

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JULIANNE ARIZZO,
Plaintiff,
v.
ETHICON, INC. and MOUNT SINAI HEALTH SYSTEMS, INC.,
Defendants.
Index No.
SUMMONS
Plaintiff designates New York County as the place of trial.
Venue is proper pursuant to CPLR §§ 301 and 503(a)

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on Plaintiff's attorneys within twenty (20) days after the service of this summons, exclusive of the day of service, or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: September 13, 2023
Montclair, NJ

SPIRO HARRISON & MELSON
By: [Signature]
Eric H. Jaso
ejaso@shnlegal.com
363 Bloomfield Ave, Suite 2C
Montclair, NJ 07074
Telephone: (973) 744-2100

Attorneys for Plaintiff

TO:

Ethicon, Inc.
1000 U.S. Highway 202 South
Raritan, NJ 08869

Mt. Sinai Health System, Inc.
One Gustav Levy Place
Box 1099
New York, NY 10029-6696

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JULIANNE ARIZZO,

Plaintiff,

vs.

ETHICON, INC., and MOUNT SINAI
HEALTH SYSTEM, INC.,

Defendants.

Index No.

COMPLAINT

Plaintiff Julianne Arizzo (“Plaintiff”), by and through her attorneys, for her Complaint against Defendants Ethicon, Inc. (“Ethicon”) and Mount Sinai Health System, Inc. (“Mount Sinai”) (together, “Defendants”), hereby alleges:

NATURE OF THE ACTION

1. This is an action arising out of Defendants’ violation of the fundamental right of an Ethicon employee, Julianne Arizzo, to work in an environment free of sexual harassment. In blatant disregard of Defendants’ obligations under New York State and City Law, Ethicon not only allowed but encouraged management at one of its largest and most lucrative clients, Mount Sinai, to sexually harass Ms. Arizzo in the workplace. Furthermore, Ethicon did nothing when Ms. Arizzo reported the sexual harassment to superiors and human resources, subjecting her to continue working in an abusive and hostile environment at Mount Sinai.

SUMMARY OF THE CASE

2. Prior to joining Ethicon, Ms. Arizzo had a promising career as a pharmaceutical sales representative at Eli Lilly. Ethicon hired Ms. Arizzo as an account executive to service

hospital accounts that used Ethicon's medical technology for surgeries. Ethicon assigned Ms. Arizzo to multiple hospitals, including The Mount Sinai Hospital in Manhattan ("Mount Sinai Main"), one of Ethicon's largest accounts in New York and indeed nationwide.

3. As a sales representative at Mount Sinai Main, Ms. Arizzo would be required to work closely with Mount Sinai's Materials Department (the "Materials Department"), led by one of the Materials Managers, Tony Robles. As Ethicon and Mount Sinai were long aware, the Materials Department is a male-dominated department with a reputation for being difficult for female sales representatives. The Materials Department is known as a "boy's club" whose managers and employees make and encourage jokes and sexual overtures to women at their expense and discomfort. Mount Sinai knowingly or recklessly fostered a workplace environment where its Materials Department employees engaged in rampant sexual harassment of sales representatives without consequence. Because Mount Sinai was such a lucrative and important customer, Ethicon's management tolerated and encouraged this ongoing unlawful misconduct.

4. As soon as Ethicon placed Ms. Arizzo at Mount Sinai, Robles repeatedly and relentlessly harassed her anytime she was in his presence by leering at her body, inappropriately touching her lower back and shoulders in an unwelcome manner, routinely commenting on her physical appearance (including in the presence of others), and regularly making blatant sexual propositions. To add insult to injury, when Ms. Arizzo complained to her Ethicon manager, Adam Cheung, he reminded her that Mount Sinai was an extremely important account, said that the relationship required "a female touch,"¹ and coached her to "lean into" the sexual harassment so Mount Sinai would continue using Ethicon's services.

5. Indeed, when Cheung first introduced Ms. Arizzo to Robles, he leeringly announced,

¹ Any statements or conversations are recounted in substance and in part.

“Look who we have for you – your new Christina.” (Christina, another young woman, was Ms. Arizzo’s predecessor on the account). Robles looked her up and down and commented that she was a pretty woman.

