

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY, CIVIL ACTION

JANE DOE 1, JANE DOE 2,
JANE DOE 3,
Plaintiffs,

CASE NO.: _____

-vs-

DIVISION: _____

THE NOCTURNAL GROUP LLC, d/b/a
FRANKLIN MANOR, NOCTURNAL
HOSPITALITY GROUP, LLC
and LANFRANCO PESCANTE,

Defendants.

_____ /

COMPLAINT

COMES NOW the Plaintiffs, JANE DOE 1, JANE DOE 2, JANE DOE 3, by and through her undersigned counsel, hereby files this Complaint and sues the Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR, NOCTURNAL HOSPITALITY GROUP, LLC and LANFRANCO PESCANTE, and alleges as follows:

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

1. This Complaint arises from the sexual assaults/exploitation on Plaintiffs by Defendant, LANFRANCO PESCANTE and the negligence of Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR, NOCTURNAL HOSPITALITY GROUP, LLC.

2. That this is an action for damages in excess of Thirty Thousand and NO/100 Dollars (\$30,000.00).

3. Plaintiff JANE DOE 1 is an adult female who is a citizen and resident of the State of Florida. Plaintiff filed this lawsuit using a pseudonym in order to protect her privacy and because

she fears further psychological injury if her name were publicly disclosed, as this lawsuit involves facts of the utmost intimacy regarding Plaintiff's sexual assault. Plaintiff's true identity is known to the Defendants.

4. Plaintiff JANE DOE 2 is an adult female who is a citizen and resident of the State of Florida. Plaintiff filed this lawsuit using a pseudonym in order to protect her privacy and because she fears further psychological injury if her name were publicly disclosed, as this lawsuit involves facts of the utmost intimacy regarding Plaintiff's sexual assault. Plaintiff's true identity is known to the Defendants.

5. Plaintiff JANE DOE 3 is an adult female who is a citizen and resident of the State of Florida. Plaintiff filed this lawsuit using a pseudonym in order to protect her privacy and because she fears further psychological injury if her name were publicly disclosed, as this lawsuit involves facts of the utmost intimacy regarding Plaintiff's sexual assault. Plaintiff's true identity is known to the Defendants.

6. That the causes of action alleged herein accrued in Tampa, Hillsborough County, Florida.

7. Defendant, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR (hereinafter referred to as "Franklin Manor") is a Florida Limited Liability Company doing business in Hillsborough County, Florida. At all material times, Defendant, THE NOCTURNAL GROUP LLC owned and operated FRANKLIN MANOR located at 912 Franklin Street, Tampa, Florida.

8. Defendant, NOCTURNAL HOSPITALITY GROUP, LLC (hereinafter referred to as "Nocturnal"), is upon information and belief, a Florida Limited Liability Company with its principal place of business at 912 Franklin Street, Tampa, Florida.

9. Defendants, Franklin Manor and Nocturnal, are owned and operated by both Defendant,

LANFRANCO PESCANTE and his fifty percent (50%) partner, David Anderson. Both Anderson and Defendant, PESCANTE, serve as the owners and operators who retain managerial and ownership responsibilities and duties for the day to day operation of Defendant, Franklin Manor and Nocturnal.

10. Defendant, LANFRANCO PESCANTE, was a resident of Tampa, Hillsborough County, Florida.

11. Venue is proper in Hillsborough County.

SPECIFIC FACTS GIVING RISE TO JANE DOE #1'S CLAIMS

COUNT I - SEXUAL BATTERY
(Against Defendant LANFRANCO PESCANTE)

Plaintiff, JANE DOE 1, repeats and re-alleges the allegations set forth in paragraphs 1-3 and 6-11, and further alleges:

12. On or about, December 15, 2016, PESCANTE, in the course and scope of his employment, in furtherance of FRANKLIN MANOR's business interests, and on the premises owned and operated as FRANKLIN MANOR, induced JANE DOE 1, to engage in sexual acts through coercive means in exchange for preferential treatment, including preferential sections or tables within the night club. Defendant's actions consisting of intentional, harmful, unwanted and offensive sexual contact upon her person.

