward despite her recent drugging by Defendant CHENG.

200. Upon information and belief, the ERCP and cholecystectomy procedures were scheduled separately so that the Defendants could increase their billable services.

201. On or about June 21, 2021, less than 24 hours after she was drugged and sexually assaulted and videotaped by CHENG, Plaintiff underwent the ERCP procedure inside of the endoscopy suite at NYP Hospital Queens.

202. The endoscopy suite is adjacent to Defendant KIM's office within NYP Hospital Queens.

203. The endoscopy suite is surrounded by other common areas where the endoscopy fellows, residents, and other and staff gather.

204. Staff, including the medical residents like Defendant CHENG, move freely within the endoscopy suite.

205. An ERCP at NYP Hospital Queens is typically performed by a resident in the gastroenterology service, and a gastroenterology attending physician, usually, Defendant SANG HOON KIM, M.D.

206. Defendant SANG HOON KIM, M.D., was the attending physician assigned to the June 21, 2021, ERCP.

207. Defendant KIM's procedure note for Plaintiff's June 21, 2021, ERCP indicates that the resident assisting Defendant KIM was defendant SAMSON FERM, M.D.

208. Defendant KIM's procedure note for Plaintiff's June 21, 2021, ERCP does not indicate that anyone else was present during the procedure which is false.

209. On or about June 22, 2021, and after they knew he had sexually assaulted Plaintiff, Defendants allowed Defendant CHENG to provide medical treatment and care to Plaintiff and to access her medical records.

210. On or about June 22, 2021, and after they knew he had sexually assaulted Plaintiff, Defendants allowed Defendant CHENG to participate in the ERCP when Plaintiff was sedated.

211. Upon information and belief, Defendant CHENG was present during Plaintiff's June 21, 2021, ERCP either in addition to or instead of Defendant FERM.

212. Defendant CHENG wrote notes describing, in detail, the events of the ERCP surgical procedure.

213. Upon information and belief, Defendant FERM did not write any notes about what had occurred during the ERCP procedure in Plaintiff's medical record.

214. Defendant KIM's procedure note for Plaintiff's June 21, 2021, ERCP falsely states that Plaintiff received Monitored Anesthesia Care (MAC), sometimes called twilight anesthesia.

215. MAC is far less sedative than general anesthesia and allows the patient to remain somewhat aware of what is occurring, whereas general anesthesia involves a complete sedation of the patient.

216. All notes of the ERCP procedure made by others, including the anesthesiologist, state that Plaintiff received general anesthesia.

217. Defendant KIM's procedure note for Plaintiff's June 21, 2021, ERCP fails to state that Plaintiff was penetrated rectally during the procedure.

218. A nurse present during the surgery noted that Plaintiff was given an Indomethacin suppository rectally during the surgery.

219. Indomethacin is not listed by its generic or brand name anywhere in Plaintiff's chart including in the medication administration record.

220. The only other place where Indomethacin is noted is in Defendant's CHENG note describing Plaintiff's ERCP.

221. Defendant CHENG wrote the following in Plaintiff's chart: "Indomethen (sic) given intraprocedural."

222. Upon information and belief, Defendant CHENG appears to have feigned the administration of the rectal suppository in order to further sexually assault Plaintiff and/or provide an explanation in the event that plaintiff was given a rape examination and his DNA was recovered.

223. Upon information and belief, claiming that he was inserting a suppository allowed CHENG to penetrate Plaintiff's rectum during the ERCP procedure under the guise of medical care.

224. Defendant KIM. did not review Defendant CHENG's notes about the ERCP and the rectal penetration until after long after Plaintiff had been discharged from NYP Hospital Queens.

225. On or about June 22, 2021, Plaintiff underwent a laparoscopic cholecystectomy for which she was sedated.

226. Plaintiff was cleared for discharge by her cholecystectomy surgeons on or about June 22, 2021, but was not released.

227. On or about June 23, 2021, Defendant CHRISTOPHER DAVIESS, M.D., was informed by a staff member that Plaintiff had likely been raped and/or sexually assaulted by Defendant CHENG.

228. Defendant DAVIESS never treated Plaintiff.

229. Defendant DAVIESS never spoke with Plaintiff.

230. Defendant DAVIESS delayed Plaintiff's release from the hospital in order to perform a medical test on her without her knowledge or consent.

231. Defendant DAVIESS ordered a nurse to draw Plaintiff's blood be taken for an HIV test.

232. Defendant DAVIESS never obtained Plaintiff's informed consent to test her blood for HIV and never even informed her that the test was being conducted.

233. Defendant DAVIESS ordered a 4th generation HIV1 and 2 Rapid test to be performed on Plaintiff.

234. Fourth generation HIV tests cannot detect HIV unless the exposure occurred at least one month prior to testing.

235. Defendant DAVIESS knew that the test could not detect any HIV transmission to Plaintiff during the assault or during the administration of drugs to Plaintiff with a used syringe.

236. Upon information and belief, Defendant DAVIESS tested Plaintiff's blood solely to see if she had HIV before she arrived at the hospital.

237. Defendant DAVIESS and the other Defendants failed to tell Plaintiff that she had an HIV test or that it was negative.

