

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR BROWARD
COUNTY, FLORIDA

JANE DOE NO. 6,

Plaintiff,

v.

CASE NO.:

11009322

HENDERSON MENTAL HEALTH
CENTER, LLC and HENDERSON MENTAL
HEALTH CENTER, INC.,

Defendants.

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APR 21 2011
HOWARD C. FORAN
CLERK OF CIRCUIT COURT
BROWARD COUNTY, FLORIDA

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, JANE DOE NO. 6, by and through her undersigned counsel, hereby files this
Complaint and Demand for Jury Trial against Defendants, HENDERSON MENTAL HEALTH
CENTER, LLC and HENDERSON MENTAL HEALTH CENTER, INC., and alleges as
follows:

PARTIES, JURISDICTION AND VENUE

1. This Complaint arises from the sexual exploitation of Jane Doe No. 6 by MERVIN SPAN, a HENDERSON MENTAL HEALTH CENTER therapist/counselor assigned to provide counseling and therapy services to JANE DOE.
2. Plaintiff JANE DOE NO. 6 ("JANE DOE") is an adult female who is a citizen and resident of the State of Florida. Plaintiff has filed this lawsuit using a pseudonym in order to protect her privacy and because she fears further psychological injury to herself and her family 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, or will be disclosed upon service of this Complaint.

3. Defendant, HENDERSON MENTAL HEALTH CENTER, LLC, is a Florida Limited Liability Corporation doing business at its principal address in Fort Lauderdale, Broward County, Florida.

4. Defendant, HENDERSON MENTAL HEALTH CENTER, INC., is a Florida non-profit corporation doing business at its principal address in Fort Lauderdale, Broward County, Florida.

5. Defendants (hereinafter collectively referred to as "HENDERSON") purport to own and operate a not-for-profit behavioral healthcare system, offering various mental health services including crisis management and outpatient therapy.

6. At all times relevant to this action, MERVIN SPAN was an employee and agent of HENDERSON.

7. Venue properly lies in this judicial circuit in that the sexual assaults and other tortious acts that are the subject of this lawsuit were committed in Broward County. This Court has jurisdiction in that this is a claim for damages in excess of \$5 million, exclusive of interest, costs, and attorney's fees, which is an amount that exceeds the jurisdictional limits of this court.

FACTUAL ALLEGATIONS

8. JANE DOE became a client of HENDERSON in approximately 2003 after she began suffering from severe depression and became homeless. After an inpatient hospitalization for depression, JANE DOE became part of a HENDERSON program purportedly devoted to treating mental health issues without the need for further inpatient hospitalization. The program operated out of "Henderson Village," an emergency shelter and drop-in center operated by HENDERSON where homeless people could receive mental health services from HENDERSON. MERVIN SPAN served as her counselor and case worker at Henderson Village.

She became dependent on SPAN's counseling and assistance, and was grateful for his support in helping her get back on her feet.

9. After a period of time, SPAN began demanding that JANE DOE engage in sexual contact with him as part of his "counseling." SPAN brought JANE DOE to various mental institutions and facilities where people with extreme cases of mental illness and debilitation were being treated. Upon information and belief, some or all of these facilities were operated by HENDERSON. SPAN repeatedly told JANE DOE that if she refused his sexual demands, he would use his power and authority as her counselor to ensure that she ended up in one of the facilities as well. Following the threats and coercion, SPAN forced JANE DOE to engage in oral sex and sexual intercourse on numerous occasions. JANE DOE was terrified to refuse his sexual demands for fear that he would use his power and authority to have her committed to an institution. JANE DOE felt so isolated and afraid that she tried to take her own life to escape SPAN.

10. Eventually, JANE DOE reported SPAN's forced sexual contacts with her to HENDERSON administrators. HENDERSON took no action in response to her allegations. Upon information and belief, SPAN continued his employment at HENDERSON without limitation until another female client reported that SPAN sexually exploited her during the course of counseling in 2011.

11. Despite JANE DOE's report to SPAN's supervisors, SPAN continued to use his power and authority to force JANE DOE to engage in sexual activity with him.

12. Upon information and belief, SPAN engaged in sexual misconduct with female clients in a similar manner before, during and after his sexual abuse and exploitation of JANE DOE.