6. Soon after, on April 7, 2022, Ethicon held a happy hour for the Materials Department at El Paso Mexican Restaurant, attended by Ethicon managers Cheung and Matthew McCoy, a middle manager, and Adam Persak, another sales rep. Robles insisted on sitting next to Ms. Arizzo, a request which Cheung and McCoy promptly accommodated, immediately beginning to sexually harass her by getting close to her and touching her lower back. At one point, Robles asked Cheung if Ms. Arizzo could have the next day off so he could take her home and show her a good time. Robles also said to Cheung: “I get why you hired [Ms. Arizzo] – she is gorgeous,” and to Ms. Arizzo directly, “look at those eyes. I could take you home,” and “I wish I could have you at night.” The other Ethicon and Mount Sinai employees present laughed and egged Robles on; McCoy said, “Tony, you’re such a player!” Needless to say, Ms. Arizzo was alarmed and distressed by Robles’s unwelcome and unwanted advances.

7. Cheung took Ms. Arizzo aside at the restaurant and asked her if she was ok, given Robles’s “vulgar” comments. When she said no, that she felt very uncomfortable and unsafe that he was so touchy, Cheung assured Ms. Arizzo that he didn’t want her to feel uncomfortable and said her safety was important. Nonetheless, he then returned to the table and sat at the same seat; Ms. Arizzo thus was forced again to sit next to Robles while he resumed his unwanted touching and lewd comments. Despite Ms. Arizzo’s obvious discomfort, her coworkers laughed at Robles’s actions and even joked that Robles would get Cheung “in trouble.”

8. At every step, Ethicon management failed to take necessary steps to protect Ms. Arizzo from a known sexual harasser and the hostile environment at Mount Sinai Main.

9. Ms. Arizzo reported her concerns about Robles’s harassment to her assigned work

mentor and her supervisors at Ethicon and requested to be taken off the Mount Sinai account. Initially, Cheung agreed, but not long after, he told her she needed to return to Mount Sinai, even if it was just to show her face. Cheung knew, however, that it was impossible for Ms. Arizzo to avoid the Materials Department, much less Robles. She was required to visit the Materials Department offices multiple times weekly to check in to see if Mount Sinai's orders arrived on time, and assist with other matters. In the meantime, Robles made his Materials Department reports aware of his sexual interest in Ms. Arizzo, so they went out of their way to alert him whenever she visited Mount Sinai. Materials Department employees frequently asked Ms. Arizzo about her current boyfriend and whether she was still with him.

10. Robles's harassment, unchecked by either Ethicon's or Mount Sinai's management, predictably escalated during Ms. Arizzo's time working at Mount Sinai. In addition to unwelcome touching, Robles constantly invaded her personal space and made lewd, sexual comments to the point where Ms. Arizzo felt unsafe. On one occasion, Ms. Arizzo attended a meeting in Robles's office (a small, windowless space). Even though others from both Ethicon and Mount Sinai were present, including manager McCoy, Robles sidled up to Ms. Arizzo and declared, "I could take you upstairs right now and fuck you." She felt physically at risk and violated, and immediately after the meeting told her co-workers about the comment, thinking they must have heard it given the close quarters. McCoy expressed shock that Robles would say something so lude but again laughed it off, saying, "what a player."

11. Even after this blatant offense, no one did anything to respond to or stop the sexual harassment. Ms. Arizzo thus reported it to Ethicon's Human Resources department, where after a lengthy interview, she was assured that the matter would be taken seriously, investigated, and addressed. Yet still, Ethicon did nothing.

12. The continual sexual harassment at Mount Sinai, compounded by Ethicon

management's ignoring her complaints and not only tolerating but even encouraging this wrongdoing, caused Ms. Arizzo to experience stress-induced and nearly fatal cardiac problems. At the end of August 2022, she was admitted to the hospital and diagnosed with Takotsubo cardiomyopathy (stress-induced). Ms. Arizzo spent three days in the hospital, but on the same day she was discharged, Ms. Arizzo suffered another serious cardiac episode causing severe chest pain and difficulty breathing. She was readmitted to the hospital and remained there for five days. Doctors determined that the direct cause of her potentially fatal cardiac condition – which may prove permanent – was the stress from her enduring sexual harassment at Mount Sinai, compounded by Ethicon's refusal to acknowledge or address it.

13. To her knowledge, she was still assigned to the Mount Sinai Main account. Given that she had not heard back from Human Resources regarding her complaint and her assignment to Mount Sinai, Ms. Arizzo felt compelled to resign from her job.