238. Defendant DAVIESS and the other Defendants ran the test to determine if Defendants could claim that Plaintiff already had HIV prior to her sexual assault.

239. Defendant DAVIESS and the other Defendants failed to offer Plaintiff any HIV or other prophylactic drugs or explain to her the risk she faced if she did not take them.

240. Defendant DAVIESS and the other Defendants failed to tell Plaintiff to get tested for HIV within a month because their concern in ordering the test was not for Plaintiff's wellbeing.

241. Defendants failed to tell Plaintiff that they believed she had been sexually assaulted.

242. Defendants knew that Plaintiff and her mother could not speak or read English.

243. When Defendants gave Plaintiff a packet of hundreds of pages of discharge papers which included a "sexual assault bill of rights" most of the papers were in English only.

244. The few papers in Spanish were confusing to Plaintiff because Defendants had never told her that they thought she was sexually assaulted or that they knew that doctors sometimes anesthetized patients to sexually assault them or took advantage of anesthetized patients.

245. Within days of Plaintiff's sexual assault, Defendants misled her about what happened, failed to offer the assistance they were duty bound by their patient relationship and mandated by law to provide to victims of sexual assault, destroyed and failed to collect evidence, and allowed Plaintiff to be repeatedly sexually assaulted by Defendant CHENG.

246. When Plaintiff was finally released from NYP Hospital Queens on June 23, 2021, she was shaken and confused what had happened, but she trusted that the Defendants would have told her if she had been sexually assaulted by her doctor.

247. Upon information and belief, on or about December 16, 2022, a woman with whom Defendant CHENG had a voluntary intimate relationship, inadvertently discovered videos

of Defendant CHENG chemically sedating her and sexually assaulting her on multiple occasions when she had spent the night in his apartment.

248. Upon information and belief, this woman reported the videos to the New York City Police Department (NYPD).

249. Defendant CHENG was arrested by the NYPD on or about December 27, 2022.

250. Upon information and belief, when Defendant CHENG's electronic devices were searched, other videos of Defendant CHENG's sexual assaults were found.

251. The video of Defendant CHENG sexually assaulting Plaintiff in her pediatric unit hospital bed was one of the videos found in CHENG's possession.

252. In late April of 2023, Plaintiff and her mother received a telephone call asking them to appear at the Queens County District Attorney's Office.

253. When Plaintiff and her mother arrived, they learned for the first time that for part of the 19 minutes that Defendant CHENG was present in Plaintiff's room, he had and videotaped himself sexually assaulting her while she was unconscious.

THE HISTORICAL FAILURES OF THE CORPORATE DEFENDANTS

254. Defendants knew or should have known that the circumstances indicated that Plaintiff had been raped and/or sexually assaulted by CHENG who, upon information and belief, had diverted a partially used syringe, likely one left in the endoscopy suite, to render Plaintiff unconscious.

255. Defendants knew or should have known that the events were similar to those that had occurred at Mount Sinai in 2016 when Dr. David Newman injected a patient with a used

propofol syringe he had pocketed in order to masturbate and ejaculate on to her face and body while groping her.⁴

256. Upon information and belief, while it is believed that Defendants may attempt to claim that Defendant CHENG is merely a bad apple, an outlier whose criminal behavior they could not have predicted, such a defense is belied by common sense and the long history of abusive and unethical behavior condoned and even encouraged by the Corporate Defendants.

257. Although rarely discussed publicly, patient sexual assaults by medical professionals and staff are far from uncommon.

258. In fact, the opportunistic sexual assault of patients was such a concern to Hippocrates, that he included a prohibition against it in his eponymous oath: “I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both male and female persons. . . .”

259. In 2016, the Atlanta Journal-Constitution uncovered hundreds upon hundreds of patients who were sexually assaulted by physicians, including cases where anesthetized patients were violated.⁵

260. It is unknown how many anesthetized or otherwise unconscious patients are sexually assaulted in hospitals, surgical centers, and other care facilities every year.

261. What is known, is that vulnerable patients, especially children, those with mental disorders, and those who are unconscious are particularly at risk of sexual assault.⁶

⁴ Miller, Lisa, “One Night at Mount Sinai” The Cut (October 15, 2019), Available at: <https://www.thecut.com/2019/10/mount-sinai-david-newman.html>

⁵Atlanta Journal-Constitution, “Doctors & Sex Abuse” (2016) https://doctors.ajc.com/table_of_content

262. This is the reason that pediatrics, labor and delivery, and other units where the unconscious or otherwise vulnerable patients are held and treated, are supposed to be the most secure at any facility.

263. As patient sexual assault during hospitalization is a risk known to the medical community, it is the responsibility of the Corporate Defendants and others like them to ensure that staff are properly hired, supervised, trained, and terminated as well as to provide adequate security and monitoring of their physical plant.⁷

264. In other words, there is nothing special about doctors and other medical professionals that sets them apart from prison guards, police officers, clergy, and others in trusted positions that allow them access to the vulnerable.

265. A percentage of medical professionals will commit a sexual offense against a vulnerable victim depending on two things: 1) how easy it is to commit the act; and 2) the certainty of their belief that they will be punished and the severity of the consequences they believe they will face.