13. Upon information and belief, HENDERSON knew or should have known that SPAN was a sexual opportunist, in that it witnessed him engage in the selfish pursuit of sexual opportunities for their own sake when they arose, such that he demonstrated that he would take advantage of others, or make use of, or exploit, other persons for sexual purposes.

14. Because HENDERSON had actual or constructive notice that SPAN was a sexual opportunist, HENDERSON knew or should have known that he posed a risk to females with whom he came into contact by reason of his work at HENDERSON, particularly those who were vulnerable and over whom SPAN wielded great power, like JANE DOE. Despite such actual or constructive knowledge, HENDERSON failed to warn those who came into contact with SPAN by virtue of his employment, including JANE DOE, that he posed a risk to her health and safety.

15. Upon information and belief, SPAN had been fired from at least one other mental health facility, and he had a criminal history related to drugs. Upon information and belief, HENDERSON knew or should have known of this history.

16. At all relevant times, HENDERSON knew that its concealment of SPAN'S history of misconduct placed vulnerable women who trusted SPAN and HENDERSON at great risk of harm. Despite this, it continued to conceal important information regarding SPAN in an effort to protect itself from liability for HENDERSON'S own negligence.

17. In response to JANE DOE'S complaint, HENDERSON had a statutory duty to report this information to the authorities. HENDERSON failed to make any such report, which is consistent with its plan and scheme to conceal its knowledge of SPAN'S sexual abuse of his clients.

18. HENDERSON was in a fiduciary relationship with JANE DOE.

HENDERSON was in a position of trust and confidence with JANE DOE. JANE DOE looked to HENDERSON and its representatives for counseling and guidance. In addition, HENDERSON knew that JANE DOE had a special and privileged relationship with SPAN in light of SPAN'S treatment of JANE.

19. HENDERSON owed JANE a fiduciary duty to:

- a) Investigate and warn JANE of the potential for harm from SPAN;
- b) Disclose its awareness of facts regarding SPAN that created a likely potential for harm;
- c) Disclose its own negligence with regard to supervision and retention of SPAN;
- d) Provide a safe environment for JANE where she would be free from abuse; and
- e) Protect JANE from exposure to harmful individuals like SPAN.

20. HENDERSON breached its fiduciary duty to JANE by failing to:

- a) Investigate and warn JANE of the potential for harm from SPAN;
- b) Disclose its awareness of facts regarding SPAN that created a likely potential for harm;
- c) Disclose its own negligence with regard to supervision and retention of SPAN;
- d) Provide a safe environment for JANE DOE where she would be free from abuse; and
- e) Protect JANE DOE from exposure to harmful individuals like SPAN.

21. Upon information and belief, HENDERSON actively concealed information that

would have informed Plaintiff that HENDERSON committed negligent acts and omissions of HENDERSON that were a proximate cause of her injuries. HENDERSON'S active concealment prevented JANE from timely filing this claim against HENDERSON.

22. As a result of this trauma, JANE DOE has suffered and will continue to suffer, severe and ongoing emotional, physical and psychological injuries, mental anguish, and the loss of enjoyment of life. These injuries are debilitating and continuing in nature.

23. Despite the exercise of reasonable diligence, JANE DOE did not know, nor could she have known, of the causal connection between her injuries and HENDERSON's negligence until within four years of the filing of this Complaint.

COUNT I – NEGLIGENCE

24. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 through 24 above.

25. At all material times, Defendants owed a duty to Plaintiff to use reasonable care to ensure her safety, care and well being while she was obtaining therapy services from HENDERSON. These duties encompassed the hiring, retention and supervision of SPAN.

26. HENDERSON was in a special relationship with JANE DOE in which JANE DOE had a right of protection from HENDERSON, giving rise to HENDERSON's duty to care for and protect JANE DOE while was receiving counseling and treatment services from HENDERSON.

27. HENDERSON was in a special relationship with SPAN, such that by assigning SPAN to provide services to JANE DOE, it had a duty to control SPAN's conduct and assure that he was safe, posing no threat of harm to JANE DOE, particularly given JANE DOE's vulnerability and SPAN's great power to issue reports that could result in JANE DOE being

committed to a treatment facility against her will.

28. Upon information and belief, SPAN sexually abused and exploited other women whom he came into contact with as a result of his employment by HENDERSON. These heinous acts occurred before, during, and after SPAN's sexual exploitation of JANE DOE.

