

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

MELISSA THOMPSON,

Plaintiff,

v.

GRAMERCY GLOBAL MEDIA LLC D/B/A  
THE BLAST, and MIKE WALTERS,

Defendants.

Case No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Melissa Thompson, by and through her attorneys, Fegan Scott LLC, for her Complaint, complains of Defendants Gramercy Global Media LLC d/b/a The Blast (“The Blast”) and Mike Walters (“Walters”) as follows:

**I. INTRODUCTION**

1. A non-disclosure agreement (“NDA”) provides two parties the ability to share sensitive and confidential personal or business information without fear of disclosure. Importantly, an NDA provides consequences if the agreement is breached, because no one can undo the damage once the proprietary information is disclosed to third parties. As is the case here, no amount of monetary recovery can compensate Melissa Thompson for the Defendants’ disclosure of her private information to the public and to the man who raped her, Harvey Weinstein (“Weinstein”).

2. Melissa Thompson is a survivor who was raped by Weinstein in the fall of 2017. When it first occurred, she had not shared the details of her rape to more than a handful of people because, *inter alia*, the rape caused her extreme distress, shame, and fear of repercussion from Weinstein.

3. In October 2017, after *The New York Times* and *The New Yorker* published stories of other women accusing Weinstein of sexual abuse, Plaintiff considered sharing her story with Defendants. Because of her extreme distress and fear however, she agreed to do so under an NDA so that she could maintain control over whether and if the details of her attack were published. A true and correct copy of the agreement dated October 26, 2017 between Plaintiff and Defendant Gramercy Global Media LLC d/b/a The Blast (the “Agreement”) is attached as Exhibit A.

4. Ms. Thompson quickly decided not to allow publication of her experience by Defendants. Defendants nevertheless disclosed the sensitive, personal information covered by the NDA to Weinstein’s public relations team, who then widely smeared and disparaged Ms. Thompson.

5. Plaintiff brings this complaint for breach of contract and negligent infliction of emotional distress. As a result of Defendants’ actions and under the terms of the Agreement, Ms. Thompson is entitled to liquidated damages of \$100,000, plus additional compensatory and punitive damages, and attorneys’ fees and costs.

## II. PARTIES

6. Plaintiff Melissa Thompson is a resident and citizen of the State of Connecticut and the United States.

7. Defendant Gramercy Global Media LLC d/b/a The Blast (“The Blast”) is a California limited liability company with its principal place of business located at 8730 Sunset Blvd., 6<sup>th</sup> Floor, West Hollywood, California 90069. The Blast is an on-line magazine reporting about celebrity gossip and news.

8. According to the California Secretary of State, The Blast has or had four members: Matthew Levy, a natural person who is a citizen of the State of California; Banijay

Studios North America LLC, which is a Delaware limited liability corporation with its principal place of business at 120 N. Victory Blvd., Burbank, California 91502; David Goldberg, a natural person who is a citizen of the State of California; and Marco Bassetti, who is a citizen of the State of California.

9. The Blast’s registered agent for service of process is Matthew Levy, 450 N. Roxbury Dr., 8<sup>th</sup> Floor, Beverly Hills, CA 90210.

10. Defendant Walters is a citizen and resident of the State of California and the United States. Walters, a renowned celebrity reporter, launched The Blast ([www.theblast.com](http://www.theblast.com)) in September 2017 as its editor-in-chief. Walters has over fifteen years of experience as a gossip journalist. Prior to launching The Blast, Walters was a co-founder of TMZ.com, producer of the Emmy-nominated TMZ syndicated TV show and an executive producer of the TMZ Live syndicated series.

### III. JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the matter in controversy exceeds \$75,000 and is between citizens of different states.

12. This Court also has personal jurisdiction pursuant to the parties’ Agreement, which was made in New York and provides in pertinent part: “...the parties hereto irrevocably consent to the personal jurisdiction of such courts and service of process in connection with any proceedings brought therein.” Ex. A, at 2.

