

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Jane Doe,

Plaintiff(s)

vs.

Joseph Ben Barton, Kevin Burnham and Midlands  
Physical Medicine, LLC

Defendant(s)

Submitted By: Eric S. Bland

Address: Post Office Box 72  
1500 Calhoun Street (29201)  
Columbia, South Carolina 29202

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2018-CP-40- 001560

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NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.  
 This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.  
 This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.  
 This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts  
 Constructions (100)  
 Debt Collection (110)  
 General (130)  
 Breach of Contract (140)  
 Fraud/Bad Faith (150)  
 Failure to Deliver/  
Warranty (160)  
 Employment Discrim (170)  
 Employment (180)  
  
 Other (199) \_\_\_\_\_

Torts - Professional Malpractice  
 Dental Malpractice (200)  
 Legal Malpractice (210)  
 Medical Malpractice (220)  
Previous Notice of Intent Case #  
20\_\_\_\_-NI\_\_\_\_-  
 Notice/ File Med Mal (230)  
 Other (299) \_\_\_\_\_

Torts - Personal Injury  
 Conversion (310)  
 Motor Vehicle Accident (320)  
 Premises Liability (330)  
 Products Liability (340)  
 Personal Injury (350)  
 Wrongful Death (360)  
 Assault/Battery (370)  
 Slander/Libel (380)  
 Other (399) Malicious  
Prosecution

Real Property  
 Claim & Delivery (400)  
 Condemnation (410)  
 Foreclosure (420)  
 Mechanic's Lien (430)  
 Partition (440)  
 Possession (450)  
 Building Code Violation (460)  
 Other (499) \_\_\_\_\_

Inmate Petitions  
 PCR (500)  
 Mandamus (520)  
 Habeas Corpus (530)  
 Other (599)  
\_\_\_\_\_

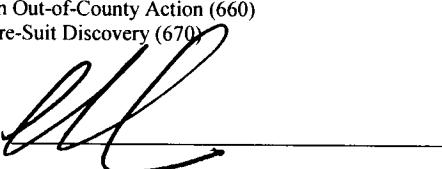
Administrative Law/Relief  
 Reinstate Drv. License (800)  
 Judicial Review (810)  
 Relief (820)  
 Permanent Injunction (830)  
 Forfeiture-Petition (840)  
 Forfeiture—Consent Order (850)  
 Other (899)  
\_\_\_\_\_

Judgments/Settlements  
 Death Settlement (700)  
 Foreign Judgment (710)  
 Magistrate's Judgment (720)  
 Minor Settlement (730)  
 Transcript Judgment (740)  
 Lis Pendens (750)  
 Transfer of Structured  
Settlement Payment Rights  
Application (760)  
 Confession of Judgment (770)  
 Petition for Workers  
Compensation Settlement  
Approval (780)  
 Other (799) \_\_\_\_\_

Appeals  
 Arbitration (900)  
 Magistrate-Civil (910)  
 Magistrate-Criminal (920)  
 Municipal (930)  
 Probate Court (940)  
 SCDOT (950)  
 Worker's Comp (960)  
 Zoning Board (970)  
 Public Service Comm. (990)  
 Employment Security Comm (991)  
 Other (999)  
\_\_\_\_\_

Special/Complex /Other  
 Environmental (600)  
 Automobile Arb. (610)  
 Medical (620)  
 Other (699) \_\_\_\_\_  
 Sexual Predator (510)  
 Permanent Restraining Order (680)

Pharmaceuticals (630)  
 Unfair Trade Practices (640)  
 Out-of State Depositions (650)  
 Motion to Quash Subpoena in  
an Out-of-County Action (660)  
 Pre-Suit Discovery (670)

Submitting Party Signature: 

Date:

1/8/2018

**Note:** Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. *See Ann. §15-36-10 et. seq.*

**Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.**

**SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.**

**Pursuant to the ADR Rules, you are required to take the following action(s):**

1. The parties shall select a neutral and file a “Proof of ADR” form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the “Notice of Intent to File Suit” or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.  
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
Jane Doe, )  
vs. )  
Joseph Ben Barton, Kevin Burnham and )  
Midlands Physical Medicine, LLC, )  
Defendants. )

IN THE COURT OF COMMON PLEAS

SUMMONS

FILE NO. 2018-CP-40-

JEANETTE W. MCBRIDE  
C.C.P. & G.S.

