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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR LANE COUNTY

JANE DOE<sup>1</sup>,

Plaintiff,

vs.

LUSSURIA SALON, INC., an Oregon  
corporation, HEE JOON YANG  
MASSAGE, LLC, an Oregon limited  
liability company, and HEE JOON  
YANG,

Defendants.

Case No.

COMPLAINT

Negligence, Sexual Battery, Invasion  
of Privacy, Discrimination in Public  
Accommodation

Prayer: \$1,027,000

Fee Authority: ORS 21.160(1)(d)

NOT SUBJECT TO MANDATORY  
ARBITRATION

**Jury Trial Requested**

Plaintiff Jane Doe alleges as follows:

**FIRST CLAIM FOR RELIEF: PROFESSIONAL NEGLIGENCE  
(AGAINST ALL DEFENDANTS)**

1.

Defendant Lussuria Salon, Inc., is an Oregon corporation, and does business as  
a salon and day spa in Eugene, Lane County, Oregon.

2.

Defendant Hee Joon Yang Massage, LLC, is an Oregon limited liability compa-  
ny that is in the business of massage therapy in Eugene, Lane County, Oregon.

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<sup>1</sup> A pseudonym. Defendants are aware of Jane Doe's identity.

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3.

Defendant Hee Joon Yang is a resident of Lane County, Oregon. He was at all material times a licensed massage therapist and an employee, agent, and/or apparent agent of Defendant Lussuria Corporation, acting within the course and scope of his employment, agency, or apparent agency. Defendant Hee Joon Yang was also at all material times the sole member and manager, officer, agent, employee, and/or apparent agent of Defendant Hee Joon Yang Massage, LLC, acting within the course and scope of his official duties, employment, agency, and/or apparent agency.

4.

Plaintiff Jane Doe scheduled a massage for December 15, 2015, through Defendant Lussuria Corporation’s front reception desk. The receptionist for Defendant Lussuria Corporation gave Jane Doe Defendant Yang’s business card and scheduled her for a massage with Defendant Yang. Defendant Yang’s business card represented him as an agent of “Lussuria Salon.”

5.

Jane Doe had never received a massage before. Defendant Lussuria Corporation and Defendant Yang Massage, LLC, knew that their masseuse, Defendant Yang, was in a position of trust and confidence with their patients, including Jane Doe. Defendant Yang gained access to Jane Doe because of his position as a masseuse in Defendant Lussuria Corporation’s established salon. He also gained access to her through Defendant Yang Massage, LLC, as its licensed masseuse. The business entity defendants gave Defendant Yang permission and support to spend significant time alone with Jane Doe, more than the time scheduled for her massage. Jane Doe followed Defendant Yang’s instructions and disrobed, allowing herself to be vulnerable in ways

1 she would not have were it not for the fact that he was held out as a trusted agent of the  
2 business entity defendants.

3 6.

4 During the massage, Defendant Yang exploited Jane Doe's trust by rubbing her  
5 breasts, abdomen, buttocks, and vagina and sexually penetrating her vagina with his  
6 hand. Jane Doe tried do get Defendant Yang to stop, but Yang forced his hand into her  
7 mouth, held her down on the table, and held her tongue down so that she could not  
8 speak.

9 7.

10 On December 21, 2015, Defendant Yang texted Jane Doe on her personal cell  
11 phone, without her permission or invitation. He explained that he had gotten her phone  
12 number from her medical chart. Jane Doe told him not to contact her again, but he con-  
13 tinued to text her throughout the next day, December 22, 2015.

14 8.

15 The acts of professional negligence, privacy violation, and sexual violation were  
16 the outgrowth of acts of the kind Defendant Yang was authorized and encouraged to  
17 perform, as an officer, employee, agent, or apparent agent of Defendant Lussuria Cor-  
18 poration and Defendant Yang Massage, LLC, and all acts leading up to and following  
19 the sexual battery were motivated, at least partially, by a desire to serve the business  
20 entity defendants.

21 9.