13. Venue is appropriate in this district pursuant to the agreement of the parties, which provides that “[a]ny dispute arising hereunder shall be resolved by a federal or state court sitting in New York County, in the State of New York.” *Id.*

14. The parties’ Agreement also contains a choice-of-law provision which provides, “This Agreement shall be governed by the laws of the State of New York.” *Id.*

#### IV. FACTS

**A. Ms. Thompson video-recorded a portion of her business meeting with Harvey Weinstein, but did not publicly share the recording at the time.**

15. In the fall of 2017, Ms. Thompson was invited to pitch her start-up's digital marketing platform to The Weinstein Company's marketing team.

16. Ms. Thompson's scheduled meeting with the marketing team was set for September 29, 2011, at The Weinstein Company's offices in New York. When Ms. Thompson arrived, she was shown to Harvey Weinstein's empty office. She took the opportunity to set up her laptop to demonstrate her company's digital marketing platform. As part of her demonstration, Ms. Thompson turned on the video recorder on her computer to demonstrate her platform's live feed capabilities, which automatically stores a copy of the live feed video.

17. After Ms. Thompson finished setting up her laptop for her presentation, she was surprised when Weinstein arrived alone, wearing an over-sized t-shirt, without his marketing team. Upon arriving, he instructed his staff: "Don't interrupt, don't interrupt," and proceeded to lock the door behind him.

18. The video recording of the meeting's live feed (referred to herein and in the Agreement as the "Evaluation Material") shows Ms. Thompson with her laptop set up, preparing to pitch Weinstein about her start-up's platform. Ms. Thompson attempted to shake Weinstein's hand in greeting, but he deflected Ms. Thompson's hand and hugged her as a greeting, with his hands low on her back.

19. When they then sit side by side to look at the computer, Weinstein asked, "So, am I allowed to flirt with you?" When Ms. Thompson answered, "A little bit... later," Weinstein gruffly responded, "Then I won't. So, what do you want?"

20. Ms. Thompson continued her sales pitch, but it is apparent that Weinstein was

touching her legs below the desk and outside of the camera's eye.

21. It is also apparent that she repeatedly tried to deflect his touch, move away from him, and redirect him to her sales presentation and video platform. In one such instance, Weinstein told her, "You're so hot. Let me have a little bit of you, give it to me. It's okay, would you like to do it some more?" Ms. Thompson, visibly shaking in her seat and uncomfortable with Weinstein's touching but all the while attempting to maintain a professional demeanor, stated, "That's a little high," referring to the location of his hand, and immediately redirected the conversation to business matters. To no avail, Weinstein continued stroking Ms. Thompson's shoulder.

22. After the presentation, Weinstein said he had to leave for another business matter but offered to use Ms. Thompson's company's platform. He then set up a presumptive business meeting with her for two hours later in the lobby of the Soho Grand Hotel, a few blocks away from his New York office, presumably to close the deal.

23. At the hotel, Weinstein directed Ms. Thompson to his hotel room. Weinstein then raped Ms. Thompson in his room, after securing her presence there under the guise of a purported business meeting.

24. After the sexual assault, because of his known financial, business and political power, Ms. Thompson was in fear for her safety.

25. Based on information and belief, prior to Defendants' conduct described herein, the video recording of Weinstein's inappropriate conduct at The Weinstein Company's New York offices was not publicly available or publicly described.

**B. The parties entered a Non-Disclosure Agreement.**

26. In October 2017, *The New Yorker* and *The New York Times* published stories

regarding Weinstein's pattern of assault of women in the entertainment industry. Ms. Thompson was not mentioned in these stories. However, after being contacted by an acquaintance who knew of Weinstein's assault, Ms. Thompson retained counsel.

27. After Weinstein publicly shamed the women who shared their stories and denied that he had assaulted anyone, claiming it was consensual, Ms. Thompson was upset. She knew that her evidence showing Weinstein's conduct would bolster the veracity of the innumerable women who had come forward to complain of Weinstein's sexual harassment and abuse. She considered sharing her story publicly, although was very fearful of doing so.

28. Ms. Thompson's attorney referred her to a media attorney to consider an agreement to share her evidence publicly. She retained the media attorney, who negotiated the Agreement with Defendants so that Ms. Thompson could share the Evaluation Material without fear of publication if Ms. Thompson decided not to move forward and identify herself or the contents of the Evaluation Material publicly.