13. As a direct and proximate cause of the foregoing, Plaintiff, JANE DOE 1, has suffered psychological, emotional and physical injuries, mental anguish and the loss of enjoyment of life. The injuries are continuing and permanent in nature.

WHEREFORE, Plaintiff, JANE DOE 1, demands judgment against Defendant,

LANFRANCO PESCANTE for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT II - SEXUAL BATTERY
(Against Defendant LANFRANCO PESCANTE)

Plaintiff, JANE DOE 1, repeats and re-alleges the allegations set forth in paragraphs 1-3 and 6-11, and further alleges.

14. On or about, January 1, 2017, PESCANTE, in the course and scope of his employment, in furtherance of FRANKLIN MANOR's business interests, and on the premises owned and operated as FRANKLIN MANOR, induced JANE DOE 1, to engage in sexual acts through coercive means with both Defendant, LANFRANCO PESCANTE as well as another manager, in exchange for preferential treatment, including preferential sections or tables within the night club. Defendant's actions consisting of intentional, harmful, unwanted and offensive sexual contact upon her person.

15. As a direct and proximate cause of the foregoing, Plaintiff, JANE DOE 1, has suffered psychological, emotional and physical injuries, mental anguish and the loss of enjoyment of life. The injuries are continuing and permanent in nature.

WHEREFORE, Plaintiff, JANE DOE 1, demands judgment against Defendant, LANFRANCO PESCANTE for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT III - NEGLIGENT RETENTION
(AS TO DEFENDANTS - THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR
and NOCTURNAL HOSPITALITY GROUP, LLC)

Plaintiff, JANE DOE 1, repeats and re-alleges the allegations set forth in paragraphs 1-3 and

6-15, and further alleges:

16. At all material times, Defendants owed a duty to their employee, Plaintiff, JANE DOE 1, to use reasonable care to ensure her safety, care and well-being while she was working on their premises. These duties encompassed the retention of LANFRANCO PESCANTE, given his well known propensity to engage in inappropriate behavior, sexual exploitation, and other coercive behavior.

17. Defendants breached these duties by failing to protect the Plaintiff, JANE DOE 1, from sexual coercion and lewd and lascivious acts committed by their agent, LANFRANCO PESCANTE.

18. Upon information and belief, prior to the exploitation perpetrated on the Plaintiff, JANE DOE 1, Defendants, including co-owner, David Anderson, knew or in the exercise of reasonable care should have known that LANFRANCO PESCANTE was unfit for the managerial duties assigned, did not exhibit appropriate boundaries with women, had the propensity to engage in inappropriate behavior with females and female employees, and/or posed a risk of perpetrating inappropriate coercive behavior on Plaintiff, JANE DOE 1. Despite having such information, Defendant retained LANFRANCO PESCANTE without any limitations on his employment, failed to provide additional training of PESCANTE, failed to warn PESCANTE's employees of a hidden danger, failed to oust PESCANTE in his management position, and took no action to protect any of FRANKLIN MANOR's employees.

19. At all relevant times, Defendants, including co-owner, David Anderson, knew or in the exercise of reasonable care should have known that PESCANTE was unfit, dangerous, and a threat to the health, safety and welfare of women entrusted to him under his supervision as a managing partner.

20. At all relevant times, Defendants, including co-owner, David Anderson, knew or in the exercise of reasonable care should have known of PESCANTE's propensity to engage in inappropriate behavior at FRANKLIN MANOR, which would have created actual or constructive knowledge for Defendants, including fifty percent (50%) owner, David Anderson, to implement policies and procedures to thwart PESCANTE and the actions perpetrated by PESCANTE.

