

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

JANE DOE I and JANE DOE II, on behalf of themselves and
others similarly situated,

Plaintiffs,

Index No.:

- vs -

CLASS ACTION
COMPLAINT

THE NEW YORK AND PRESBYTERIAN HOSPITAL, and
DOES 1-10

_____X
Defendants.

PLAINTIFFS JANE DOE I and JANE DOE II (“PLAINTIFFS”), on behalf of themselves and all others similarly situated (the “CLASS”), by their attorneys, HERMAN LAW, as and for their Class Action Complaint against DEFENDANTS, THE NEW YORK AND PRESBYTERIAN HOSPITAL, and DOES 1-10 (collectively, the “DEFENDANTS”), allege as follows:

INTRODUCTION

1. PLAINTIFFS in this action seek to recover monetary damages resulting from the sexual abuse perpetrated by obstetrician/gynecologist ROBERT HADDEN, M.D., (Hereinafter “HADDEN”), an employee or agent of the DEFENDANTS.

2. Between approximately 1992 and 2012, HADDEN sexually abused hundreds of female patients under the guise of purported gynecological and obstetrical care.

3. From as early as approximately 1992, DEFENDANTS were put on notice that HADDEN was sexually abusing female patients. Despite this knowledge, DEFENDANTS failed

to take any corrective measures and enabled and allowed HADDEN to continue to sexually abuse female patients for decades.

4. Upon information and belief, DEFENDANTS were put on notice by numerous victims of HADDEN including, but not limited to, the following instances:

a. In 1992, a nurse who worked with HADDEN walked in on HADDEN sexually abusing a victim at one of DEFENDANTS' facilities. When the nurse reported to her supervisor that she had observed HADDEN sexually abusing a patient, the supervisor's response was for the nurse to "keep quiet", "stay with your doctor", and "don't let him get himself in trouble."

b. In 1993, DEFENDANTS received a letter detailing HADDEN's sexual abuse of a victim. DEFENDANTS responded that they would investigate, but no further action was taken. HADDEN remained in his position and continued to sexually abuse patients.

c. In 1994, DEFENDANTS received a letter from a victim of HADDEN's that detailed the sexual abuse she suffered at the hands of HADDEN at one of DEFENDANTS' hospitals. The head of the hospital's Department of Obstetrics and Gynecology Unit responded with a letter to the victim acknowledging receipt and stated that the victim's concerns would be addressed. According to the victim, no one from the hospital ever followed up or took action.

5. From as early as in or about 1992, HADDEN used his position as a medical doctor employed and/or retained by DEFENDANTS to make his victims believe that the sexual abuse he inflicted on them was medically appropriate and necessary. Under this ruse, patients were manipulated into allowing HADDEN to sexually abuse them at OB/GYN appointments.

6. As part and in furtherance of his scheme, HADDEN, enticed, induced, and caused multiple victims to return for treatment or evaluation in order to further sexually abuse them.

PARTIES, JURISDICTION, AND VENUE

7. Plaintiff, JANE DOE I, is a citizen of the United States and a resident of Sweden. Plaintiff brings this Complaint using a pseudonym because of the sensitive nature of the allegations of sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if her identity as a victim of sexual abuse were to become publicly known.

8. Plaintiff, JANE DOE II, is a citizen and resident of the State of New Jersey. Plaintiff brings this Complaint using a pseudonym because of the sensitive nature of the allegations of sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if her identity as a victim of sexual abuse were to become publicly known.

9. Upon information and belief, Defendant THE NEW YORK AND PRESBYTERIAN HOSPITAL (hereinafter "NYPH") is a domestic not-for-profit corporation organized and existing under and by virtue of the laws of the State of New York with its principal offices located at 466 Lexington Avenue, 13th floor, New York, NY 10017.

10. The New York Supreme Court, County of New York, has jurisdiction over this action pursuant to its general jurisdiction under CPLR 901 *et seq.* and CPLR 3001 *et seq.*

11. Venue is proper in Supreme Court, New York County pursuant to New York CPLR 503 as one of the DEFENDANTS resides in New York County.

ALLEGATIONS SUPPORTING CLAIMS

12. Between approximately 1992 and 2012, HADDEN was a practicing obstetrician/gynecologist (“OB/GYN”) who maintained offices at DEFENDANTS -affiliated hospitals and medical offices in and around Manhattan, New York.