14. In this lawsuit, Ms. Arizzo seeks compensatory and punitive damages for Ethicon's and Mount Sinai's wrongdoing, which caused her to endure repeated blatant acts of sexual harassment, that caused a life-threatening and potentially lifelong cardiac condition, destroying her quality of life and robbing her of her previously-successful career as a pharmaceutical sales representative.

THE PARTIES

15. Julianne Arizzo is a resident of New York, New York. During the relevant period and at all material times, Ms. Arizzo was employed by Ethicon, Inc.

16. Ethicon, Inc. is a foreign business corporation registered to do business in New York. It is a subsidiary of Johnson & Johnson, a New Jersey corporation.

17. Mount Sinai Health System, Inc. is a domestic not-for-profit corporation

organized and existing under the laws of New York.

JURISDICTION AND VENUE

18. This court has jurisdiction over Plaintiff's claims arising under New York law according to CPLR § 301.

19. Venue is proper in this Court pursuant to CPLR § 503(a) because Plaintiff resides in, and the wrongdoing alleged herein occurred in, New York, New York.

SPECIFIC FACTUAL ALLEGATIONS

A. The Business Relationship between Ethicon and Mount Sinai Fosters a Discriminatory and Hostile Environment

20. With over \$11.3 billion in annual revenue, 7,400 physicians, 144 operating rooms, and eight hospital campuses, Mount Sinai touts itself as an "internationally acclaimed" integrated health system that provides exceptional care to its patients.

21. The Mount Sinai Hospital, or Mount Sinai Main, is one of Mount Sinai's largest facilities.

22. As a Materials Manager for Mount Sinai Main, Tony Robles runs the Materials Department and procures all equipment and tools for hospital staff. Because of the Materials Department's vital role in the hospital's operations, the Materials Department wields significant power over vendors who sell products to Mount Sinai.

23. Ethicon, a medical-device subsidiary of Johnson & Johnson, manufactures surgical sutures and wound closure devices that it sells to multiple locations within Mount Sinai Health Systems. It employs account executives, commonly known as sales representatives or "sales reps," to market and sell its products to customers. Ethicon has been a supplier to Mount Sinai for 10 years, and Mount Sinai, being one of the largest healthcare entities in New York (and indeed nationwide), is one of Ethicon's most important customers in terms of revenue.

24. Among other duties, Ethicon's sales reps train doctors and hospital staff on how to use its products and observe surgeries to see what devices are lacking in the operating rooms.

25. When a doctor or surgeon requests a particular device, an account executive processes the order through the Materials Department, requiring Ethicon's account executives and the Materials Department staff to work closely together.

26. Supplying expensive equipment to one of the most visited hospitals in New York City, Ethicon understood how important it is to foster a friendly working relationship with the Materials Department at Mount Sinai Main because they are responsible for choosing which vendors to order from.

27. Given their longstanding business relationship, Ethicon management knew that Robles took a particular interest in young, attractive female sales representatives and used that knowledge to specifically assign account executives who matched that description to Mount Sinai Main to support and maintain their most important account.

28. Ms. Arizzo was a motivated, intelligent, experienced, and successful sales representative whom Ethicon hired as an account executive in or about January 2022.

29. In or about April 2022, after completing a rigorous training program, Ethicon management assigned Ms. Arizzo to call on multiple Mount Sinai locations, including the Mount Sinai Main and West locations.

B. Plaintiff is Encouraged to "Lean Into" Sexual Harassment

30. Ethicon's training program provided Ms. Arizzo with useful sales practices and marketing strategies to better service her assigned accounts. However, nothing would foreshadow the degrading and abusive tactics Ethicon management employed to keep its biggest account.

31. Ms. Arizzo primarily worked with two Ethicon managers, Adam Cheung, a

Regional Sales Manager, and Matthew McCoy, a Strategic Systems Lead, the middle manager between Cheung and Ms. Arizzo. Adam Persak was an Account Executive who was Ms. Arizzo's counterpart at Ethicon. Ms. Arizzo also communicated regularly with her assigned management mentor, Cheryl Luhmann, a Strategic Systems Lead.

32. Initially, Ethicon management and employees warned Ms. Arizzo that the Materials Department at Mount Sinai Main was a "boys club" that could be difficult for women.