21. Despite such actual or constructive knowledge, Defendants continued to retain PESCANTE, permit PESCANTE to operate as manager, and failed to exercise adequate judgment by allowing Plaintiff, JANE DOE 1, to be in a vulnerable position as employees under PESCANTE.

22. Defendants proximately caused Plaintiff, JANE DOE 1's, personal injuries, mental and emotional distress and trauma, and damages.

23. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff, JANE DOE 1, has in the past and will in the future suffer and incur the following damages:

- a. Mental and emotional pain and suffering;
- b. Mental and emotional handicap and disability and personal inconvenience;
- c. Shame, humiliation, embarrassment, anguish and emotional instability;
- d. Plaintiff, JANE DOE 1, has in the past and 'Will be required in the future to seek medical and psychological care and attention and to undergo future care and treatment of her injuries; and
- e. Plaintiff, JANE DOE 1, has been rendered less able to enjoy a normal life.

WHEREFORE, Plaintiff, JANE DOE 1, demands judgment against Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC for compensatory damages, costs and such other and further relief as this Court

deems proper.

COUNT IV -VICARIOUS LIABILITY/RESPONDEAT SUPERIOR
(AS TO DEFENDANTS - THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR
and NOCTURNAL HOSPITALITY GROUP, LLC)

Plaintiff, JANE DOE 1, repeats and re-alleges the allegations set forth in paragraphs 1-3 and 6-23, and further alleges:

24. At all relevant times, LANFRANO PESCANTE, one of the operating owners/managers, who was assigned to schedule Plaintiff, JANE DOE 1's, shifts and supervise Plaintiff, JANE DOE 1, was a manager co-owner and agent of both THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

25. PESCANTE was authorized and entrusted by Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, including co-owner, David Anderson, to be alone with Plaintiff, JANE DOE 1, to supervise Plaintiff, JANE DOE 1, while Plaintiff, JANE DOE 1, was in a position of acquiescence as an employee.

26. The exploitation described above occurred on premises operated and/or controlled by THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC .

27. The exploitation described above occurred during normal business hours of the Defendant, and occurred in the course and scope of the performance of PESCANTE's duties. The initial contact and relationship of PESCANTE with Plaintiff, JANE DOE 1, was in furtherance of the business of THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

28. In addition, PESCANTE was authorized to supervise and schedule Plaintiff, JANE DOE 1, in a manner consistent with the hospitality industry. PESCANTE utilized this apparent position of power to extend this relationship in order to exploit Plaintiff as described above.

29. The wrongful acts of PESCANTE were committed in the actual or apparent course and scope of his employment or agency with THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

30. The wrongful acts were committed while PESCANTE was doing what his employment or agency contemplated.

31. The management services provided by PESCANTE benefitted THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC. PESCANTE was aided in accomplishing the tort upon Plaintiff, JANE DOE 1, by the existence of his agency relationship with THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC. Specifically, PESCANTE used the authority actually delegated to him by THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC to exploit Plaintiff, JANE DOE 1, while she was working in the course and scope of her employment with Franklin Manor. She was in this vulnerable position with PESCANTE precisely because of PESCANTE's co-ownership and agency relationship with THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

32. Under the doctrine of *respondeat superior*, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, including, co-owner, David Anderson, is responsible for the actions of its officer and agent committed in the actual or

apparent scope of his duties.

33. As a direct and proximate cause of the foregoing, Plaintiff, JANE DOE 1, has suffered psychological, emotional and physical injuries, mental anguish and the loss of enjoyment of life.

WHEREFORE, Plaintiff, JANE DOE 1, demands judgment against Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC for compensatory damages, costs and such other and further relief as this Court deems just and proper.