RICHLAND COUNTY  
FILED

2018 JAN -8 PM 1:57

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this Complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

Columbia, South Carolina

Dated: January 8, 2018

Address:

  
Eric Bland  
Attorney for Plaintiff  
SC Bar Number: 64132  
Bland Richter, LLP  
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[ericbland@blandrichter.com](mailto:ericbland@blandrichter.com) (e-mail)

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT  
CIVIL ACTION NO: 2018-CP-40-\_\_\_\_\_

Jane Doe,

Plaintiff,

vs.

Joseph Ben Barton, Kevin Burnham, and  
Midlands Physical Medicine, LLC

Defendants.

**COMPLAINT**  
(Jury Trial Demanded)

JEANETTE WILKOPED  
S.C.P. #65  
FILED

2018 JAN -8 PM 1:07

RICHLAND COUNTY  
FILED

The Plaintiff, complaining of the conduct of the Defendants herein, alleges as follows:

**PARTIES AND JURISDICTION**

1. Plaintiff Jane Doe ("Doe") is a citizen and resident of Kershaw County, South Carolina.
2. Defendant Joseph Ben Barton ("Barton") is upon information and belief a citizen and resident of Charleston County, South Carolina and is a member, the Managing Member, and an employee of Midlands Physical Medicine, LLC.
3. Defendant Kevin Burnham ("Burnham") is upon information and belief a citizen and resident of Kershaw County, South Carolina and is a member and employee of Midlands Physical Medicine, LLC.
4. Defendant Midlands Physical Medicine, LLC ("MPM") is a South Carolina limited liability company and is located at 4531 Hardscrabble Road, Columbia, South Carolina 29229.
5. This Court has jurisdiction over the parties and subject matter of this action.

## **FACTUAL BACKGROUND**

6. Doe is a twenty-five-year-old female.

7. Doe is a single mother of a five-year old daughter.

8. In this matter, Doe was the victim of sexual assault, trauma and continuous sexual abuse and harassment by Barton on multiple occasions from late 2016 through the summer of 2017.

9. As a result of being victimized by sexual assault in the past, Doe was particularly vulnerable and not capable of coping with the sexual behavior and actions of Barton.

10. Barton forced Doe to endure the trauma of working in a hostile environment which was sexually charged.

11. Barton became aware of Doe's history of sexual trauma, questioned Doe about her traumatic past and preyed on her weaknesses and vulnerabilities.

12. Upon information and belief, Barton is a majority member and controlling member of MPM.

A. Barton was Doe's boss and supervisor at MPM.

B. As Doe's boss, Barton had power over Doe and the relationship between them was not equal.

13. MPM specializes in providing non-surgical medical treatment options, including traditional chiropractic services, non-traditional chiropractic services, stem cell therapy, Supartz knee therapy, medical weight loss treatments and pain management therapy.

14. On July 5, 2016, Doe was hired by MPM as a receptionist.

15. Shortly after being hired, Doe became the "phone and marketing girl" per Barton's orders.

16. Doe's MPM duties as the "phone and marketing girl" included, but were not limited to the following:

- a. Barton made Doe the "face of the clinic" by having Doe star in a welcome video that Doe sent to each and every new patient welcoming them to MPM;
- b. Barton insisted that Doe star in the video because he told her that she was "hot", and because she was "hot", more patients would choose MPM;
- c. Making cold calls if MPM business was slow;
- d. Tracking marketing ads along with volume of calls that MPM received for particular advertisement;
- e. Scheduling new and established patients;
- f. Sending reminder texts and emails to patients prior to their appointments;
- g. Answering patients' questions via phone or email;
- h. Organizing and attending each luncheon or seminar hosted by Barton for new potential neuropathy or stem cell patients;
- i. Running errands for the MPM and the staff, such as snacks, coffee, supplies, etc.;
- j. Running personal errands for Barton such as picking up the prescriptions Burnham wrote for Barton from the Walgreens on Hardscrabble Road;
- k. Answering all after hours calls utilizing an office iPhone given to Doe by Barton in January, 2017;
- l. Gathering information from referring physicians and attorneys in personal injury cases; and
- m. Obtaining information regarding the limits of liability in personal injury cases on Barton's instruction that "The bigger a patient's settlement on a case, the more treatment we will push for, and the more money I will get" or words to that effect.