33. Cheung, McCoy, and Persak all told Ms. Arizzo that Robles was flirty with women. McCoy further informed her that Christina, the young female sales rep she replaced, had been sexually harassed by Robles and other members of the Materials Department.

34. With this knowledge of how Mount Sinai allowed its employees to behave, Ethicon coached its female employees to use their sexuality to ensure that the Materials Department continued to order and utilize their equipment.

35. On her first day servicing the Mount Sinai Main account, Cheung introduced Ms. Arizzo to Robles with other Ethicon and Mount Sinai employees present. Cheung leeringly announced, "Look who we have for you – your new Christina" (referring to Ms. Arizzo's predecessor, also a young female sales rep whom Cheung knew Robles had also sexually harassed).

36. Robles responded by looking Ms. Arizzo up and down and commenting that she was "such a pretty woman." Ms. Arizzo was in disbelief that Robles felt comfortable behaving that way in front of her managers and his own coworkers.

37. Ms. Arizzo later found out that when she was first hired, McCoy asked Cheung if she would be a good fit for the role, and he responded, "I think she would know what to do."

38. As anticipated by Ethicon's management, once Ms. Arizzo entered the field, she immediately faced sexual harassment at the hands of Robles and other members of the Materials

Department.

39. Ethicon management knew that Robles was a known sexual harasser; however, regardless of her protests to service that account, they encouraged Ms. Arizzo to lean into the sexual harassment.

C. Ethicon is Put on Actual Notice of Sexual Harassment of Plaintiff

40. On or about April 7, 2022, mere days after entering the field, Ethicon held a happy hour for the Materials Department at El Paso Mexican Restaurant, during which Ms. Arizzo was forced to endure immediate and blatant sexual harassment, which her managers and coworker facilitated and encouraged. Ethicon employees and members of Mount Sinai's Materials Department sat together in the restaurant at a long table. Knowing that Robles would be attending the event, Ms. Arizzo asked Cheung and McCoy to sit next to her because, based on her previous encounters, he made her uncomfortable. Robles foiled that strategic seating arrangement because he demanded that Ms. Arizzo sit next to him when he arrived. Cheung and McCoy quickly obliged and moved seats to comply with Robles's demand.

41. Robles immediately began to accost and sexually harass her. He sat next to her, leaning uncomfortably close, and began touching her lower back. Robles asked Cheung if Plaintiff could have the following day off so he could take her home that night and show her a good time.

42. Robles also said to Cheung: "I get why you hired [Plaintiff] – she is gorgeous," to which Cheung replied that was one of the reasons they hired her. Robles then said to Ms. Arizzo, "Look at those eyes. I could take you home," and "I wish I could have you at night."

43. Cheung and McCoy laughed at Robles's misbehavior. McCoy lauded Robles as "such a player" and laughed at Robles's harassment. When McCoy exclaimed that Robles always went for the girls, Robles replied, "I'm just such a big flirt."

44. During the course of the happy hour, Ms. Arizzo kept her then-boyfriend apprised of Robles' behavior towards her. In a series of contemporaneous text messages, Ms. Arizzo informed her boyfriend that "[Robles] is saying how I can end up at his house tonight." Ms. Arizzo was in disbelief that Robles would behave that way in front of her co-workers, texting her boyfriend "[m]y boss is even here." Her boyfriend then asked if anyone confronted Robles, but she confirmed, "None of us have said anything I just smile." Everyone at the table saw and heard how Robles was treating Ms. Arizzo, but not one time did any Ethicon or Mount Sinai employee step in and address Robles. Finally, when it became obvious that Ms. Arizzo was uncomfortable and getting upset, Cheung took her aside and asked her how she felt, acknowledging Robles's "vulgar" comments.

45. Ms. Arizzo told Cheung that Robles' sexual comments, physical touches, and unwelcome misbehavior made her uncomfortable and unsafe to the point where she did not want to continue her assignment at Mount Sinai or ever be around him.

46. Cheung said he had already talked to McCoy about the situation and assured Ms. Arizzo that her safety was a priority. It was a hollow assurance, however, because when Cheung went back to the table, he sat in the same seat and said nothing to Robles, so Ms. Arizzo was forced to sit back down next to Robles and continue to endure his sexual harassment.