COUNT V - NEGLIGENCE
(AS TO DEFENDANTS - THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR
and NOCTURNAL HOSPITALITY GROUP, LLC)

Plaintiff, JANE DOE 1, repeats and re-alleges the allegations set forth in paragraphs 1-3 and 6-33, and further alleges:

34. At all material times, Plaintiff, JANE DOE 1, was an invitee and/or authorized visitor and employee of THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

35. Plaintiff, JANE DOE 1, was coerced into a sexually exploitative act by a Franklin Manor manager/employee on Franklin Manor's premises. This occurred during business hours, and Defendants are responsible for the manager/employee coming into contact with the Plaintiff.

36. Defendants THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, breached its duty of care by failing to act as a reasonable and prudent business operator would have under the same or similar circumstances. Specifically, Defendants committed negligence by:

- a Failing to create and implement policies and procedures to prevent the retention of

would be sexual predators, like PESCANTE;

b. Failing to create policies and procedures to provide for a proper and thorough investigation of agents/employees, such as PESCANTE;

c. Failing to create, implement, and establish policies and procedures to properly train agents/employees to ensure the proper and safe conduct of PESCANTE;

d. Failing to create, implement, and establish protocols to train agents/employees on policies and procedures to ensure proper supervision of agents/employees, such as PESCANTE, who were entrusted with the care and treatment of agents/employees;

e. Failing to create, implement, and properly train agents/employees on policies and procedures preventing inappropriate coercive behavior, abuse or harm to the coworkers; identifying individuals who posed a risk of harm to the workplace; how to respond to situations that posed a risk of harm to the employees; how to handle reports involving inappropriate situations or relationships involving the employees; and how to report inappropriate situations involving employees to law enforcement,

f. Failing to remove PESCANTE from his managerial/ownership position despite, his partner, David Anderson knew or should have known of PESCANTE's propensity to engage in inappropriate behavior with female employees and should have prevented Pescante from having access to vulnerable employees, and;

37. Defendants' negligence proximately caused Plaintiff, JANE DOE 1's, personal injuries, mental and emotional distress and trauma, and damages.

WHEREFORE, the Plaintiff, JANE DOE 1, hereby demands judgment against Defendants,

THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, for compensatory damages, costs and such other and further relief as this Court deems appropriate.

SPECIFIC FACTS GIVING RISE TO JANE DOE #2'S CLAIMS

COUNT VI - SEXUAL BATTERY
(Against Defendant LANFRANCO PESCANTE)

Plaintiff, JANE DOE 2, repeats and re-alleges the allegations set forth in paragraphs 1-2, 4, and 6-11, and further alleges:

38. On or about March 16, 2017, PESCANTE and JANE DOE 2, attended a Tampa Bay Lightning game together at Amalie Arena.

39. Throughout the event Defendant, PESCANTE, was adamant that Plaintiff JANE DOE 2, continue to drink, frequently purchasing alcoholic drinks and shots, and coercing Plaintiff to ingest them despite her reluctance and growing impairment.

40. After the game ended, Plaintiff, JANE DOE 2, reluctantly returned to Defendant's apartment upon the promise that she would have a safe place to sleep and would not need to drive home.

41. While inside Defendant's apartment Defendant proceeded his advances to undress Plaintiff despite her pleas stating, "NO!," and trying to physically hold her legs closed while Defendant unrelentingly attempted to coerce Plaintiff, JANE DOE 2, into removing her clothes. At some point during the assault Plaintiff began to succumb to the effects of the alcohol on her system and lost consciousness.

42. Plaintiff, JANE DOE 2, awoke naked next to the Defendant in the nude as well and came

to the realization that the Defendant had raped her after she was incapable of consenting. Defendant, committed sexual battery upon JANE DOE 2 consisting of intentional, harmful, unwanted and offensive sexual contact upon her person.

43. As a direct and proximate cause of the foregoing, Plaintiff, JANE DOE 2, has suffered psychological, emotional and physical injuries, mental anguish and the loss of enjoyment of life. The injuries are continuing and permanent in nature.

WHEREFORE, Plaintiff, JANE DOE 2, demands judgment against Defendant, LANFRANCO PESCANTE for compensatory damages, costs and such other and further relief as this Court deems proper.