17. Doe was paid \$16.00 per hour.

18. Doe worked 35-40 hours per week.

19. Doe was entitled to the following benefits at MPM: \$5.00 bonus for each new patient scheduled for an appointment with MPM; \$2.00 bonus for each person who attended

MPM luncheons or seminars; use of the MPM's iPhone; and one-week paid vacation after being employed at MPM for more than one year.

20. Almost immediately after Doe began her employment with MPM, Barton started flirting with Doe and made sexually inappropriate comments about her appearance and her body.

21. Barton repeatedly hovered over Doe while at work, and got close to her physically when it was not necessary.

22. Initially, Doe was flattered by the attention from Barton, but over time his actions became smothering and unwelcomed.

23. Barton used his position of authority over Doe to pry her into sharing intimate details of her past, including the fact that Doe was the victim of prior sexual assault.

24. After learning of Doe's painful past, Barton initiated many conversations with Doe concerning her sexual trauma.

25. Barton encouraged and urged Doe to open up about her sexual trauma under the auspices of helping her. In reality, Barton was preying on Doe's vulnerabilities to sexually harass and exploit her.

26. Barton told Doe that through his practice of Scientology, he could sense emotional disturbances in people and could sense that Doe had suffered emotional trauma.

27. Barton claimed he wanted to help Doe with her weaknesses.

28. This "help" included Barton's offer to send Doe to a facility outside of South Carolina which would help her overcome her inner issues.

29. Barton stated that he had attended this facility and that it helped him overcome some "inner issues" he was dealing with from his childhood.

30. Barton claimed this place would help Doe reevaluate the way she thought and

believed.

31. Although Barton never provided Doe with the name of this facility, Barton informed Doe that his intention was to convert her into a Scientologist.

32. Barton knew that Doe was in a vulnerable position as a single mother who lacked the economic means to independently support herself and her daughter without employment by MPM.

33. During Doe's employment at MPM, Barton engaged in persistent and unwelcomed sexual harassment against Doe and unlawful touching of her person.

34. Barton used his position of power and authority over Doe to sexually harass her.

35. Doe needed her job to provide for herself and her young daughter and felt powerless to fend off Barton.

36. Barton's inappropriate sexual behavior was noticed and commented upon by others.

37. Barton used his economic power over Doe in an effort to coerce her into having sex with him.

38. For example, Barton used special economic incentives directed solely to Doe to entice Doe to grant him sexual favors, including bonuses offered only to Doe in the amounts of \$1,700.00, \$500.00, and \$300.00.

39. After Doe received the first \$1,700.00 bonus check, Barton told Doe if she wanted to keep receiving bonuses and be employed at MPM she would either have to give him oral sex or to show Barton her naked breasts.

40. Under coercion and duress, Doe chose the lesser and showed him a picture of her breasts.

41. Barton was not satisfied with a picture of Doe's breasts alone and he demanded that Doe send the same picture with her face in the picture as well to prove that the picture was indeed her body.

42. Barton threatened that if Doe did not send a picture with her face he would send the picture of her breasts to his friends and would post the picture online.

43. In addition to bonus checks, Barton permitted Doe to use his American Express credit card to pay for her living and other expenses as a further enticement to win Doe's sexual favors.

44. Barton texted Doe a picture of his American Express credit card (front and back) so Doe could use it to pay for her living expenses.

45. Barton also authorized Doe to use Barton's American Express credit card to pay for her Geico auto insurance.

46. On Wednesday, September 20, 2017, Barton authorized Doe to use his American Express credit card to pay for her daughter's daycare.