47. As Robles's misbehavior continued, Cheung looked visibly uncomfortable. McCoy laughed and told Robles that he was going to get "her manager" in trouble.

48. After the happy hour, Cheung called McCoy. Cheung was upset and worried about what had happened since it could be an HR problem, but he wasn't going to report it. McCoy again assured Cheung that Robles was harmless and that nothing bad would come of it. McCoy confirmed his conversation with Cheung to Ms. Arizzo. Ms. Arizzo reached out to McCoy and

Persak the day after the happy hour in a text message group chat and wrote, “[Cheung] is not happy about [Robles]’ behavior.” McCoy responded “Yea he called me on my way home. I’ll give you a call later this morning.”

49. In the meantime, Ms. Arizzo reported the incident to her assigned management mentor, Cheryl Luhmann.

50. Ms. Luhmann then called Cheung and McCoy to express concern about Mount Sinai and told Cheung that Plaintiff should not be put in situations where she would be subjected to sexual harassment.

51. The next morning, Cheung called Ms. Arizzo and told her that he did not want her to feel uncomfortable so she would not have to call on Mount Sinai Main again. He said that McCoy and Persak would manage the account.

D. Plaintiff is Forced to Endure the Sexual Harassment

52. Ethicon management soon broke their promise. After approximately two weeks, Cheung told Ms. Arizzo that she needed to go back to Mount Sinai Main, even if it was to just show her face.

53. Cheung also reminded her that Mount Sinai was Ethicon’s biggest account in the country, and she needed to “get over it.” He said that the Mount Sinai relationship needed a “female touch.” Cheung asked her to “lean into” the sexual harassment when she returned to the account.

54. Cheung suggested that Ms. Arizzo try to avoid Robles, but as he was well aware, that would be impossible. Cheung again required her to check in at the Materials Department offices multiple times per week, ostensibly to see if Mount Sinai’s orders arrived on time, assist with training providers on how to use Ethicon products, and scout for additional sales opportunities. However, Ms. Arizzo knew there was neither a business imperative nor a clinical rationale for her having to

frequently go to Mount Sinai, which was already purchasing a maximum amount of devices and supplies, and whose medical staff was already trained on how to use them. Basically, she would bring the Materials Department staff coffee and snacks and check their supply of Ethicon products.

55. Furthermore, Robles had made the Materials Department employees aware of how attracted he was to Ms. Arizzo, so his staff would go out of their way to alert Robles whenever she arrived at Mount Sinai Main.

56. On subsequent visits, Robles continued to accost Ms. Arizzo and engage in unwelcome touching of her lower back and shoulders and make sexually inappropriate comments to her both when they were alone and in the presence of other Ethicon and Mount Sinai employees.

E. Plaintiff Continues to Report Sexual Harassment to Ethicon

57. Ms. Arizzo continued to report Robles's distressing sexual harassment to Ethicon management, including Cheung, McCoy, and Ms. Luhmann.

58. Ms. Luhmann again spoke to Cheung on the phone detailing Robles's mistreatment and explained how deeply uncomfortable it made Ms. Arizzo.

59. McCoy also called Cheung and told him the same thing about Ms. Arizzo's experiences and discomfort.

60. Despite these reports about the continuing severity of the situation, Cheung still failed to address it and avoided confronting Robles or complaining to Mount Sinai management for fear of losing the account.

61. Robles's behavior, thus ignored and unchecked by Defendants' management, only escalated as Ms. Arizzo's continued calling on Mount Sinai Main. In addition to unwelcome touching, he constantly invaded her personal space, making lewd sexual comments, again making Ms. Arizzo feel physically unsafe.

62. Even though Chueng's "pep talk" forced Ms. Arizzo to go back to Mount Sinai and face Robles, Ms. Arizzo was hopeful she could lean on her coworkers for support because they continually witnessed Robles acting inappropriately towards her. Ms. Arizzo informed Persak that she would be "going to go to sinai more now that I know how to handle [Robles]."

63. In a conversation between Ms. Arizzo and McCoy, discussing visiting Robles and bringing him and his staff free food to entice him to order Ethicon products than he normally would from McCoy or Persak, Ms. Arizzo told Persak, "I know how important Sinai is and I told you I was going[sic] help with that more now that [Robles] is calm."