SPECIFIC FACTS GIVING RISE TO JANE DOE #3'S CLAIMS

COUNT VII - SEXUAL BATTERY
(Against Defendant LANFRANCO PESCANTE)

Plaintiff, JANE DOE 3, repeats and re-alleges the allegations set forth in paragraphs 1-2, and 5-11, and further alleges:

44. On or about, June 2019, Plaintiff, JANE DOE 3, reported to work where she was coerced into excessive drinking by Defendant, PESCANTE, while he was managing that evening, in order to be, "Fun." Throughout her shift, PESCANTE repetitively brought her shots coercing Plaintiff, JANE DOE 3, to drink during the course and scope of her employment.

45. At some point during Plaintiff, JANE DOE 3's, shift, utilizing his position within Franklin Manor management and in furtherance of his scheme to exploit Plaintiff, JANE DONE 3, PESCANTE, instructed the on-duty manager to cut Plaintiff, JANE DOE 3, and left her go home early. Cut is a term utilized within the hospitality industry to symbolize an employee's shift ending.

46. PESCANTE proceeded to pressure, coerce, and threaten Plaintiff, JANE DOE 3, that if she did not go out and party with him that she would face negative repercussions at her work with Franklin Manor.

47. PESCANTE then pressured, coerced, and threatened Plaintiff, JANE DOE 3, to continue party with he and other people back at his home residence wherein he coerced Plaintiff into ingesting the intoxicating narcotic “2C.” Plaintiff, JANE DOE 3, verbally expressed her severe intoxication to PESCANTE who then proceeded to pressure, coerce, and threaten Plaintiff using his agency position within Franklin Manor in order to engage in coercive sexual exploitation with JANE DOE 3 without her ability to consent.

48. PESCANTE, in the course and scope of his employment, in furtherance of FRANKLIN MANOR’s business interests, and on the premises owned and operated as FRANKLIN MANOR, began his scheme to exploit JANE DOE 3, to engage in sexual acts through coercive means in exchange for preferential treatment, utilizing alcohol from the Franklin Manor premises. Defendant’s actions consisting of intentional, harmful, unwanted and offensive sexual contact upon her person.

49. PESCANTE, in the course and scope of his employment, in furtherance of FRANKLIN MANOR’s business interests, and on the premises owned and operated as FRANKLIN MANOR, began his scheme to exploit JANE DOE 3, to engage in sexual acts through coercive means in exchange for preferential treatment, including preferential sections or tables within the night club.

50. As a direct and proximate cause of the foregoing, Plaintiff, JANE DOE 3, has suffered psychological, emotional and physical injuries, mental anguish and the loss of enjoyment of life. The injuries are continuing and permanent in nature.

WHEREFORE, Plaintiff, JANE DOE 3, demands judgment against Defendant, LANFRANCO PESCANTE for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT VIII - NEGLIGENT RETENTION
(AS TO DEFENDANTS - THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR
and NOCTURNAL HOSPITALITY GROUP, LLC)

Plaintiff, JANE DOE 3, repeats and re-alleges the allegations set forth in paragraphs 1-2, 5-11, and 44-50, and further alleges:

51. At all material times, Defendants owed a duty to their employee, Plaintiff, JANE DOE 3, to use reasonable care to ensure her safety, care and well-being while she was working on their premises. These duties encompassed the retention of LANFRANCO PESCANTE, given his well known propensity to engage in inappropriate behavior, sexual exploitation, and other coercive behavior.

52. Defendants breached these duties by failing to protect the Plaintiff, JANE DOE 3, from sexual coercion and lewd and lascivious acts committed by their agent, LANFRANCO PESCANTE.