29. Ms. Thompson insisted that she would not execute any agreement that did not provide her with final discretion pertaining to the disclosure of the Evaluation Material and her story. After agreeing to this term, the parties signed the Agreement on October 26, 2017. *See Ex. A.*

30. The Agreement provides in part:

You [Ms. Thompson] agree to deliver the Evaluation Material to The Blast, by the delivery method and in format/media to be mutually agreed upon between you and The Blast, for the exclusive review for a twelve (12) hour period commencing at 11:00 a.m. PST on October 26, 2017, and ending at 11:00 p.m. PST on October 26, 2017 (the "Evaluation Period"), during which The Blast shall have the right to determine whether to make an offer to purchase the Evaluation Material. Further, The Blast shall not make any copies or recordings of the Evaluation Material. And, The Blast shall return and destroy the Evaluation Material upon the

expiration of the Evaluation Period if the parties hereto have not reached an agreement in principal for The Blast's purchase of the Evaluation Material.

The Blast shall keep strictly confidential and shall not disclose, or cause or permit to be disclosed, to any person or entity any information about the potential sale of the Evaluation Material (the "Transaction") or the fact that The Blast has received the Evaluation Material and is considering the Transaction, and all discussions between the parties related thereto, except that The Blast may only make such a disclosure if compelled by law, including subpoena or court order.

The Blast shall not disclose the Evaluation Material to any person or entity, with the sole exception of its officers, employees or other authorized agents and representatives and professional consultants to whom disclosure is reasonably necessary in connection with the Transaction and who shall agree to be bound by the terms of this Agreement.

The Blast shall use or cause the Evaluation Material to be used only to evaluate the Transaction and in a manner consistent with the terms and conditions of this Agreement, and at no time shall The Blast otherwise use the Evaluation Material for the benefit of itself or any other third party or in any manner adverse to your interests in the Evaluation Material. The Blast acknowledges that it has no rights to use, license or otherwise exploit the Evaluation Material.

*See* Ex. A, at 1-2.

31. The Agreement expressly reserved both parties' rights "to reject any and all proposals made by the other party and to terminate discussions and negotiations with respect to the Transaction at any time." *Id.* at 2.

**C. Ms. Thompson fulfilled her obligations under the Agreement.**

32. After the NDA was signed, Ms. Thompson's attorney provided the Evaluation Material to Defendant Walters. Pursuant to the Agreement, The Blast was entitled to the "exclusive review [of the Evaluation Material] for a twelve (12) hour period commencing at 11:00 a.m. PST on October 26, 2017, and ending at 11:00 p.m. PST on October 26, 2017 (the

‘Evaluation Period’).” Ex. A, at 1.

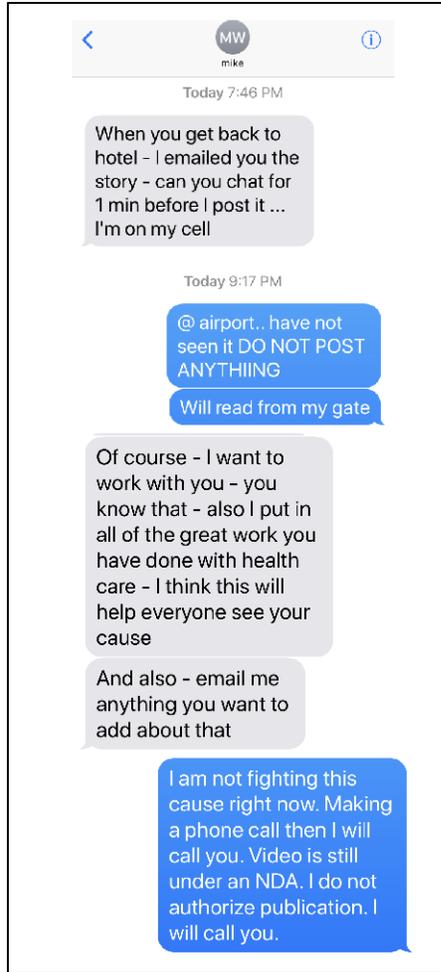
33. The Evaluation Period expired without further agreement for the use of the Evaluation Material by, or sale to, The Blast. *Id.*