22 All defendants owed a duty of care to Jane Doe as a massage patient. Defendant  
23 Yang, and the business entity defendants through Defendant Yang, were negligent and  
24 breached the duty of care in one or more of the following ways:

25

- 1 a) Touching Jane Doe’s breasts and vagina without prior written and verbal  
2 consent, in violation of ORS 687.081(1)(a), OAR 334-010-0028(1)(c), and  
3 OAR 334-010-0029(6);
- 4 b) Touching Jane Doe’s breasts and vagina without articulating or receiving  
5 acknowledgment of any therapeutic rationale, in violation of ORS  
6 687.081(1)(a), OAR 334-010-0028(1)(b), and OAR 334-010-0029(5)(b);
- 7 c) Touching Jane Doe’s breasts and vagina without the completion of specialized  
8 contact hours, in violation of ORS 687.081(1)(a), OAR 334-010-0029(5)(a), and  
9 OAR 334-010-0028(1)(a);
- 10 d) Touching Jane Doe’s breasts and vagina without a witness present and without  
11 offering Jane Doe the option to accept or decline having a witness present, in  
12 violation of ORS 687.081(1)(a), OAR 334-010-0028(1)(c), and OAR 334-010-  
13 0029(6);
- 14 e) Touching Jane Doe’s breasts and vagina with improper and exposed draping, in  
15 violation of ORS 687.081(1)(a), OAR 334-010-0028(2), and OAR 334-010-  
16 0029(5)(a);
- 17 f) Touching Jane Doe’s breasts and vagina without gloves, in violation of  
18 ORS 687.081(1)(a) and OAR 334-010-0029(3)(b);
- 19 g) Obtaining Jane Doe’s personal cell phone number from her medical chart  
20 without her prior authorization, and texting her for personal reasons in violation  
21 of 45 CFR 164.502(a) and ORS 192.553; and/or
- 22 h) Engaging in unprofessional, dishonorable conduct under the Board of Massage  
23 Therapy ethical standards in violation of ORS 687(1)(j) and OAR 334-040-  
24 0010(23).
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10.

The foregoing acts or omissions created foreseeable and unreasonable risk of harm of the type Jane Doe suffered. Defendants’ negligence in one or more of the foregoing described ways caused Jane Doe’s injuries and damages.

11.

As a result of the above described acts or omissions, Jane Doe was forced to take time off of work and go on short-term disability leave to deal with the negative emotional and psychological effects of the violations, all to her wage loss in an amount to be determined by the jury at the time of the trial, not to exceed \$7,000.

12.

The Defendants’ acts and/or omissions have caused and continue to cause Jane Doe physical and psychological injuries, requiring her to seek medical treatment and psychological treatment. She will continue to need medical treatment in the future, to her financial harm in an amount to be determined at trial, not to exceed \$20,000.

13.

Defendants’ conduct has caused, and will continue to cause, Plaintiff Jane Doe to suffer fear, shame, degradation, humiliation, anxiety, loss of sleep, depression, loss of enjoyment of life, interference with her normal and usual activities, and emotional and psychological trauma. Her therapist has diagnosed her as suffering from post-traumatic stress disorder as a result of Defendants’ conduct. These noneconomic damages are continuing and Jane Doe is entitled to compensation in an amount to be determined by the jury at the time of the trial, not to exceed \$1,000,000.

1   **SECOND CLAIM FOR RELIEF: NEGLIGENCE**  
2   **(AGAINST DEFENDANT LUSSURIA SALON, INC. AND**  
3   **DEFENDANT YANG MASSAGE, LLC)**

4   14.

5                         Plaintiff realleges paragraphs 1 through 13 as though fully set forth herein.

6   15.

7                         At all material times, Defendant Lussuria Corporation and Defendant Yang  
8                         Massage, LLC, had a duty to Jane Doe as a business invitee and patient of the salon and  
9                         massage business. Defendants breached their duty by acting negligently in one or more  
10                        of the following ways:

- 11                    a) Improperly hiring Defendant Yang;
- 12                    b) Improperly training and/or supervising Defendant Yang regarding ethical  
13                        standards and the Massage Therapy Board regulations regarding massage;
- 14                    c) Improperly training and/or supervising Defendant Yang regarding the priva-  
15                        cy of personally identifiable patient information in medical records and  
16                        allowing him to contact Jane Doe using the phone number she gave in her  
17                        medical chart;
- 18                    d) Maintaining patient medical charts in an insecure and unsafe manner, which  
19                        allowed its employees and agents to access them for personal reasons;
- 20                    e) Negligently allowing Defendant Yang to conduct breast and cavity  
21                        massages without proper certification and compliance with appropriate  
22                        regulatory duties;
- 23                    f) In negligently entrusting Defendant Yang to perform massages on patients;  
24                        and/or
- 25                    g) Negligently retaining Defendant Yang.