53. Upon information and belief, prior to the exploitation perpetrated on the Plaintiff, JANE DOE 3, Defendants knew or in the exercise of reasonable care should have known that LANFRANCO PESCANTE was unfit for the managerial duties assigned, did not exhibit appropriate boundaries with women, had the propensity to engage in inappropriate behavior with females and female employees, and/or posed a risk of perpetrating inappropriate coercive behavior on Plaintiff, JANE DOE 3. Despite having such information, Defendant retained LANFRANCO PESCANTE without any limitations on his employment, failed to provide additional training of PESCANTE,

failed to warn PESCANTE's employees of a hidden danger, failed to oust PESCANTE in his management position, and took no action to protect any of FRANKLIN MANOR's employees.

54. At all relevant times, Defendants, including co-owner, David Anderson, knew or in the exercise of reasonable care should have known that PESCANTE was unfit, dangerous, and a threat to the health, safety and welfare of women entrusted to him under his supervision as a managing partner.

55. At all relevant times, Defendants, including co-owner, David Anderson, knew or in the exercise of reasonable care should have known of PESCANTE's propensity to engage in inappropriate behavior at FRANKLIN MANOR, which would have created actual or constructive knowledge for Defendants, including fifty percent (50%) owner, David Anderson, to implement policies and procedures to thwart PESCANTE and the actions perpetrated by PESCANTE.

56. Despite such actual or constructive knowledge, Defendants continued to retain PESCANTE, permit PESCANTE to operate as manager, and failed to exercise adequate supervision by allowing Plaintiff, JANE DOE 3, to be in a vulnerable position as employees under PESCANTE.

57. Defendants proximately caused Plaintiff, JANE DOE 3's, personal injuries, mental and emotional distress and trauma, and damages.

58. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff, JANE DOE 3, has in the past and will in the future suffer and incur the following damages:

- a. Mental and emotional pain and suffering;
- b. Mental and emotional handicap and disability and personal inconvenience;
- c. Shame, humiliation, embarrassment, anguish and emotional instability;
- d. Plaintiff, JANE DOE 3, has in the past and 'Will be required in the future to seek

medical and psychological care and attention and to undergo future care and treatment of her injuries; and

e. Plaintiff, JANE DOE 3, has been rendered less able to enjoy a normal life.

WHEREFORE, Plaintiff, JANE DOE 3, demands judgment against Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT IX -VICARIOUS LIABILITY/RESPONDEAT SUPERIOR
(AS TO DEFENDANTS - THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR
and NOCTURNAL HOSPITALITY GROUP, LLC)

Plaintiff, JANE DOE 3, repeats and re-alleges the allegations set forth in paragraphs 1-2, 5-11, and 44-58, and further alleges:

59. At all relevant times, LANFRANO PESCANTE, one of the operating owners/managers, who was assigned to schedule Plaintiff, JANE DOE 3's, shifts and supervise Plaintiff, JANE DOE 3, was a manager co-owner and agent of both THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

60. PESCANTE was authorized and entrusted by Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, including co-owner, David Anderson, to be alone with Plaintiff, JANE DOE 3, to supervise Plaintiff, JANE DOE 3, while Plaintiff, JANE DOE 3, was in a position of acquiescence as an employee.

61. The exploitation described above occurred on premises operated and/or controlled by THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC .

62. The exploitation described above occurred during normal business hours of the Defendant, and occurred in the course and scope of the performance of PESCANTE's duties. The initial contact and relationship of PESCANTE with Plaintiff, JANE DOE 3, was in furtherance of the business of THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

63. In addition, PESCANTE was authorized to supervise and schedule Plaintiff, JANE DOE 3, in a manner consistent with the hospitality industry. PESCANTE utilized this apparent position of power to extend this relationship in order to exploit Plaintiff as described above.