47. Barton also gave Doe a MPM company iPhone so he could call her and text her sexually explicit messages on and off hours.

48. Barton specifically told Doe that he wanted to be able to text with her privately at night.

49. Upon information and belief, Barton wanted Doe to use a MPM's company iPhone because he viewed it as company property that he could recover from Doe if she ever left MPM.

50. At work, Barton told Doe that because he was paying her living expenses, she would have to have sex with him.

51. Barton requested that Doe have sexual intercourse with him.
52. Barton requested that Doe give him oral sex, which he referred to in the slang vernacular.
53. Barton requested that Doe not wear panties to work.
54. Barton repeatedly asked Doe if she was “wearing panties under her scrubs”.
55. Barton had Doe wear scrubs to work every day, even though her job did not require her to wear scrubs.
56. Barton moved Doe to a larger office that was right next to his office and located in the back of the clinic.
57. Doe’s office was outside the view from the other employees.
58. Upon information and belief, Barton gave Doe an office at MPM near his office that was not commensurate with her job duties or title so Barton could sexually harass her without anyone being in proximity to see his deviant conduct or hear his sexually inappropriate comments.
59. Barton sexually harassed Doe by coming into her office and demanding she meet him at different places to perform sexual favors, such as behind Beef O’ Brady’s, at the Courtyard Marriott, in his office in the clinic and in parking lots.
60. Barton informed Doe by text that he had made her a sexually explicit video of himself masturbating.
61. Barton sexually harassed Doe while she was employed by MPM by texting requests to have sex with her. Barton sexually harassed Doe while she was employed by MPM by texting her and requesting she text him naked pictures of herself.
62. Attached hereto as **Exhibit A** and incorporated by reference are some, but not all

of the examples, of Barton's sexually explicit text messages to Doe which state as follows:

- a. "I shouldn't do this and write this stuff because I know you are going to sue me."
- b. "Don't wear any underwear tomorrow so I can feel your [EXPLICIT]."
- c. "You are not wearing panties today under your scrubs."
- d. "Show me your bald [EXPLICIT]."
- e. "Your [EXPLICIT] could literally cost me hundreds of thousands of dollars."
- f. "You ever do a black guy?".... "Just making sure. I don't like banging chicks that screw blacks."

63. Barton often became angry and threatened to terminate Doe's employment if she did not engage in his sexual discourse.

64. Barton not only threatened Doe's employment and conditioned her employment on her willingness to engage in sexually inappropriate behavior, but also threatened Doe that if she refused, Barton would make her regret it.

65. Barton's sexual deviance was so pervasive that he texted sexually suggestive comments to Doe while Barton was attending a wedding anniversary dinner with his wife.

66. Also, Barton made verbal statements to Doe that he did not have enough money to leave his current wife because he did have enough money accumulated in his "offshore accounts".

67. Barton sexually harassed, assaulted and committed battery upon Doe by kissing her neck while he was in her MPM's offices.

68. Barton sexual harassed, assaulted and committed battery upon Doe by touching her breasts in her office.

69. Also, Barton sexual harassed and assaulted Doe at the MPM's offices by forcibly attempting to touch her vagina through her scrubs.

70. At MPM, Barton removed his penis from his pants in front of Doe. Barton then told Doe to engage in oral sex quickly before another employee came into her MPM's office. When Doe refused to look at his penis, he zipped his pants and became angry. The same afternoon, Barton threatened Doe that if he had his penis out in front of Doe again, she was expected to give him oral sex or she would regret not doing so.

71. Through Barton's unlawful actions he intentionally created a hostile work environment for Doe.

72. In August, 2017, Doe refused to respond to Barton's sexual banter. Barton then became very angry.

73. In retaliation for Doe's lack of interest, Barton instructed Dr. Matthew Pappicco ("Pappicco"), a new chiropractor at the office, to deliver a written disciplinary form that Doe was forced to sign.

74. When Doe questioned the disciplinary write up, Pappicco informed her that the disciplinary action was an order from Barton.

75. Not wanting to sign the form because she had done nothing wrong, Doe questioned why she was not given any previous verbal warnings.