266. As such, the prevention of sexual assault in hospital settings requires both 1) an increase in the certainty and severity of punishment for offenders and 2) an increase the number

⁶ Barnett, Brian, "Addressing Sexual Violence in Psychiatric Facilities" American Psychiatric Association (September 1, 2020), (available at: <https://ps.psychiatryonline.org/doi/epdf/10.1176/appi.ps.202000038>); Feldman, Kenneth W., et al., "Accusations that hospital staff have abused pediatric patients" Child Abuse & Neglect Vol. 25, Issue 12 (December 2001) (available at: <https://www.sciencedirect.com/science/article/abs/pii/S0145213401002940>).

⁷ See e.g., Final Rule on National PREA Standards (available at: <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/PREA-Final-Rule.pdf>).

and effectiveness of suitable guardians – including environmental design features – to deter sexual assault.⁸

267. The Corporate Defendants have failed for decades to address either issue, routinely allowing doctors like former gynecologist Robert Hadden and Defendant CHENG to continue to work with patients after they knew of their crimes.

268. Worse still, upon information and belief, the Corporate Defendants have promoted and/or condoned a culture devoid of respect for patient autonomy and bodily integrity.

269. In fact, until a 2019 bill⁹ was passed, teaching hospitals in New York, upon information and belief, including those operated by the Corporate Defendants, were routinely allowing medical residents to perform pelvic (including vaginal and rectal) examinations on anesthetized patients.¹⁰

270. The patients, who had not consented to the procedures, received no benefit from the violation of their unconscious bodies and were never informed of the “exams” but the teaching hospitals like those operated by the Corporate Defendants, routinely claimed that such exams were necessary for medical students training.

⁸ Cohen, Lawrence E., Felson, Marcus, “Social Change and Crime Rate Trends: A Routine Activity Approach” American Sociology Review, Vol. 44 No. 4 (Aug. 1979) (available at: <https://faculty.washington.edu/matsueda/courses/587/readings/Cohen%20and%20Felson%201979%20Routine%20Activities.pdf>).

⁹ N.Y. Pub. Health Law § 2507(7) (bill text available at: <https://legislation.nysenate.gov/pdf/bills/2019/S1092E>)

¹⁰ Friesen, Pheobe, “Why are Pelvic Exams on Unconscious, Unconsenting Women Still Part of Medical Training?” Slate, (Oct. 30, 2018) available at: <https://slate.com/technology/2018/10/pelvic-exams-unconscious-women-medical-training-consent.html>

271. Performing a pelvic examination on an anesthetized patient without her consent, for “teaching purposes” has been considered unethical and immoral for decades, but, upon information and belief, the practice persisted at the Corporate Defendants’ hospitals even after other hospitals had prohibited such exams.¹¹

272. This practice, and the length of time it continued evince an utter disrespect for the bodily autonomy and agency of all patients – but especially female patients who are the most frequent target of such activity - at every level of the Corporate Defendants’ administrations.

273. The argument espoused by supporters of non-consensual pelvic examinations on unconscious women – namely, that the violation of the human body without permission is a necessary evil in the pursuit of medical knowledge and training - is not a new argument, but a very old one.

274. Upon information and belief, the Corporate Defendants have a long and sordid history of running roughshod over medical ethics, bodily autonomy, and patient privacy in the alleged name of advancing medical knowledge.

275. Prior to the merger of New York Hospital and Presbyterian Hospital which formed the Corporate Defendants’ entities, New York Hospital and Columbia Medical College,

¹¹ Tsai, Jennifer, M.D., Elle, “Medical Students Regularly Practice Pelvic Exams on Unconscious Patients. Should They?” (June 24, 2019) <https://www.elle.com/life-love/a28125604/nonconsensual-pelvic-exams-teaching-hospitals/>

were involved in one of the most egregious violations of mortality and ethics in the name of medicine - the 1788 Doctors' Riot.¹²

276. The Doctors' Riot occurred after New Yorkers learned from an anonymous tip published in a newspaper that physicians from the Corporate Defendants' predecessor entities were digging up corpses to dissect in the name of medical training.

277. The corpses were mostly black, the vulnerable of the city - but it was the removal of the body of a white woman from Trinity Churchyard that sparked enough outrage to inspire New Yorkers to riot.

278. The justification offered in 1778 was the one offered for the more recent history of non-consensual pelvic examinations: we need training, and no one will let us do this if we ask them for consent.

279. As stated by biomedical ethicist Phoebe Friesen in paraphrasing medical students at Mount Sinai: "I can put my hand in this woman's vagina because it helps with my training."

280. This consequentialist attitude – that blood spilt, and bodies violated in the name of medical training are forgiven if one becomes a doctor who does more good than harm - is a disturbing and elitist and paternalistic echo that can be heard across the centuries of scandals that have plagued the Corporate Defendants.

¹² Lovejoy, Bess, "The Gory New York City Riot that Shaped American Medicine" Smithsonian Magazine, (June 17, 2014) (available at: <https://www.smithsonianmag.com/history/gory-new-york-city-riot-shaped-american-medicine-180951766>).