64. Ms. Arizzo's hope in her coworkers was quickly snuffed out when on one occasion, while visiting the Materials Department office (a small, windowless space) with McCoy and Persak, Robles accosted Ms. Arizzo, got up close to her, and declared, "I could take you upstairs right now and fuck you." Ms. Arizzo was so stunned she couldn't speak.

65. After leaving the office, she complained to McCoy and Persak, assuming they must have heard Robles's comment in such close quarters. McCoy said he was surprised that Robles would say something "crazy" like that with others around but again laughed it off, calling Robles a "player." Ms. Arizzo later informed Ms. Luhmann about the incident and that she felt physically at risk, but still, no one did anything to respond to, much less stop, Robles's sexual harassment.

66. Robles's crude sexual advances and constant harassment continued whenever Ms. Arizzo visited Mount Sinai Main. She attempted to avoid going there, but if she didn't visit, Cheung would call her repeatedly, asking where she was and directing her to go back. On other occasions, she asked for the day off (something readily granted to other sales reps). Still, Cheung refused, demanding to know the reason for her request and at one point, admonishing her to "watch your attitude and be appreciative."

67. On or about August 10, 2022, when the harassment finally had become unbearable, and her superiors and co-workers continued to do nothing to help, Ms. Arizzo formally reported the sexual harassment to Ethicon's Human Resources department. Ms. Arizzo spoke to Althia Mcleggan (an Employee Relations Manager at Johnson & Johnson) for over an hour and detailed the sexual harassment, including Robles's unwanted touching and sexually graphic comments to Ms. Arizzo. She further explained her unsuccessful efforts to get her managers at Ethicon to take action. Ms. Mcleggan assured Ms. Arizzo that Human Resources would investigate the sexual harassment.

68. Still, Ethicon took no action in response, so Ms. Arizzo was required to continue calling on Mount Sinai. Indeed, Ms. Mcleggan did not respond to Ms. Arizzo's follow-ups for three weeks after her initial report and even then, simply told her that HR was looking into the matter.

F. Plaintiff Suffers Life-Threatening Medical Problems Due to Sexual Harassment

69. On or about August 30, 2022, Ms. Arizzo experienced severe chest pains, so she went to the hospital (NYU Langone Medical Center).

70. She was admitted and diagnosed with Takotsubo cardiomyopathy (stress-induced). Ms. Arizzo was discharged after three days, but later the same day, Ms. Arizzo suffered another serious cardiac episode that caused her severe chest pain and difficulty breathing. She was readmitted to the hospital and remained there for five more days.

71. Prior to this incident, Ms. Arizzo had never experienced cardiac issues, nor did she have a family history. Indeed, cardiomyopathy is typically seen in elderly people, not in otherwise healthy twenty-somethings. Yet tests revealed levels of cardiac troponin (an enzyme associated with cardiac muscle damage) tens of thousands of times higher than even found in people who have suffered heart attacks. Doctors were initially prepared to conduct non-invasive cardiac surgery, believing Ms. Arizzo was on the verge of death.

72. Ms. Arizzo's cardiologist concluded that stress from sexual harassment at work caused her cardiac problems: "The stressful event triggering her stress-induced cardiomyopathy was a challenging circumstance at work where she is dealing with sexual harassment . . . she is having ongoing intermittent chest pain."

73. Ms. Arizzo's cardiologist also expressed "concern[] about the risk of recurrence [of her cardiac issues] if she returned to work." Ms. Arizzo's cardiologist warned her that she remained at a high level of risk for a heart attack that could be fatal and that her cardiac issues might be a lifelong condition. Further, Ms. Arizzo's cardiologist documented that she was now under his "cardiac care due to stressful circumstances at work that led to cardiac injury" and that "due to these stressful circumstances, [Ms. Arizzo] is under cardiac restriction."

74. Ms. Arizzo's doctors have advised her that this rare condition may be permanent and told her that she should continue living in or close to New York City, so she can go back to NYU if she has another cardiac event.

G. Ethicon Takes No Action to Address Plaintiff's Sexual Harassment

75. Due to her sudden health problems, hospitalization, and doctor-ordered restriction, Mr. Arizon requested a short-term disability leave. On October 17, 2022, Ethicon approved the request retroactively to August 30, 2022, through November 13, 2022. Yet despite this approval and the HR Department's assurances that it would investigate Ms. Arizzo's complaint, Ethicon failed to take any action to address those issues.