76. Doe was told by Pappicco that if she refused to sign the form, it would result in Doe's immediate termination per Barton.

77. In fear of termination, Doe agreed to sign the false form.

78. On or about September 18, 2017, Doe met with MPM's Office Manager, Sasha Buhr ("Buhr"), to complain about Barton's sexual harassment.

79. At this meeting Doe complained that Barton had routinely and repeatedly made unwelcomed sexual advances, requested sexual favors, and verbally and physically harassed her

in a sexual nature during and after office hours and that she wanted it to stop immediately.

80. Buhr instructed Doe to shred the disciplinary write up Pappicco had issued because it was improper.

81. Buhr informed Doe that Barton instructed Burnham to fire Doe upon her arrival to work that day, but Burnham refused to fire Doe because there was no probable cause to do so.

82. Buhr stated that after Burnham refused to terminate Doe, Barton instructed her to terminate Doe.

83. During the meeting between Doe and Buhr, Doe expressed concerns that MPM employees were improperly using Vyvanse and other narcotics and were stealing Doe's prescribed Vyvanse out of her purse.

84. Other concerns expressed by Doe to Buhr during this meeting included: concerns with possible improper business and accounting practices at MPM because of all the different entities involved; Medicare/insurance fraud; possible kickbacks; patients not being treated for their injuries because Barton only was concerned with how much money he would make per patient appointment; Barton wanting to extract as much money as possible per personal injury patient whether the patient needed treatment or not; an MPM employee treating and seeing patients while under influence of drugs; an orthopedic doctor working under chiropractors; an MPM employee performing injection treatments without proper oversight; and MPM's failure to follow proper precept protocols regarding chart reviews.

85. Burnham is a Physician Assistant at MPM.

86. Burnham was one of Doe's superiors.

87. Burnham knew or should have known about the sexual harassment of Doe but Burnham did nothing to prevent it or stop it.

88. Upon information and belief, Burnham did nothing to prevent Doe's sexual assault because he feared for his own job based upon what Doe had learned about him.

89. On August 30, 2016, Doe was involved in an automobile accident.

90. Doe returned to work the next day.

91. Upon Burnham's arrival to work on August 31, 2016, he noticed Doe's car and the physical damage to her vehicle from the accident.

92. Burnham questioned Doe as to what caused the damage to her vehicle.

93. Doe explained to Burnham that she was involved in an automobile accident the previous day.

94. Burnham insisted on performing a quick assessment on Doe to evaluate any possible injuries sustained in the accident since Doe did not seek any medical treatment after the accident.

95. Doe did not complain of any symptoms leading to suspicion of injuries or pain to Burnham.

96. When Doe was asked by Burnham if she experienced any pain or soreness, she stated "no".

97. Burnham insisted there would be delayed muscle soreness from the accident that required narcotic pain relief.

98. Burnham insisted on writing two prescriptions for Doe; one for Valium and one for Norco.

99. Burnham urged Doe to leave the office in order to get the prescriptions filled immediately.

100. When Doe agreed to this request, Burnham gave Doe cash from his wallet to pay

for the prescriptions without Doe asking.

101. When Doe returned to MPM, Burnham ordered Doe into his office and asked her to shut the door behind her.

102. Burnham sat Doe down and asked to view the prescription bottles.

103. Burnham began pouring the pills into his hand.

104. When Doe questioned what Burnham was doing, Burnham stated that he had intentionally written a larger quantity on each prescription to help a patient who could not afford the same prescription drugs.

105. Doe asked Burnham about the legality of him dispensing drugs to patients that did not hold the proper written prescription.

106. Burnham's responded that it was a rare occasion, but it was a necessity for pain management for this underprivileged, elderly patient.

107. On a separate occasion, Burnham demanded that Doe loan him three capsules of her Vyvanse prescription which she took for her ADHD. Vyvanse is a Scheduled II narcotic.

108. Doe lied to Burnham, stating she had forgotten her prescription bottle at home, when in reality the prescription was in her purse.