13. Between approximately 1992 and 2012, HADDEN sexually abused hundreds of his patients. HADDEN did so through a process that entailed developing a rapport with his victims and causing them to trust him, before engaging in a course of increasingly abusive conduct, which HADDEN attempted to mask under the guise of legitimate medical care.

14. HADDEN typically used the following means and methods, among others, to facilitate his abuse:

a. HADDEN frequently created opportunities to be alone with his victims. Among other things, HADDEN invited his victims to meet with him alone in his office, sent nurses and medical assistants out of the examination room for periods of time, and/or intentionally failed to tell nurses and medical assistants when he was going into examination rooms so that he could be alone with his victims.

b. Once alone with his victims, HADDEN attempted to develop a rapport with them and put them at ease by asking them questions about their personal lives and telling them about his own life and family. In this regard, he made the victims feel that they were receiving special attention and treatment.

c. HADDEN frequently brought up inappropriate and medically irrelevant sexual topics without prompting from his patients. For example, HADDEN asked many of his victims detailed, inappropriate questions about their own sexual activities and sexual partners. He told some victims he could see sperm inside their vaginas and suggested they

must have recently had sex. HADDEN also offered unsolicited advice/comments to some of his victims regarding such inappropriate subjects as whether they enjoyed sex with their partners, how to masturbate and have orgasms, and how to groom their pubic hair. In some instances, HADDEN made sexualized comments about his victims' physiques and encouraged them to go on diets so they could continue to look attractive.

15. After developing or attempting to develop a rapport with his victims to put them at ease, HADDEN began to engage in a course of physical, sexual abuse of his victims under the guise of providing medical advice and/or medical care. He did so by, among other things, engaging in the following conduct, which in the case of many victims became increasingly abusive over time:

a. HADDEN conducted excessively long and sexualized vaginal exams without the use of surgical gloves. HADDEN spent inordinate amounts of time stimulating the victims' vaginas for sexual gratification. Often, while stimulating the victim's vagina, HADDEN would tell the victim that it was normal for it to feel good because pregnant women have a heightened sense of touch. In many of these instances, HADDEN ensured that no one else was in the room. HADDEN did not provide victims with any medical reason as to why he was spending minutes stimulating their vaginas.

b. HADDEN conducted excessively long and sexualized breast exams on many of his victims. In some instances, HADDEN conducted two breast exams on a victim in the same appointment, conducting the second breast exam typically after ensuring that no one else was present in the room with HADDEN and the victim. Some of these breast exams included, among other things, HADDEN caressing or groping a victim's breasts, and pinching, twisting, or otherwise manipulating a victim's nipples.

c. Hadden conducted pelvic exams on some of his victims during which HADDEN used his hands to touch the victim's clitoris, labia, vagina, and/or anus without a valid medical purpose or explanation. In many of these instances, HADDEN ensured no one else was present with HADDEN and the victim.

d. On multiple occasions, HADDEN conducted pelvic exams on victims during which he licked the victim's vagina. HADDEN did so when no one else was present in the room with HADDEN and the victim.

16. Often times, as the exams progressed, HADDEN's physical aggressiveness increased. In many instances, the sexual abuse became so physically painful that the victims, despite their hesitance to question the doctor, felt compelled to report to HADDEN's staff and/or their significant others that the exams were becoming unusually painful.

17. HADDEN sexually abused hundreds of victims for decades. The sexual abuse included but was not limited to, HADDEN touching a victim's breasts and nipples, touching a victim's genitals, and digitally penetrating a victim's genitals. All of the sexual abuse was without a legitimate medical purpose.

18. HADDEN frequently targeted victims who were young and inexperienced with gynecological care. For many of these victims, HADDEN was their first gynecologist, and for others, HADDEN was overseeing their first pregnancy. HADDEN intentionally targeted these types of victims, as they would not have the experience to know what to expect from these exams and would be less likely to challenge HADDEN when he sexually abused them under the guise of medical care. As a result, and though some victims either reported his sexual abuse or never returned, many victims continued to treat with HADDEN for long periods of time before realizing the exams were inappropriate, medically unnecessary, and were in fact sexual abuse.

19. HADDEN was a seasoned physician that worked for a well-renowned institution. He had a professional demeanor and, at least initially, had a soothing and reassuring bedside manner. Therefore, even victims who had prior experience with gynecologists or who had previous experience with pregnancy were led to believe that the ongoing sexual abuse was medically indicated. While many of these victims did come forward and report the ongoing sexual abuse, many victims felt conflicted and were hesitant to think that what was taking place was in fact sexual abuse. It was not until many victims had time to reflect that they realized that the examinations were inappropriate, medically unnecessary, and were in fact sexual abuse.