76. To Ms. Arizzo's knowledge, if she returned to work, she would still be assigned to the Mount Sinai account, with no action having been taken to address Robles's sexual harassment.

77. Given her serious, potentially permanent cardiac condition and Ethicon's failure to address her complaints, Ms. Arizzo felt she had no choice but to resign. On November 29, 2022,

Ethicon's HR department confirmed Ms. Arizzo's suspicions, informing her that the Company had closed her unfair treatment case without a resolution.

78. In addition to permitting and even encouraging Robles's misconduct, Defendants failed to conduct an adequate investigation and take any remedial action to protect Plaintiff (or successor Ethicon sales reps) from this discriminatory behavior. Defendants failed to conduct prompt and thorough investigations of employee complaints of harassment or provide a remedial plan reasonably calculated to stop any harassment that was found.

FIRST CAUSE OF ACTION
(Unlawful Sex Discrimination—Gender Based Discrimination NYSHRL and NYCHRL)
(Against Ethicon)

79. Plaintiff repeats and realleges every allegation set forth herein.

80. At all relevant times, Plaintiff was a female employee of Ethicon.

81. At all relevant times, Ethicon was an employer within the meaning of N.Y. Exec. Law § 292(5), and N.Y.C. Admin. Code § 8-102.

82. Ethicon is responsible for the sexual harassment of Plaintiff because Plaintiff's managers, mentors, and co-workers were aware of the harassment, but Ethicon took no steps to prevent the harassment.

83. By the acts and practices described herein, Ethicon unlawfully subjected Plaintiff to discrimination on the basis of sex while working at Mount Sinai.

84. Despite actual notice, Ethicon failed to take reasonable corrective measures to stop Robles from discriminating against Plaintiff on the basis of sex.

85. Through their discriminatory and hostile treatment, Ethicon treated Plaintiff less well than other employees because of her gender.

86. Defendant's unlawful actions were intentional, willful, malicious, and/or done with reckless disregard for Plaintiff's rights.

87. As a result of Defendant's discriminatory actions, Plaintiff has and/or will continue to suffer injury, including a life-threatening, lifelong cardiac diagnosis, lost earnings, humiliation, mental anguish, emotional distress, and inability to continue to work in the healthcare field.

88. As a result of Defendants' misconduct and consequent harms, Plaintiff has suffered such damages in an amount to be proved at trial.

SECOND CAUSE OF ACTION
(Unlawful Sex Discrimination – Hostile Work Environment)
(Against Ethicon)

89. Plaintiff repeats and realleges every allegation set forth herein.

90. At all relevant times, Plaintiff was a female employee of Ethicon.

91. At all relevant times, Ethicon, Inc. was an employer within the meaning of N.Y. Exec. Law § 292(5), and N.Y.C. Admin. Code § 8-102.

92. Plaintiff was subjected to repeated, pervasive, and severe instances of disparate treatment and harassment based on her gender.

93. The above conduct would not have occurred but for Plaintiff's gender.

94. The harassing and discriminatory conduct was severe and pervasive enough to make a reasonable person, and employee believe that the conditions of employment were altered and the working environment was hostile and discriminatory.

95. At all relevant times, Adam Cheung was a manager of Ethicon, who controlled the terms of Ms. Arizzo's employment and had the power to do more than carry out personnel decisions made by others.

96. Ethicon is responsible for Robles's sexual harassment because Cheung encouraged, condoned, and approved of subjecting Plaintiff to Robles's conduct as outlined above.

97. Ethicon was placed on actual notice of the discriminatory and hostile environment created by Robles and endorsed by Cheung.

98. Despite this actual notice, Ethicon failed to take reasonable corrective measures to stop Robles and Cheung from creating and fostering a hostile work environment at Mount Sinai on the basis of sex.

99. Defendant's hostile and abusive conduct created an environment that a reasonable person would find hostile or abusive. Plaintiff subjectively perceived the workplace environment as hostile and abusive because of her gender.

100. Ethicon, through Cheung, aided and abetted Robles to commit acts and omissions that violated NY CLS Exec § 296(1)(a) and NYC Administrative Code 8-107[1][a] by committing harassing and discriminatory acts toward Plaintiff affirmatively by failing to take remedial action after becoming aware of harassment and discrimination, pursuant to NYC Administrative Code 8-107(6) and N.Y. Exec. Law § 296(6).