109. Burnham walked out of her office angrily.

110. Later that afternoon when Doe got home from work, she took the prescription out of her purse and decided to keep her medicine at home.

111. When Doe looked in the bottle, she noticed three capsules were missing.

112. The next day, Burnham informed Doe that he would give her three capsules back to her so she would not be short any pills.

113. Doe never gave permission for Burnham to go through her purse, nor to take any

capsules out of her prescription bottle.

114. On September 22, 2010, in accordance with S.C. Code §1-23-370 Burnham's license to practice as a physician assistant was temporarily suspended. (See **Exhibit B** Order of Temporary Suspension attached and incorporated by reference.)

115. On August 17, 2011, Burnham was the subject of a Final Order of the State Board of Medical Examiners for South Carolina in regards to a Memorandum of Agreement whereby Burnham was Publicly Reprimanded, fined and required to comply with the South Carolina Recovering Professionals Program. (See **Exhibit C** Order of Release from Final Order attached and incorporated by reference.)

116. Burnham had to surrender his DHEC registration for a period of five years, which time period expired in February, 2016. (See **Exhibit C**.)

117. Instead of investigating Doe's September 18, 2017 claims, including concerns Doe raised about Burnham's conduct, MPM terminated Doe's employment via Buhr's September 25, 2017, termination letter under the false and pretextual allegation that Doe had "used Dr. Barton's American Express Credit Card without permission."

118. Doe's employment was terminated in violation of South Carolina public policy.

119. Buhr's termination letter also demanded the return of MPM's iPhone which Barton had provided to Doe and had expressly authorized her to use.

120. Barton, Buhr, and Burnham even sent a MPM employee to Doe's house in an attempt to retrieve the MPM iPhone, but Doe was not home.

121. Doe agreed to return the phone, but only in a public space because she was fearful of more false accusations by MPM.

122. For example, Doe attempted to meet with Buhr at Books a Million parking lot in

Sandhills Shopping Center, but Buhr refused to meet anywhere other than at MPM's offices or the Walgreens across the street from MPM's offices.

123. Burnham and MPM filed a false police report stating Doe had stolen MPM's iPhone and that she had refused to give the phone back to MPM.

124. Upon information and belief, Barton deleted all the sexually suggestive and harassing text messages from the phone he had used to send texts to Doe.

125. Unbeknownst to Barton, Doe had downloaded and saved the sexually suggestive and harassing text messages Barton had sent to Doe. (See **Exhibit A.**)

126. Upon information and belief, Doe's termination was driven at least in part by the fact that Barton's wife had finally discovered her husband's financial relationship with Doe.

127. Upon information and belief, while Jennifer Barton was pumping gas in September, 2017, Doe was simultaneously charging her daughter's daycare bill with Barton's permission using Barton's American Express. Jennifer Barton's attempt to use the same credit card was denied.

128. Instead of confessing to his wife that he had given Doe permission to use his American Express credit card, Barton lied and told his wife Doe had stolen his credit card.

129. Doe was contacted by Jennifer Barton who accused Doe of having an affair with her husband.

130. Doe denied the accusation, but told her that Barton was a sexual predator who constantly harassed her via text with inappropriate sexual messages.

131. Once Doe was made aware of false criminal allegation filed by Burnham and MPM, she contacted the Richland County Sheriff's Department to inform them that MPM's phone was not stolen and that she had it in her possession.

132. Barton hired a private investigator, Jay Jones ("Jones"), who called Doe in an attempt to retrieve MPM's iPhone and to ensure that Doe did not turn the phone over to the police.

133. Jones presented himself to Doe as a private investigator and a member of SLED.

134. Jones threatened Doe and stated that if she returned MPM's iPhone to the police, she would be arrested when she arrived.

135. Jones asked Doe what it would take for this matter to "go away".

136. Jones went on to tell Doe that he was made aware that she was a single mother with no money and could not afford an attorney.

137. Jones also stated he knew how Barton was in these types of situations. Jones asked Doe how much money would satisfy Doe in order to "sweep everything under the rug."

138. Shortly after Doe ended the conversation with Jones, Investigator Seay with the Richland County Sheriff's Department contacted Doe.