34. Under the express terms of the Agreement, The Blast was required to “return and destroy the Evaluation Material upon the expiration of the Evaluation Period if the parties hereto have not reached an agreement in principal for The Blast’s purchase of the Evaluation Material.” *Id.*

**D. Ms. Thompson Declines Publication and Demands that The Blast Comply with the NDA**

35. After the expiration of the Evaluation Period, Ms. Thompson was under the belief that The Blast complied with the terms of the Agreement by destroying the Evaluation Material and that it would not proceed with publication or dissemination of her Evaluation Material or story. However, approximately five months later, she learned that Defendants had breached the Agreement by failing to destroy the Evaluation Material and were intending to publish her story and disclose her confidential information.

36. On March 21, 2018, while on a short layover at an airport, Ms. Thompson received a text from Walters (which he sent at 7:46 p.m. but she did not view until 9:17 p.m.) which indicated that he was prepared to publish her story:



37. In response to the text message, Ms. Thompson told Walters in no uncertain terms, “DO NOT POST ANYTHING,” and “Video is still under an NDA. I do not authorize publication.”

38. Ms. Thompson then reviewed Mr. Walter’s 7:45PM email, which contained what he referred to as “the story.” This “story,” which Walters had planned to publish, identified Ms. Thompson by name, listed her employer, and exposed her as a sexual assault victim—a truth so personal that many of her closest friends and family were not aware. Moreover, the “story” disclosed the existence and contents of the Evaluation Material.

39. The “story” described the video in considerable detail, including Mr. Weinstein’s

attire (“an undershirt”) and his unwanted physical touching of Ms. Thompson (“without warning or permission, he puts his hand on her thigh”). The “story” also disclosed confidential details regarding the rape that occurred at Weinstein’s hotel room later that evening (“she says he brought her up to his room and began attempting to take her clothes off. She says she was able to keep her dress and one stocking on...”).

40. At the time Ms. Thompson received via email the “story” however, she had not filed a lawsuit against Mr. Weinstein, had not publicly identified herself as a sexual assault victim, and had not publicly disclosed the existence of the Evaluation Material or its contents.

41. Moreover, Ms. Thompson had not provided authorization for Walters to publish the story or use the Evaluation Material - content that Walters and The Blast had agreed to destroy on October 26, 2017, and to keep confidential.

42. Despite Ms. Thompson’s repeated instruction not to publish her story and violate the Agreement, on March 22, 2018, Walters emailed her another version of his “story.” This version was no better – still disclosing the existence of the Evaluation Material, its contents, and the assault of Ms. Thompson.

43. Ms. Thompson again reiterated her unqualified instructions not to disclose the existence of the Evaluation Material, replying to Walters by email at 11:38AM, stating in relevant part:

First of all, you did not remove the sections I pointed out. In fact, this is more offensive and not at all the intention you portrayed.

Nevertheless, my thoughts on this piece do not matter. I pointed them out in shock, which is tangential to the overall bottom line: ***I did not and do not provide any authorization for anything related to me on the record. There is nothing public aside from my name and address on a public document, which is meaningless. As for any information or material you have or think you have beyond that - I do not authorize you to use in any capacity.***

The confidentiality of the material is very clear under the agreement signed.

While I appreciate the notion to potentially "work with me", what you portrayed as your intent and what you have put forth as a proposal are not harmonious.

Again, I do not authorize anything at all related to me. If anything is leaked or published, we will take it very seriously.

(Emphasis in original.)

**E. Despite the Agreement and Ms. Thompson's express instructions, The Blast and Walters breached the Agreement.**

44. Notwithstanding the Agreement and Ms. Thompson's repeated, express direction that The Blast did not have authorization to disclose the Evaluation Material, that is exactly what The Blast did.

45. On or in the days directly preceding March 22, 2018, Walters and The Blast disclosed the Evaluation Material, either in whole or in detailed part, to Weinstein and/or his agents.

46. In direct response to the disclosure by Walters and The Blast, Weinstein's public relations firm, Sitrick and Company, prepared "a dossier on Thompson broken up into three parts: 'The Good,' 'The Bad,' and 'The Ugly.'"<sup>1</sup> The dossier was reportedly drafted by Holly Baird of Weinstein's public-relations firm, Sitrick and Company.