101. As a result of Defendant's discriminatory actions, Plaintiff has and/or will continue to suffer injury, including a life-threatening, lifelong cardiac diagnosis, lost earnings, humiliation, mental anguish, emotional distress, and inability to continue to work in the healthcare field.

THIRD CAUSE OF ACTION
(Negligence – Sexual Harassment)
(Against Ethicon)

102. Plaintiff repeats and realleges every allegation set forth herein.

103. Ethicon knew that Robles was sexually harassing Plaintiff because Ethicon management was present at the April 7th Happy Hour, and Ms. Arizzo made multiple reports of Plaintiff's harassment to her assigned mentor, supervisors, and HR.

104. Ethicon failed to take remedial actions after reports of harassment since no action was taken by Ethicon management to prevent the sexual harassment.

105. As a result of Ethicon's failure to take remedial measures to prevent future harassment, Ms. Arizzo experienced life-threatening cardiac-related health problems, which have

been diagnosed to be incurable and lifelong.

FOURTH CAUSE OF ACTION

(New York State Human Rights Law – Public Accommodation)
(Against Mount Sinai)

106. Plaintiff repeats and realleges every allegation set forth herein.

107. At all relevant times, Mount Sinai is a place of public accommodation pursuant to NYCHRL § 8-107(4)(a).

108. The pattern and practice of discrimination and harassment directed at Plaintiff are outlined above.

109. Plaintiff was subjected to unwelcome sexual harassment in the form of sexual advances or requests for sexual favors.

110. The repeated sexual harassment of Plaintiff denied her the opportunity to enjoy Mount Sinai facilities since Plaintiff visited Mount Sinai Main as part of her employment with Ethicon.

111. Plaintiff was targeted because she was a woman.

112. As a proximate result of the aforementioned acts and omissions set forth herein, Plaintiff has sustained physical and pecuniary damages.

FIFTH CAUSE OF ACTION

(New York State Human Rights Law, Section 296)
(Against Mount Sinai)

113. Plaintiff repeats and realleges every allegation set forth herein.

114. At all relevant times, Ethicon provided services to Mount Sinai.

115. At all relevant times, Plaintiff was an employee of Ethicon and a non-employee of Mount Sinai.

116. Plaintiff was subjected to unwelcome sexual harassment in the form of sexual

advances or requests for sexual favors when she visited Mount Sinai, which visits were required as part of her job duties as an Ethicon employee.

117. Mount Sinai knew or should have known that Robles subjected Plaintiff to unwelcome sexual harassment.

118. Mount Sinai failed to take immediate and appropriate corrective action.

119. As a result of the aforementioned acts and omissions set forth herein, Plaintiff suffered physical and pecuniary damages.

SIXTH CAUSE OF ACTION

(Negligent Retention)

(Against Mount Sinai)

120. Plaintiff repeats and realleges every allegation set forth herein.

121. Mount Sinai knew or should have known that Robles fostered a culture of treating women less well than males.

122. Mount Sinai failed to take reasonable care by retaining Robles in a management position due to the culture of sexual harassment he fostered at Mount Sinai Main.

123. Ethicon management and employees knew of the rampant sexual discrimination and harassment in the Materials Department.

124. As a result of their failure to take reasonable care in their retention of Robles, Plaintiff was sexually harassed and discriminated against by Robles.

125. This harm was foreseeable and could have been avoided, but for Mount Sinai's failure to exercise reasonable care.

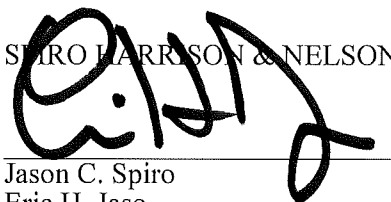
126. As a result of Mount Sinai's acts and omissions, Plaintiff suffered physical and pecuniary damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment in her favor and against Defendants on all counts, together with compensatory and equitable relief, all remedies available under the law, punitive damages, emotional distress damages, interest, attorneys' fees, and for such other relief that the Court deems equitable and just.

Dated: Montclair, New Jersey
September 13, 2023

SPIRO HARRISON & NELSON



Jason C. Spiro
Eric H. Jaso
Adlai J.J. Small
363 Bloomfield Ave, Suite 2C
Montclair, NJ 07074
(973) 744-2100

Attorneys for Plaintiff