139. As part of her investigation, Investigator Seay recovered MPM's iPhone that contained Barton's sexually harassing text messages.

140. Doe was accused of committing crimes by Barton, Burnham, and MPM.

141. Any such allegation is false and defamatory.

142. Doe did not steal Barton's credit card, nor did she steal MPM's iPhone.

143. Doe had Barton's permission to use his credit card and MPM's iPhone.

144. On November 10, 2017, Burnham telephoned Doe's father.

145. Burnham asked Doe's father to convince Doe not to press any charges against Burnham in exchange for Burnham giving Doe a \$5,000.00 check to end any allegations involving him.

**FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**  
**MALICIOUS PROSECUTION**

146. All paragraphs stated above are incorporated herein as if realleged and restated in full verbatim.

147. Defendants instituted a criminal investigation against Doe.

148. Defendants acted with malice against Doe.

149. The institution and/or continuation of the criminal investigation caused injury and actual damages to Doe including, but not limited to the following manners:

- a. Mental pain and suffering;
- b. Fright;
- c. Nervousness;
- d. Indignity;
- e. Humiliation;
- f. Embarrassment; and
- g. Insult.

150. The criminal investigation of Doe has caused injury and special damages to Doe, including but not limited to the following manners:

- a. Damages for discomfort to her health; and
- b. Loss of time.

151. At the time of filing the criminal complaint Defendants failed to make a fair, full, and truthful disclosure of all the facts to the Richland County Sheriff's Department, including but not limited to failing to divulge that Barton gave permission to Doe to use his card and Barton's sexual harassment of Doe.

152. For example, Investigator Seay dropped the criminal charges instituted against

Doe by Barton because Barton refused to provide the proof to Investigator Seay to establish that Doe violated any laws.

153. As a direct and proximate result of the conduct of the Defendants, Doe has been injured as described above and is entitled to actual and special damages in an amount determined by a jury to be sufficient to compensate her fully for the harm she suffered, as well as punitive damages in an amount to impress upon the Defendants the seriousness of their conduct and to deter such similar conduct in the future.

**FOR A SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS**  
**ABUSE OF PROCESS**

154. All paragraphs stated above are incorporated herein as if realleged and restated in full verbatim.

155. Defendants had an ulterior purpose in initiating the criminal investigation of Doe.

156. One of the ulterior purposes was to intimidate and exert pressure on Doe not to sue Barton and MPM for sexual harassment and wrongful termination.

157. Defendants willful acts in the use of the process that were not proper in the regular conduct of the proceeding include, but are not limited to, the following:

- a. Failing to have a good faith basis to institute a criminal investigation against Doe;
- b. Failing to have a good faith basis to continue a criminal investigation against Doe;
- c. Using a criminal investigation as an intimidation tool to prevent Doe from utilizing her rights to the legal system; and
- d. In such other particulars as the evidence in the case may demonstrate.

158. These willful acts used in the legal process are improper.

159. As a direct and proximate result of the conduct of the Defendants, Doe has been injured as described above and is entitled to actual damages in an amount determined by a jury to

be sufficient to compensate her fully for the harm she suffered, as well as punitive damages in an amount to impress upon the Defendants the seriousness of their conduct and to deter such similar conduct in the future.

**FOR A THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**  
**DEFAMATION PER SE**

160. All paragraphs stated above are incorporated herein as if realleged and restated in full verbatim.

161. Defendants called Doe a thief and otherwise accused her of committing crimes.

162. Defendants have published statements which expressly or impliedly state that Doe is unfit in her profession.

163. These statements are defamatory per se.

164. Any allegation that Doe committed a crime in the use or possession of the iPhone and/or credit card is false because Barton gave Doe his permission to use MPM's iPhone and to use his credit card.

165. Defendants published the aforementioned defamatory statement about Doe to a wide range of persons in the public including, but not limited to, the Richland County Sheriff's Department and other staff.

166. Each defamatory statement published by each Defendant is separately actionable as a cause of action herein, as is each and every subsequent repetition is likewise separately actionable.