281. New York Hospital's failures to supervise its resident physicians were the root cause of the 1984 death of Libby Zion, a college student who was left to die horrifically after being given a forcible injection of drugs to sedate her and tied down to her hospital bed.

282. Ms. Zion's death, and her father's fury at the Corporate Defendants' failure to accept responsibility (including blaming Ms. Zion for her own death at the malpractice trial) or to make appropriate changes to resident physician supervision, led to the passage of the Libby Zion Law and later, similar federal regulation aimed tightening oversight of resident physicians and reducing their work hours.¹³

283. Further back still, and at the turn of the century, New York Hospital was embroiled in yet another scandal that led to the establishment of the common-law right to bodily integrity and informed consent.

284. In 1914, faced with Defendants' predecessor corporation's unilateral decision to remove Mary Schloendorff's uterus without her consent during what was supposed to be a pelvic examination under anesthesia, Judge Benjamin Cardozo held that every patient has "a right to determine what shall be done with his own body."¹⁴

285. More recently, in 2016, after an investigation by the U.S. Department of Justice, the Corporate Defendants signed a Resolution Agreement¹⁵ stemming from their 2013 violations

¹³ Horowitz, Craig, "The Doctor is Out" New York Magazine, (Oct. 24, 2003) (available at: https://nymag.com/nymetro/health/features/n_9426).

¹⁴ *Scholendorff v. Society of New York Hospital*, 105 N.E. 92 (N.Y. 1914).

¹⁵ Resolution Agreement, available at: <https://www.hhs.gov/sites/default/files/nyp-nymed-racap-april-2016.pdf>

of Federal patient privacy laws when they patients to be filmed for a television show without their consent.¹⁶

286. Upon information and belief, At NYP Hospital Queens, the gastroenterology practice in particular, has repeatedly posted photographs of residents and physicians engaged in surgical procedures on unconscious patients, and/or photographs which upon information and belief, show patient information to the Instagram page it designed to attract resident physicians.¹⁷

287. Upon information and belief, these practices appear to be the tip of a much larger iceberg of patient privacy violations and evince a pattern and practice of photography and videography in the endoscopy suite and other restricted areas, as well as a lack of respect for patient privacy and autonomy, which is not only violative of patient privacy, but dangerous.¹⁸

288. This culture of ethical erosion that promoted unconsented pelvic examinations at the Corporate Defendants' hospitals, is the same that allowed serial sexual abusers like former gynecologist, Robert Hadden, among others, to flourish, despite complaints from patients.

289. Despite the myriad of apologies issued by the Corporate Defendants in the wake of their liability for the horrendous abuse of Hadden and others like him, the Corporate Defendants failed to make any effective changes to protect their patients including Plaintiff.

¹⁶ Ornstein, Charles, "New York Hospital to Pay 2.2 Million Over Unauthorized Filming of 2 Patients" New York Times, (April 21, 2016) (available at: <https://www.nytimes.com/2016/04/22/nyregion/new-york-hospital-to-pay-fine-over-unauthorized-filming-of-2-patients.html>).

¹⁷ Available at: <https://www.instagram.com/nypqgi/?hl=en>.

¹⁸ Attri, J.P., et al., "Concerns about usage of smartphones in operating room and critical care scenario" Saudi J. Anaesth. 10(1):87-94 (Jan-Mar 2016) (available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4760050/pdf/SJA-10-87.pdf>).

290. It is this culture of ethical erosion that directly led Plaintiff to be not just horrifically sexually assaulted and videotaped by Defendant CHENG, but also to be violated by the other Defendants, who not only failed to help Plaintiff – but also allowed Defendant CHENG to continue to treat her, including, upon information and belief, the day after her sexual assault, when she was unconscious during her ERCP surgery.

ALLEGATIONS RELATED TO DEFENDANTS’ CIVIL CONSPIRACY

291. Defendants engaged in a civil conspiracy, and/or common scheme which connects and/or links each Defendant with each of the causes of action alleged herein.

292. Defendants conspired and/or otherwise agreed among themselves and/or other agents, servants, and/or employees of the hospital and its ownership, to cover up the sexual offences committed against JANE DOE.

293. Defendants carried out overt acts in furtherance of their conspiracy and/or agreement to cover up the sexual offences committed against JANE DOE, including, but not limited to:

- a. Failing to report the crimes committed against JANE DOE to the proper authorities, including, but not limited to the New York City Police Department (NYPD) and the New York State Department of Health; and
- b. Hiding, destroying, and/or spoliating evidence of JANE DOE’s sexual assault and unlawful injection with narcotics; and
- c. Allowing Defendant CHENG to continue to treat JANE DOE and to have access to her unconscious body during the ERCP procedure; and
- d. Falsifying JANE DOE’s medical record to hide their misdeeds; and
- e. Failing to report the diversion of narcotics used to sedate JANE DOE to the United States Drug Enforcement Agency and the New York State Department of Health as required by law; and
- f. Allowing Defendant CHENG to leave the premises with a video of his sexual assault of JANE DOE; and