20. To ensure that he could continue to abuse his victims, HADDEN took various steps to cause and entice his victims to return to see him. HADDEN enticed some of his victims to return for further in-person visits by using a number of means and methods, including but not limited to the following:

a. HADDEN selected how frequently and when a victim would have her appointments with him, typically directing the victim to schedule a follow-up appointment at a particular time interval. In some instances, HADDEN directed victims to return at shorter intervals that were inconsistent with legitimate medical care.

b. HADDEN used access to birth control to entice victims to travel into New York for appointments. For example, HADDEN would provide a victim with free birth control, thereby enticing her to return for future appointments to obtain additional free birth control. In other instances, HADDEN would only provide a victim with enough birth control to last a few months and would require the victim to return for multiple appointments in a single year in order to obtain more birth control.

21. In addition to sexually abusing his victims, HADDEN, presumably for financial gain, often coerced his victims into agreeing to undergo tubal ligations. HADDEN's victims often had never even considered the possibility of tubal ligation until it was raised by HADDEN. At HADDEN's persistence and coercion, many victims underwent the procedure and were never able to bear children again.

JANE DOE I

22. JANE DOE I was a patient of HADDEN's during her third pregnancy in the late 1990s. JANE DOE I treated with HADDEN at several of DEFENDANT's facilities located in New York, New York.

23. Over the course of JANE DOE I's treatment, HADDEN utilized many of the devices discussed above to develop an intimate rapport with JANE DOE I, causing her to trust HADDEN. HADDEN thereafter engaged in increasingly abusive conduct, which he attempted to mask as legitimate medical care.

24. HADDEN initiated conversations about inappropriate and medically irrelevant sexual topics with JANE DOE I, causing her to feel shame and embarrassment.

25. HADDEN physically sexually abused JANE DOE I at each of her prenatal visits, up until the time of her delivery. The sexual abuse included, but was not limited to, digital vaginal penetration and sexualized breast exams.

26. HADDEN pressured and convinced JANE DOE I into agreeing to undergo a tubal ligation at the time of her delivery, resulting in JANE DOE I being unable to bear children again at the age of just 31 years old.

JANE DOE II

VOICE FOR VICTIMS

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27. JANE DOE II was a patient of HADDEN's for two pregnancies, one in the mid 2000's and one in the mid 2010's. JANE DOE II treated with HADDEN at several of DEFENDANT's facilities located in New York, New York.

28. Over the course of JANE DOE II's treatment with HADDEN, HADDEN utilized many of the devices discussed above to develop an intimate rapport with JANE DOE II, causing her to trust HADDEN. HADDEN thereafter engaged in increasingly abusive conduct, which he attempted to mask as appropriate medical care.

29. HADDEN physically sexually abused JANE DOE II at each of her prenatal visits, during both pregnancies, up until the time of her delivery of each child. The sexual abuse included, but was not limited to, digital vaginal penetration and sexualized breast exams.

30. HADDEN repeatedly attempted to persuade JANE DOE II to undergo a tubal ligation while treating her for her first pregnancy. When JANE DOE II refused, HADDEN made her feel guilty for not doing so.

CLASS ACTION ALLEGATIONS

31. This action is brought and may properly be maintained as a class action under the provisions of Article 9 of the CPLR.

32. The putative class is defined as victims-survivors of sexual abuse by HADDEN, an employee or agent of the DEFENDANTS, in or around 1992 to in or around 2012.

33. The members of this putative class are so numerous that separate actions or joinder of parties, whether required or permitted, is impracticable.

34. There are questions of law and fact common to the class that predominates over any questions affecting only individual members of each class.

35. The principal common questions of law and fact include whether the DEFENDANTS knew or should have known that HADDEN posed a risk of sexual abuse to his patients at the DEFENDANTS' various hospitals and medical offices in and around Manhattan, and whether DEFENDANTS' enabled HADDEN to continue to sexually abuse his victims, and failed to prevent foreseeable harm, over a period of approximately twenty (20) years.

36. PLAINTIFFS have no interest antagonistic to the interests of the other members of the Class with respect to this action or the claims for relief herein.

37. PLAINTIFFS are committed to the vigorous prosecution of this action and have retained competent legal counsel.

38. HERMAN LAW is experienced in group/class claims and the representation of victims-survivors of sexual abuse.

39. HERMAN LAW devotes its practice to the representation of victims of sexual abuse in civil claims. It has represented over 1,000 victims of sexual abuse in civil cases.