29. HENDERSON breached the foregoing duties by failing to protect the Plaintiff from sexual abuse and lewd and lascivious acts committed by its agent and employee, SPAN.

30. HENDERSON breached the foregoing duties by failing to control its employee and agent SPAN, who used his power and authority provided to him by HENDERSON to terrorize JANE DOE and force her to act as his sex slave.

31. At all relevant times, Defendants knew or in the exercise of reasonable care should have known that SPAN was unfit, dangerous, and a threat to the health, safety and welfare of the vulnerable individuals entrusted to him for therapy services, particularly JANE DOE.

32. Despite such actual or constructive knowledge, Defendants hired and retained SPAN, and assigned him to the case of JANE DOE, who was in a vulnerable position with SPAN while he held a position of great power over her.

33. HENDERSON failed to adequately supervise SPAN, who was given complete access to and control over JANE DOE by virtue of his employment at HENDERSON.

34. HENDERSON had inadequate policies and procedures regarding the supervision of its employees and agents while interacting with HENDERSON clients.

35. HENDERSON had inadequate policies and procedures regarding the protection of its vulnerable clients receiving therapy services, particularly JANE DOE.

36. HENDERSON failed to protect JANE DOE from SPAN despite her report that he

was engaging her in sexual contact. JANE DOE report required inquiry and investigation by HENDERSON into the acts and conduct of SPAN. Yet HENDERSON did nothing; instead, HENDERSON's employees retaliated against and terrorized JANE DOE, and the sexual contact with SPAN continued.

37. As a direct and proximate cause of the foregoing, Plaintiff 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 NO. 6, demands judgment against Defendants HENDERSON MENTAL HEALTH CENTER, LLC, and HENDERSON MENTAL HEALTH CENTER, INC., for compensatory damages, costs and such other and further relief as this Court deems proper.

COUNT II – RESPONDEAT SUPERIOR/ VICARIOUS LIABILITY

38. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-24 above.

39. SPAN was at all material times hereto the employee, appointee and agent of HENDERSON.

40. SPAN was authorized to be alone with JANE DOE and to have unfettered and unsupervised access to her as her counselor and case worker.

41. SPAN used the power and authority given to him by HENDERSON during the trips to other treatment facilities where he threatened to have her institutionalized if she did not comply with his sexual demands. HENDERSON further authorized him to inform and advise JANE DOE that his power and authority extended to reporting on her progress in counseling and psychological condition so as to avoid being institutionalized.

42. The criminal acts and conduct of SPAN were initiated in the course of scope of

his employment with HENDERSON in treating JANE DOE outside the traditional counseling setting; interacting with JANE DOE at its facilities; and advising JANE DOE regarding the importance of her cooperation with his demands. SPAN's criminal acts were motivated at least in part by a purpose to serve HENDERSON as its employee.

43. SPAN committed sexual assaults and batteries on JANE DOE by virtue of his position as an employee of HENDERSON authorized and assigned to provide services to JANE DOE. The criminal acts of SPAN were of the same general nature as those authorized or were incidental to the conduct authorized by HENDERSON. The wrongful acts of SPAN were committed in the actual or apparent course and scope of his employment or agency with HENDERSON.

44. The acts described above occurred on the premises of land operated and/or controlled by HENDERSON (or at a place authorized by the HENDERSON), occurred during working hours, and occurred in the course and scope of the performance of SPAN'S duties. In addition, SPAN was authorized to touch JANE DOE and display affection in a manner consistent with providing counseling, guidance and leadership. SPAN extended and converted his authorized touching into the sexual abuse of JANE as described above.

45. SPAN's sexual assaults and batteries of JANE DOE were done substantially within the time and space limits of SPAN's authorized duties.

46. Upon information and belief, SPAN was authorized to touch JANE DOE in an improper manner.

47. As a direct and proximate cause of the foregoing, Plaintiff 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 NO. 6, demands judgment against Defendants HENDERSON MENTAL HEALTH CENTER, LLC, and HENDERSON MENTAL HEALTH CENTER, INC., for compensatory damages, costs and such other and further relief as this Court deems proper.

DEMAND FOR JURY TRIAL

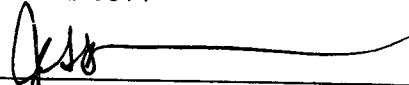
Plaintiff demands a jury trial in this action.

Dated: April 21, 2011.

Respectfully submitted,

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