- g. Failing to disclose the nature of the incident – that they knew or believed JANE DOE to have been a victim of sexual assault by her doctor - to JANE DOE and her mother; and
- h. Failing to provide appropriate and/or adequate medical and psychological treatment and testing to JANE DOE following her sexual assault and assault with an unknown narcotic substance that was injected into her veins by Defendant CHENG; and
- i. Editing, falsifying, redacting, and/or failing to include relevant information in Plaintiff's medical records; and
- j. Drawing Plaintiff's blood to run HIV/AIDS tests on Plaintiff without her consent or permission, in violation of New York State Law, and without any benefit to Plaintiff due to its close proximity to her sexual assault. The test was performed solely to determine and/or potentially reduce Defendant's liability in the event that Plaintiff was found to have already had HIV/AIDS. She did not. Moreover, Defendants failed to inform her that she was at risk for disease transmission due to the nature of the sexual assault and unlawful intravenous injection of unknown drugs that they were aware had been committed against her or to offer her any prophylactic medications or treatments.

294. Defendants carried out these acts intentionally, and in furtherance of their conspiracy.

295. Upon information and belief, Defendants had carried out similar conspiracies on prior dates.

296. Each conspirator engaged in these acts to protect their colleague, Defendant CHENG, but more so, to protect the hospital and to win the favor of the Corporate Defendants' executives and administrators.

297. Defendants' conspiracy resulted in damage and/or injury to Plaintiff JANE DOE.

298. Defendants' conspiracy links each Defendant to each of the causes of action described below.

299. Pursuant to CPLR 1603, all causes of action alleged herein are exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(2), CPLR 1602(5), 1602(7) and 1602(11), thus

precluding defendants from limiting their liability by apportioning some portion of liability to any joint tortfeasor.

FIRST CAUSE OF ACTION
Negligence
Against all Defendants

300. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as though set forth fully herein.

301. Defendants owed Plaintiff a duty to use reasonable care to protect her safety, health and well-being while under Defendants' care, custody and supervision.

302. For the reasons set forth above, amongst others, Defendants breached this duty owed to Plaintiff.

303. For the reasons set forth herein, the Defendants are vicariously liable for the conduct of all Defendants, including, but not limited to CHENG and/or the conduct of their subordinates, agents, servants, and employees, and are liable through the doctrine of *Respondeat Superior* and/or responsible through any and all agency principles.

304. For the reasons set forth herein, the Defendants are vicariously liable for the conduct of all Defendants, including, but not limited to, Defendant CHENG and/or the conduct of their subordinates, agents, servants, and employees, and are liable through the doctrine of *Respondeat Superior* and/or responsible through any and all agency principles.

305. The Defendants owed Plaintiff a duty to use reasonable care in the hiring, retention, training, and supervision of their employees including, without limitation, its physicians, its medical staff, and all other employees including the individual Defendants, intended to supervise and ensure compliance with legal, medical, ethical and best practices. For the reasons set forth above, amongst others, the Defendants breached these duties.

306. Defendants knew or should have known that Defendant CHENG was unfit to practice medicine and to have patient interaction and/or access to vulnerable patients.

307. Defendants knew or should have known that the supervisory Defendants were not properly supervising or monitoring their subordinates including Defendant CHENG and the other Defendants.

308. The Defendants owed Plaintiff a duty to use reasonable care to implement policies, procedures and practices which would prevent the sexual and other abuse of patients and protect patients from such abuse. For the reasons set forth above, amongst others, the Defendants breached this duty.

309. The Defendants created, condoned, ratified and/or acquiesced to a setting and/or environment in which the conduct set forth herein occurred and/or was permitted.

310. The Defendants knew and/or should have known that patients, including Plaintiff, were being drugged and/or incapacitated and/or that narcotic medication was not properly secured on their premises.

311. The Defendants knew and/or should have known that patients, including Plaintiff, were being subjected to assault, sexual assaults, and sexual abuse.

312. The Defendants knew and/or should have known that patients, including Plaintiff, were being surreptitiously photographed and/or video recorded.

313. Defendants were negligent, careless, and reckless in failing to ensure that the facility, and specifically, the pediatrics unit, was secured and in failing to monitor the use of stairwells to enter and exit the floor to avoid the nursing station and cameras.

314. Defendants were negligent, careless, and reckless in failing to restrict or otherwise prohibit staff from carrying cellular phones and other personal digital devices which encourage

and/or allow for the opportunity to photograph and/or otherwise record patients in violation of State and Federal law.

315. Defendants were negligent, careless, and reckless in failing to restrict, discourage, or otherwise prohibit staff from regularly taking photographs and videos in the hospital including during surgical procedures and other private medical events.

316. Defendants were negligent, careless, and reckless in failing to ensure that the narcotics and other drugs at the facility were secured, properly disposed of, and to ensure that they tracked the use of narcotic drugs in their possession and that the drugs were not diverted.

317. Defendants failed to take appropriate action to put an end to such conduct.

318. Defendants negligently, recklessly and/or willfully failed to take appropriate action.

319. Defendants are further subject to liability pursuant the doctrines of *per se* negligence, *res ipsa loquitur*, and the *Noseworthy* doctrine, among others.