47. Mike Sitrick, founder of Sitrick and Company, said the document was prepared in response to a media inquiry from The Blast. Mr. Sitrick reported that Ms. Baird's summary and characterization were based on the information shared with her by The Blast reporter.<sup>2</sup> On

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<sup>1</sup> See <https://www.thedailybeast.com/weinstein-accuser-melissa-thompson-disgusting-account-of-alleged-rape-revealed> (last accessed January 22, 2010).

<sup>2</sup> *Id.*

information and belief, The Blast reporter was Defendant Walters.

48. The “dossier” included a report with a factual play-by-play of the events that were recorded at The Weinstein Company offices when Ms. Thompson was making her sales presentation. For example, the dossier described “‘The Good’ for Weinstein and focuses on Thompson’s behavior. ‘You can see that they are flirting back and forth in the video-she even touches/strokes his arm. This footage may be used to question all the interactions with the other ‘victims.’ – He isn’t being forceful – or throwing anyone down to the ground.’” *Id.*

49. The document “continues by saying Weinstein thought the interaction was appropriate because Thompson didn’t say ‘no.’” *Id.*

50. Whether Mr. Sitrick saw the Evaluation Material or The Blast described the Evaluation Material to the public relations firm, The Blast’s disclosure of the Evaluation Material was detailed and in blatant breach of the terms of the Agreement.

51. In an attempt to intimidate and preemptively smear Ms. Thompson, Ms. Baird sent the dossier to multiple media outlets.

52. In sum, Defendants breached the Agreement by directly or indirectly providing third-parties, including Weinstein and his agents, including his public relations firm, with the Evaluation Material, in violation of the Agreement.

**F. Ms. Thompson suffered damages caused by Defendants’ breach of the Agreement.**

53. Ms. Thompson suffered damages, including liquidated damages in the amount of \$100,000, under the plain terms of the Agreement.

54. First, the Agreement provides in pertinent part:

The parties hereto acknowledge the difficulty of assessing and/or establishing the damages that you [Ms. Thompson] would suffer in the event that The Blast breaches the Agreement by intentionally

distributing the Evaluation Material to any member of the public. Accordingly, in the event that The Blast breaches the Agreement in the manner described in the preceding sentence, you shall be entitled to all remedies at law or in equity, including but not limited to liquidated damages in the amount of one-hundred thousand dollars (\$100,000). The Blast and you stipulate and agree that this liquidated damages amount constitutes a fair and reasonable estimate of the minimum amount of damages that you would suffer as a result of The Blast's breach of this Agreement in the manner described above. Moreover, The Blast and you acknowledge that this liquidated damages amount is in addition to whatever other relief to which you may be entitled as a result of The Blast's breach of this Agreement in the manner described above.

Ex. A, at 2. The liquidated damages provision specifically provides that Ms. Thompson retains any and all other legal and equitable rights to which she is entitled.

55. Because The Blast and Walters breached the Agreement by disclosing the Evaluation Material to Weinstein and/or his agents, Ms. Thompson is entitled to liquidated damages in the amount of \$100,000.

56. Second, Walters's and The Blast's threats to disclose, and actual disclosure of, the Evaluation Material occurred at a time when Ms. Thompson's story was not yet public. The use of the Evaluation Material was the first public disclosure of the video recording – and publicly revealed details that were only available as a result of The Blast's disclosure of the video to Weinstein and his agents.

57. At the time of Walters and The Blast's identification of Ms. Thompson as a sexual assault victim of Weinstein and the disclosure of the Evaluation Material, it was publicly known that Weinstein had a history of hiring private security agencies, journalists and high-profile lawyers to harass and intimidate his victims with the courage to come forward.<sup>3</sup>

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<sup>3</sup> <https://www.newyorker.com/news/news-desk/harvey-weinsteins-army-of-spies> (Nov. 6, 2017) (last accessed Jan. 22, 2019).

Accordingly, it was reasonably foreseeable that Defendants' disclosure of the Evaluation Material would result in similar harassment upon Ms. Thompson.