64. The wrongful acts of PESCANTE were committed in the actual or apparent course and scope of his employment or agency with THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

65. The wrongful acts were committed while PESCANTE was doing what his employment or agency contemplated.

66. The management services provided by PESCANTE benefitted THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC. PESCANTE was aided in accomplishing the tort upon Plaintiff, JANE DOE 3, by the existence of his agency relationship with THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC. Specifically, PESCANTE used the authority actually delegated to him by THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC to exploit Plaintiff, JANE DOE 3, while she was working in the course and scope of her employment with Franklin Manor. She was in this vulnerable position with PESCANTE precisely because of PESCANTE's co-ownership and agency relationship

with THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

67. Under the doctrine of *respondeat superior*, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, including, co-owner, David Anderson, is responsible for the actions of its officer and agent committed in the actual or apparent scope of his duties.

68. As a direct and proximate cause of the foregoing, Plaintiff, JANE DOE 3, has suffered psychological, emotional and physical injuries, mental anguish and the loss of enjoyment of life.

WHEREFORE, Plaintiff, JANE DOE 3, demands judgment against Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC for compensatory damages, costs and such other and further relief as this Court deems just and proper.

COUNT X - NEGLIGENCE
(AS TO DEFENDANTS - THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR
and NOCTURNAL HOSPITALITY GROUP, LLC)

Plaintiff, JANE DOE 3, repeats and re-alleges the allegations set forth in paragraphs 1-2, 5-11, and 44-68, and further alleges:

69. At all material times, Plaintiff, JANE DOE 3, was an invitee and/or authorized visitor and employee of THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC.

70. Plaintiff, JANE DOE 3, was coerced into a sexually exploitative act by a Franklin Manor manager/employee on Franklin Manor's premises. This occurred during business hours, and Defendants are responsible for the manager/employee coming into contact with the Plaintiff, JANE

DOE 3.

71. Defendants THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, breached its duty of care by failing to act as a reasonable and prudent business operator would have under the same or similar circumstances.

Specifically, Defendants committed negligence by:

a. Failing to create and implement policies and procedures to prevent the retention of would be sexual predators, like PESCANTE;

b. Failing to create policies and procedures to provide for a proper and thorough investigation of agents/employees, such as PESCANTE;

c. Failing to create, implement, and establish policies and procedures to properly train agents/employees to ensure the proper and safe conduct of PESCANTE;

d. Failing to create, implement, and establish protocols to train agents/employees on policies and procedures to ensure proper supervision of agents/employees, such as PESCANTE, who were entrusted with the care and treatment of agents/employees;

e. Failing to create, implement, and properly train agents/employees on policies and procedures preventing inappropriate coercive behavior, abuse or harm to the coworkers; identifying individuals who posed a risk of harm to the workplace; how to respond to situations that posed a risk of harm to the employees; how to handle reports involving inappropriate situations or relationships involving the employees; and how to report inappropriate situations involving employees to law enforcement,

f. Failing to remove PESCANTE from his managerial/ownership position despite, his

partner, David Anderson knew or should have known of PESCANTE's propensity to engage in inappropriate behavior with female employees and should have prevented Pescante from having access to vulnerable employees, and;

72. Defendants' negligence proximately caused Plaintiff, JANE DOE 3's, personal injuries, mental and emotional distress and trauma, and damages.

WHEREFORE, the Plaintiff, JANE DOE 3, hereby demands judgment against Defendants, THE NOCTURNAL GROUP LLC, d/b/a FRANKLIN MANOR and NOCTURNAL HOSPITALITY GROUP, LLC, for compensatory damages, costs and such other and further relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs, JANE DOE 1, JANE DOE 2, and JANE DOE 3 hereby demands a trial by jury of all issues triable by law.

CERTIFICATE RE: E-FILING AND E-SERVICE

I HEREBY CERTIFY that this Complaint was filed electronically in compliance with Florida Rules of Judicial Administration 2.515 and 2.516(e).

I FURTHER CERTIFY for purposes of service of any documents after initial process that service@matassinilaw.com is primary.

DATED this 30th day of June, 2020.

/s/ Joseph G. Alvarez

Joseph Gabriel Alvarez, Esquire: Florida Bar No: 108195
The Matassini Law Firm
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