320. Defendants aided and abetted Defendant CHENG and the other Defendants in their unlawful course of conduct against Plaintiff, including in covering up CHENG's crimes.

321. The Defendants' intentional, willful, grossly negligent and/or reckless conduct entitles Plaintiff to an award of punitive damages in the greatest amount permissible by law.

SECOND CAUSE OF ACTION
Violations of the New York City GMVA
Against All Defendants

322. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as though set forth fully herein.

323. Under the GMVA, “any person claiming to be injured by an individual who commits a crime of violence motivated by gender as defined in section 8-903 of this chapter, shall have a cause of action against such individual in any court of competent jurisdiction.”

324. A “crime of violence” means “an act or series of acts that would constitute a misdemeanor or felony against the person as defined in state or federal law or that would constitute a misdemeanor or felony against property as defined in state or federal law if the conduct presents a serious risk of physical injury to another, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction.”

325. Under the GMVA, “a party who commits, directs, enables, participates in, or conspires in the commission of a crime of violence motivated by gender has a cause of action against such party in any court of competent jurisdiction” for such conduct.

326. By the actions described above, amongst others, Defendant CHENG engaged in a “crime of violence” and a “crime of violence motivated by gender.”

327. By the actions and omissions described above, amongst others, the Defendants committed, enabled, participated in and/or conspired in the commission of “crimes of violence motivated by gender” including, but not limited to those committed by Defendant CHENG.

328. By the actions and omissions described above, amongst others, the Defendants enabled, participated in and/or conspired in the commission of “crimes of violence motivated by gender.”

329. The Defendants negligently, recklessly and/or willfully failed to take appropriate action and/or affirmatively aided and abetted CHENG’s and each other’s unlawful conduct towards Plaintiff.

330. For the reasons set forth herein, the Defendants are vicariously liable for CHENG's conduct and/or the conduct of their subordinates, agents, servants, and employees, and are liable through the doctrine of *Respondeat Superior* and/or responsible through any and all agency principles.

331. As a result of Defendants' conduct, Plaintiff has suffered damages, including but not limited to, physical harm, emotional distress, mental anguish, economic loss and/or special damages, for which she is entitled to an award of all damages applicable by law.

332. Defendants' intentional, willful, grossly negligent and/or reckless conduct entitles Plaintiff to an award of punitive damages in the greatest amount permissible by law.

333. The NYC GMVA entitles Plaintiff to an award of compensatory damages.

334. The NYC GMVA entitles Plaintiff to an award of compensatory damages, punitive damages, and attorney's fees in addition to other damages.

THIRD CAUSE OF ACTION
Violations of NYSHRL
Against All Defendants

335. Plaintiff hereby repeats and re-alleges each and every allegation in paragraphs as if set forth fully herein.

336. NYSHRL prohibits discrimination in places of "public accommodation" on the basis of, inter alia, gender and race.

337. The Defendants institutions, and any affiliate institution thereof, constitute a "place of public accommodation" under applicable law.

338. By the actions and omissions described above, amongst others, the Defendants failed to provide an environment free from discrimination, harassment, sexual abuse, and sexual misconduct in numerous forms.

339. By the actions and omissions described above, amongst others, the Defendants created, condoned, ratified and/or acquiesced to a setting and/or environment which fostered, allowed and/or permitted discrimination, harassment, sexual abuse and sexual misconduct in numerous forms.

340. The Defendants negligently, recklessly and/or willfully failed to take appropriate action and/or affirmatively aided and abetted the other Defendants, including Defendant CHENG, in his unlawful conduct towards Plaintiff.

341. The Defendants negligently, recklessly and/or willfully failed to provide Plaintiff with information about what had happened in Spanish or to explain to her that she had rights as a victim of sexual assault in a language she could understand.

342. For the reasons set forth herein, the Defendants are vicariously liable for CHENG's conduct and/or the conduct of their subordinates, agents, servants, and employees, and are liable through the doctrine of *Respondeat Superior* and/or responsible through any and all agency principles.

343. As a result of Defendants' conduct, Plaintiff has suffered damages, including but not limited to, physical harm, emotional distress, mental anguish, economic loss and/or special damages, for which she is entitled to an award of all damages applicable by law.

344. Defendants' intentional, willful, grossly negligent and/or reckless conduct entitles Plaintiff to an award of punitive damages in the greatest amount permissible by law.

345. The NYSHRL entitles Plaintiff to an award of punitive damages and attorney's fees in addition to other damages.

FOURTH CAUSE OF ACTION
Violations of NYCHRL
Against All Defendants

346. Plaintiff hereby repeats and re-alleges each and every allegation in paragraphs as if set forth fully herein.

347. NYCHRL prohibits discrimination in places of “public accommodation” on the basis of, inter alia, gender, race, national origin, and actual and/or perceived immigration status.

348. The Defendants institutions, and any affiliate institution thereof, constitute a “place of public accommodation” under applicable law.

349. By the actions and omissions described above, amongst others, the Defendants failed to provide an environment free from discrimination, harassment, sexual abuse, and sexual misconduct in numerous forms.

350. By the actions and omissions described above, amongst others, the Defendants failed to provide an environment where non-English speakers were provided the same information, and assistance as English speakers.