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16.

The foregoing acts or omissions created an unreasonable and foreseeable risk of harm of the type Jane Doe suffered. Defendants’ negligence in one or more of the foregoing described ways caused Jane Doe’s injuries and damages.

**THIRD CLAIM FOR RELIEF: DISCRIMINATION IN PUBLIC ACCOMMODATION  
(AGAINST DEFENDANT LUSSURIA SALON, INC. AND  
DEFENDANT HEE JOON YANG MASSAGE, LLC)**

17.

Plaintiff realleges paragraphs 1 through 16 as though fully set forth.

18.

Defendants Lussuria Corporation and Hee Joon Yang Massage, LLC, are open to the public and offer to the public advantages, facilities, and privileges in connection with the day spa and massage business.

19.

Defendant Lussuria Corporation and Defendant Yang Massage, LLC, discriminated against Jane Doe as a woman, on the basis of sex, when their officer, employee, agent, or apparent agent, Defendant Yang, sexually assaulted Jane Doe and harassed her by phone, using her personal cell phone number from her medical chart. Defendants, through the acts and omissions detailed in this complaint, through their training, hiring, retention, certification requirements, and policies created and maintained an environment that allowed and contributed to the discrimination Jane Doe experienced. These acts or omissions violated ORS 659A.403.

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**FOURTH CLAIM FOR RELIEF: SEXUAL BATTERY  
(AGAINST ALL DEFENDANTS)**

20.

Plaintiff realleges paragraphs 1 through 19 as though fully set forth.

21.

Defendant Yang knew that touching Jane Doe’s intimate body parts, including her breasts and vagina was harmful and offensive, and that he was subjecting her to contact that would offend a person with a reasonable sense of personal dignity. Nevertheless, he intentionally subjected her to this offensive contact.

22.

All of Defendant Yang’s actions leading up to the sexual battery, were an outgrowth of the duties he was authorized and encouraged to perform, as an officer, employee, agent, or apparent agent of Defendant Lussuria Salon and Defendant Yang Massage, LLC, and Defendant Yang was motivated at least in part to serve the business entity defendants.

**FIFTH CLAIM FOR RELIEF: INVASION OF PRIVACY  
(AGAINST ALL DEFENDANTS)**

23.

Plaintiff realleges paragraphs 1 through 22 as though fully set forth.

24.

In using the telephone number Jane Doe gave in her medical chart to text her after the massage, and in continuing to text her after she told him to stop contacting her,



1 Defendant Yang intentionally intruded into Jane Doe's private affairs, in a way which  
2 would be highly offensive to a reasonable person and was highly offensive to Jane Doe.

3 25.

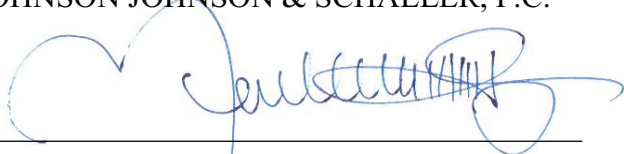
4 All of the actions Defendant Yang took to receive Jane Doe's phone number  
5 were an outgrowth of the type of actions Defendant Yang was authorized and  
6 encouraged to perform, as an officer, employee, agent, or apparent agent of Defendant  
7 Lussuria Corporation and Defendant Yang Massage, LLC, and Defendant Yang was  
8 motivated at least in part in those actions to serve the business entity defendants.

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11 \_\_\_\_\_  
12 WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

- 13 a. For fair and reasonable economic damages in an amount to be determined  
14 by the jury, not to exceed \$27,000;
- 15 b. For fair and reasonable noneconomic damages in an amount to be  
16 determined by the jury, not to exceed \$1,000,000;
- 17 c. For all other compensation deemed just and reasonable by the court; and
- 18 d. For attorney fees under ORS 20.107.

19 DATED this 26<sup>th</sup> day of September, 2016.

20 JOHNSON JOHNSON & SCHALLER, P.C.

21   
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