58. Indeed, Weinstein implemented this precise strategy to attack Ms. Thompson upon Defendants' disclosure by drafting and circulating the dossier. Consequently, the disclosure caused Ms. Thompson extreme emotional distress and made her physically ill. The disclosure further caused Ms. Thompson extreme fear for her personal safety. She is entitled to compensatory and punitive damages for Defendants' actions in an amount to be determined at trial.

59. The Agreement further provides that: "In the event that The Blast violates any provision of this Agreement, The Blast shall indemnify you and hold [Ms. Thompson] harmless... including all reasonable attorneys' fees and expenses[.]" Ex. A, at 2. Accordingly, Ms. Thompson is entitled to her attorneys' fees and costs incurred in bringing and prosecuting this lawsuit.

## **V. CAUSES OF ACTION**

### **COUNT I BREACH OF CONTRACT**

60. Plaintiff realleges and incorporates the foregoing allegations as if fully set forth herein. Plaintiff brings this Count I against The Blast.

61. Plaintiff and Defendant The Blast entered the Agreement on October 26, 2017.

62. The Agreement provided that Plaintiff would share the Evaluation Material with The Blast for a defined period.

63. The Agreement further provided that "The Blast shall return and destroy the Evaluation Material upon the expiration of the Evaluation Period if the parties hereto have not reached an agreement in principal for The Blast's purchase of the Evaluation Material."

64. The Agreement further provides that The Blast will not disclose the Evaluation Material without Plaintiff's consent. Further, the Agreement provides: "at no time shall The Blast otherwise use the Evaluation Material for the benefit of itself or any other third party or in any manner adverse to your interests in the Evaluation Material."

65. Plaintiff did share the Evaluation Material with The Blast and performed all her obligations under the Agreement.

66. Upon expiration of the Evaluation Period, Plaintiff and The Blast did not reach any agreement for the Blast's purchase of the Evaluation Material.

67. Plaintiff did not provide her consent for The Blast to share the Evaluation Material.

68. The Blast breached the Agreement by failing to destroy the Evaluation Material upon expiration of the Evaluation Period.

69. The Blast also breached the Agreement by sharing or otherwise disclosing the contents of the Evaluation Material with Weinstein and his agents. Providing the Evaluation Material to Weinstein and his agents was for Weinstein's benefit and was adverse to Plaintiff's interests in the Evaluation Material.

70. Weinstein used the Evaluation Material to smear Ms. Thompson in the press.

71. The Agreement provides for liquidated damages of \$100,000 in the event of a breach by The Blast. As a result of The Blast's breach of the Agreement, Ms. Thompson is entitled to \$100,000.

72. The Agreement further provides for compensatory and punitive damages, or any other damages allowed by law. Ms. Thompson incurred additional costs as a result of The Blast's breach of the Agreement in an amount to be determined at trial.

73. Finally, Ms. Thompson is entitled to attorneys' fees and costs under the Agreement.

**COUNT II**  
**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

74. Plaintiff realleges and incorporates the foregoing allegations as if fully set forth herein. Plaintiff brings this Court II against The Blast and Walters.

75. At the time Walters and The Blast entered the Agreement, they knew and understood that the Evaluation Material was not public, Plaintiff continued to feel extreme distress and shame from the rape, and that Plaintiff was very concerned about her own safety given Weinstein's targeting of his victims.

76. Walters and The Blast also knew and understood that Weinstein and his public relations team did not have knowledge of, copies of, or access to the Evaluation Material.

77. The conduct of Walters and The Blast negligently caused emotional distress to Plaintiff. Plaintiff was in fear of her safety, knowing that Weinstein had targeted his sexual assault victims with physical threats and spies.

78. Walters and The Blast could reasonably foresee that their actions would have caused extreme emotional distress to Plaintiff.

79. As an assault victim of Weinstein, Plaintiff was in a specific zone of danger of physical harm as a result of Defendants' sharing of evidence from that assault with Weinstein and his agents, causing her illness and fear for personal safety.

80. Plaintiff did suffer distress and emotional harm as a direct result of Defendants' conduct.

**VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court find in favor of Plaintiff and

against Defendants, award her liquidated damages of \$100,000, compensatory damages, punitive damages, attorneys' fees and costs, and any other damages allowed by law.

**VII. DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

Dated: January 31, 2020

**FEGAN SCOTT LLC**

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