351. By the actions and omissions described above, amongst others, the Defendants created, condoned, ratified and/or acquiesced to a setting and/or environment which fostered, allowed and/or permitted discrimination, harassment, sexual abuse and sexual misconduct in numerous forms.

352. The Defendants negligently, recklessly and/or willfully failed to take appropriate action and/or affirmatively aided and abetted the other Defendants, including Defendant CHENG, in his unlawful conduct towards Plaintiff.

353. The Defendants negligently, recklessly and/or willfully failed to offer Plaintiff information regarding her victimization and her rights, both as a patient, and as a victim of sexual assault, in Spanish.

354. As a result of Defendants' conduct, Plaintiff has suffered damages, including but not limited to, physical harm, emotional distress, mental anguish, economic loss and/or special damages, for which she is entitled to an award of all damages applicable by law.

355. Defendants' intentional, willful, grossly negligent and/or reckless conduct entitles Plaintiff to an award of punitive damages in the greatest amount permissible by law.

356. The NYCHRL entitles Plaintiff to an award of punitive damages and attorney's fees in addition to other damages.

FIFTH CAUSE OF ACTION

Assault and Battery

Against All Defendants

357. Plaintiff hereby repeats and re-alleges each and every allegation in paragraphs as if set forth fully herein.

358. CHENG's violent and criminal acts committed against Plaintiff amounted to a series of harmful and offensive contacts to the person of Plaintiff all of which were done intentionally by CHENG without Plaintiff's consent.

359. CHENG's violent and criminal acts committed against Plaintiff amounted to a series of events creating a reasonable apprehension in Plaintiff of immediate harmful or offensive contact to Plaintiff's person, all of which were done intentionally by CHENG and without Plaintiff's consent.

360. Defendant DAVIESS who ordered a staff member to draw Plaintiff's blood for an HIV test, without Plaintiff's consent and without any physician-patient relationship also committed an assault and battery on Plaintiff.

361. The touching of Plaintiff ordered by DAVIESS was unjustified and without consent as well as unlawful under State law because Plaintiff was not informed that the test would be performed.

362. Moreover, the test had no medical benefit as it was performed too close in time to the sexual assault.

363. For the reasons set forth herein, the Defendants are vicariously liable for Defendants' conduct and/or the conduct of their subordinates, agents, servants, and employees, and are liable through the doctrine of *Respondeat Superior* and/or responsible through any and all agency principles.

364. As a result of Defendants' conduct, Plaintiff has suffered damages, including but not limited to, physical harm, emotional distress, mental anguish, economic loss and/or special damages, for which she is entitled to an award of all damages applicable by law.

365. Defendants' intentional, willful, grossly negligent and/or reckless conduct entitles Plaintiff to an award of punitive damages in the greatest amount permissible by law.

SIXTH CAUSE OF ACTION
Intentional and Negligent Infliction of Emotional Distress
Against All Defendants

366. Plaintiff hereby repeats and re-alleges each and every allegation in paragraphs as if set forth fully herein.

367. By the actions and omissions described above, amongst others, Defendants have engaged in extreme and outrageous conduct, with the intent to cause, or a disregard for the substantial probability of causing, severe emotional distress.

368. Defendants' breach of their duties of care owed to Plaintiff directly resulted in physical, mental, and emotional harm.

369. Defendants breached a duty owed to Plaintiff protect her safety, health and well-being while under Defendants' care, custody and supervision.

370. Defendants breached the duty owed to Plaintiff to protect her privacy and bodily integrity while in their care custody and supervision.

371. As a direct and proximate result of Defendants' unlawful conduct Plaintiff has suffered, and continues to suffer, severe emotional distress and mental anguish for which she is entitled to an award of damages.

372. Defendants' intentional, reckless, malicious, willful and wanton conduct entitles Plaintiff to an award of punitive damages to the greatest extent permitted by law.

SEVENTH CAUSE OF ACTION

**Violation of NYS Civil Rights Law § 52-b and NYC Admin Code § 10-180 et seq.
*Against All Defendants***

373. Plaintiff hereby repeats and re-alleges each and every allegation in paragraphs as if set forth fully herein.

374. Defendants are liable Pursuant to New York State Civil Rights Law § 52-b.

375. Defendants are liable Pursuant to New York City Admin. Code §10-180.

376. Defendant CHENG recorded "intimate images" of Plaintiff without her consent, and while was a patient of the hospital.

377. Plaintiff is identifiable in the "intimate images" that were obtained and recorded by Defendant CHENG and without her knowledge or consent.

378. Upon information and belief, Defendants disclosed or allowed to be disclosed, Plaintiff's "intimate images" as defined in subdivision 5 of section 250.40 of the New York State Penal Law.

379. Upon information and belief, Defendants published or allowed to be published, Plaintiff's "intimate images" as defined in subdivision 6 of section 250.40 of the New York State Penal Law.

380. Upon information and belief, Defendant CHENG recorded the "intimate images" of Plaintiff on a cellular telephone or other recording device which he transmitted wirelessly to devices and/or internet storage locations accessible to himself and others.