40. PLAINTIFFS are adequate representatives of the CLASS and, together with their attorneys, are able to, and will fairly and adequately, protect the interests of the CLASS.

41. A class action is superior to other available methods for the fair, just, and efficient adjudication of the claims asserted herein. Joinder of all the members of the CLASS is impracticable and it would be impractical for individual members of the CLASS to pursue separate claims. Moreover, prosecution of separate actions by individual members of the CLASS would create the risk of varying and inconsistent adjudications, and would unduly burden the courts.

42. PLAINTIFFS and their counsel anticipate no difficulty in the management of this litigation as a class action.

COUNT I
NEGLIGENCE

43. PLAINTIFFS repeat and reallege the allegations made in paragraphs 1 through 42 above.

44. At all times relevant and material hereto, DEFENDANTS approved and/or provided HADDEN with the facilities, staff and other instruments to treat and examine patients, including PLAINTIFFS and members of the proposed class.

45. At all times relevant and material hereto, DEFENDANTS knowingly and willingly placed patients, including PLAINTIFFS and the proposed class, in the care, custody and control of HADDEN.

46. At all times relevant and material hereto, DEFENDANTS knowingly and willingly referred patients, including PLAINTIFFS and the proposed class, to HADDEN for medical treatment and examination.

47. At all times relevant and material hereto, DEFENDANTS and PLAINTIFFS were in a special relationship of health care provider-patient, in which DEFENDANTS owed PLAINTIFFS and the proposed class a duty of reasonable care to protect them from foreseeable harm.

48. At all times relevant and material hereto, DEFENDANTS and HADDEN were in a special relationship of employer-employee, in which DEFENDANTS owed a duty to control the acts and conduct of HADDEN to prevent foreseeable harm.

49. At all times relevant and material hereto, DEFENDANTS and HADDEN were in an agency relationship under which DEFENDANTS as principal authorized HADDEN as an agent to act under DEFENDANTS' control in providing medical services to and treating DEFENDANTS' patients.

50. DEFENDANTS owed a duty to PLAINTIFFS to use reasonable care to protect the safety, care, well-being, and health of PLAINTIFFS while they were under the care, custody, or in the presence of DEFENDANTS' employees and agents. DEFENDANTS' duties encompassed using reasonable care in the retention, supervision, and hiring of HADDEN and the duty to otherwise provide a safe environment for PLAINTIFFS.

51. DEFENDANTS had a duty to exercise reasonable care in the training of physicians, nurses, employees, officials, and staff in the prevention of sexual abuse and protection of the safety of patients in their care.

52. DEFENDANTS had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the patients in its care.

53. DEFENDANTS breached their duties by (i) failing to protect PLAINTIFFS from sexual assault and lewd and lascivious acts committed by their agent and employee; (ii) failing to establish policies and procedures that were adequate to protect the health, safety, and welfare of patients and protect them from sexual abuse; (iii) failing to implement and enforce policies and procedures that were adequate to protect the health, safety, and welfare of patients and protect them from sexual abuse; (iv) hiring, retaining and/or failing to supervise HADDEN when they knew or should have known that he posed a substantial risk of harm to his patients; (v) failing to implement or enforce an escort policy which would have prevented HADDEN from examining a patient outside the presence of another medical professional; (vi) failing to comply with the policies of the Joint Commission applicable to protecting patients from provider sexual assault; and (vii) failing to adequately monitor and supervise patients on the premises of DEFENDANTS various facilities.

54. At all relevant times, DEFENDANTS had inadequate policies and procedures to protect the patients they were entrusted to care for and protect, including PLAINTIFFS.

55. DEFENDANTS concealed their knowledge that HADDEN was unsafe and failed to adopt policies and procedures that would protect patients and reduce the risk of sexual abuse by their employees.

56. DEFENDANTS failed to warn PLAINTIFFS and similarly situated individuals that they were at risk of sexual abuse.

57. As a direct and proximate result of DEFENDANTS' negligence, PLAINTIFFS have suffered and continue to suffer severe and permanent psychological, emotional, and physical injuries, shame, humiliation, and the inability to lead normal lives.

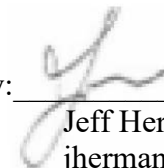
PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS demand Judgment against DEFENDANTS for compensatory damages, attorney's fees and costs pursuant to CPLR 909, and such other and further relief as is just and proper.

Dated: New York, NY
November 24, 2022

Respectfully submitted,

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