167. The false statements damaged Doe's professional and personal reputation.

168. Plaintiff has suffered and continues to suffer damages as a result of these false allegations and she is entitled to actual damages for each separate defamatory statement and/or repetition of a defamatory statement in amounts determined by a jury to be sufficient to

compensate her fully for the harm she suffered, as well as punitive damages in amounts sufficient to impress upon the Defendants the seriousness of their conduct and to deter such similar conduct in the future.

**FOR A FOURTH CAUSE OF ACTION AGAINST BARTON**  
**ASSAULT**

169. All paragraphs stated above are incorporated herein as if realleged and restated in full verbatim.

170. As described herein above, Doe was placed in reasonable fear of bodily harm by Barton's offensive conduct in attempting to touch her vagina, breasts, back, neck, lips and her buttocks and by flashing his penis as he moved towards her with it exposed.

171. As a direct and proximate result of the conduct of Barton, Doe has been injured as described above and is entitled to actual damages in an amount determined by a jury to be sufficient to compensate her fully for the harm she suffered, as well as punitive damages in an amount to impress upon Barton the seriousness of his conduct and to deter such similar conduct in the future.

**FOR A FIFTH CAUSE OF ACTION AGAINST BARTON**  
**BATTERY**

172. All paragraphs stated above are incorporated herein as if realleged and restated in full verbatim.

173. As described herein above, Barton made repeated and unwanted forcible contact with Doe's person when he touched her breasts, vagina, buttocks, neck and back and when he kissed her neck.

174. Barton's unlawfully subjected Doe to offensive contact to which she did not consent.

175. As a direct and proximate result of the conduct of Barton, Doe has been injured as described above and is entitled to actual damages in an amount determined by a jury to be sufficient to compensate her fully for the harm she suffered, as well as punitive damages in an amount to impress upon Barton the seriousness of his conduct and to deter such similar conduct in the future.

**FOR A SIXTH CAUSE OF ACTION AGAINST BARTON**  
**INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS/OUTRAGE**

176. All paragraphs stated above are incorporated herein as if realleged and restated in full verbatim.

177. Barton intentionally and recklessly inflicted severe emotional distress on Doe by his sexually aggressive conduct towards her as is detailed above.

178. Barton's conduct was so extreme and outrageous as to exceed all bounds of decency in a civilized society.

179. Barton's conduct was atrocious and utterly intolerable in a civilized community.

180. The actions of Barton have caused Doe to suffer significant emotional distress and loss of income.

181. Doe's emotional distress is so severe that no reasonable person should be expected to endure it.

182. As a direct and proximate result of the conduct of Barton, Doe has been injured as described above and is entitled to actual damages in an amount determined by a jury to be sufficient to compensate her fully for the harm she suffered, as well as punitive damages in an amount to impress upon Barton the seriousness of his conduct and to deter such similar conduct in the future.

**FOR A SEVENTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**  
**WRONGFUL TERMINATION AGAINST PUBLIC POLICY**

183. All paragraphs stated above are incorporated herein as if realleged and restated in full verbatim.

184. Doe's September 25, 2017 termination violated South Carolina public policy.

185. Doe's disciplinary write ups and counseling up through her termination were in retaliation for her rebuffing much of the sexual harassment directed at her by Barton and for questioning various business practices of MPM, as well as for reporting Barton's sexual harassment, assault and battery to MPM's Office Manager, Buhr.

186. As a direct and proximate result of the conduct of the Defendants, Doe has been injured as described above by the loss of past and future income and bonuses and is entitled to actual damages in an amount determined by a jury to be sufficient to compensate her fully for the harm she suffered, as well as punitive damages in an amount to impress upon the Defendants the seriousness of their conduct and to deter such similar conduct in the future.

WHEREFORE, Plaintiff prays for judgment against Defendants for actual and special damages in a sum sufficient to compensate her fully for all losses occasioned herein, whether past, present or future, and punitive damages in a sum determined by a jury to impress upon the Defendants the seriousness of their conduct and to deter such similar conduct in the future, as well as attorneys' fees and costs, and any other relief granted by this Court.

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