381. Defendants knew that Plaintiff did not consent to the sexual assault or recording of her "intimate images."

382. Despite knowing that Defendant CHENG had sexually assaulted Plaintiff, the Defendants allowed CHENG to transmit "intimate images" of Plaintiff taken before, during, and after his sexual assault, and did nothing to intervene.

383. Defendant CHENG used on a cellular telephone or other recording device, hospital Wi-Fi, and or other means and/or devices provided by Defendants to record, view, disseminate, transmit, and/or disclose, "intimate images" of Plaintiff.

384. As a direct and proximate result of Defendants' unlawful conduct Plaintiff has suffered, and continues to suffer, and will continue to suffer, severe emotional distress and mental anguish, violation of her right to privacy, economic loss, and other damages.

385. Plaintiff's damages include economic expenses for continuous and regular digital and forensic monitoring of the internet, dark web, and physical locations for her intimate visual depictions and costs associated with removal of the images from their various disseminated

locations on the internet, dark web, and physical locations including servers and devices and the legal, investigatory, and forensic costs associated therewith.

386. Plaintiff is entitled to compensatory damages, punitive damages, attorneys' fees and costs, injunctive relief, and other relief.

EIGHTH CAUSE OF ACTION
Violation of NYS Public Health Law § 2805-i
Against All Defendants

387. Defendants were required by New York State Public Health Law § 2805-i to “maintain sexual offense evidence and the chain of custody” of sexual offense evidence.

388. Defendants not only failed to collect evidence of Plaintiff's sexual assault, including her bedsheets, clothing, DNA, blood tests of the drug she was given, and other physical and forensic evidence, they conspired to destroy and/or spoliage the evidence related to her sexual assault.

389. Defendants were required by New York State Public Health Law § 2805-i to “offer[] and mak[e] available appropriate HIV post-exposure treatment therapies; including a seven day starter pack of HIV post-exposure prophylaxis” and to provide Plaintiff with “information relating to and the provision of emergency contraception.”

390. Defendants failed to offer any emergency contraception in violation of New York State Public Health Law § 2805-i.

391. Defendants failed to offer any HIV prophylaxis treatment, in violation of New York State Public Health Law § 2805-i.

392. Defendants also tested Plaintiff for HIV without her consent or knowledge and failed to disclose the results to her, because the test was performed, not for her benefit, but to assess Defendants' liability.

393. Defendants were aware that the test they performed could not have identified any HIV transmitted during her sexual assault.

394. Defendants were required by New York State Public Health Law § 2805-i to offer Plaintiff a sexual offense examination, to explain to Plaintiff what they knew that made the believe she had been sexually assaulted, or to "advise [Plaintiff] of the availability of the services of a local rape crisis or victim assistance organization, if any, to accompany the victim through the sexual offense examination.

395. Defendants failed or otherwise refused to provide a SANE nurse or other certified forensic examiner to the hospital for multiple days.

396. Defendants' refusals to comply with New York State Public Health Law § 2805-i were not made in good faith but were born of a desire and/or conspiracy to cover-up the violent sexual assault that they knew had taken place and deny Plaintiff basic knowledge about her medical condition and what had happened to when she was unconscious.

397. As a direct and proximate result of Defendants' unlawful conduct Plaintiff has suffered, and continues to suffer, and will continue to suffer, severe emotional distress and mental anguish, violation of her right to privacy, economic loss, and other damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the following be entered jointly and severally against Defendants and for a jury trial on all causes of action:

- a. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violated the laws of the State of New York; and
- b. Injunctive relief as Demanded at Paragraph 10(A)-(I).
- c. Compensatory damages in an amount to be determined at trial for the physical injuries, mental anguish, violation of her rights to privacy and bodily integrity, and psychological injuries, and economic damages sustained by Plaintiff as a result of the events alleged herein; and
- d. Punitive damages and any applicable penalties in an amount to be determined at trial; and
- e. Awarding Plaintiff reasonable attorneys' fees, together with the costs of this action; and
- f. Prejudgment interest on all amounts due; and
- g. Such other further relief as the Court may deem appropriate.

DATED: New York, New York
June 5, 2023

Respectfully,

LIAKAS LAW, P.C.
Attorneys for the Plaintiff JANE DOE
40 Wall Street, 50th Floor
New York, New York 10005
Tel: (212) 937-6655



NICHOLAS LIAKAS, ESQ.



CASSANDRA ROHME, ESQ.

VERIFICATION

CASSANDRA ROHME, an attorney duly admitted to practice in the Courts of the State of New York, says that she is a Partner in the office of Liakas Law, P.C., attorneys for Plaintiff who is proceeding under the pseudonym JANE DOE, and affirms the following statements to be the truth under penalties of perjury, pursuant to CPLR § 2106:

That she has read the foregoing Summons and Complaint and knows the contents thereof, that the same is true to her knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, she believes them to be true based on conversations with the Plaintiff and investigations conducted by the office of the undersigned.

Deponent further states that the reason why this verification is not made by Plaintiff is that Plaintiff is not presently in the County where the undersigned maintains her office.

Dated: New York, New York
June 5, 2023



CASSANDRA ROHME, ESQ.