

THE JOHNS HOPKINS HOSPITAL,
600 North Wolfe Street
Baltimore, Maryland 21287;

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Serve Resident Agent:
Joanne Pollak, Esquire
Administration 414
600 North Wolfe Street
Baltimore, Maryland 21287;

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Defendants.

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COMPLAINT AND DEMAND FOR JURY TRIAL

Oscar K. Serrano, M.D., Plaintiff, sues Defendants Pamela Lipsett, M.D.; Julie Freischlag, M.D.; Suzanne Topalian, M.D.; Steven Leach, M.D.; The Johns Hopkins University; and The Johns Hopkins Hospital and alleges:

Parties

1. Plaintiff Oscar K. Serrano, M.D. (“Dr. Serrano”) is a resident of Baltimore City, Maryland, having moved to the state three years ago after accepting a position in an eight-year General Surgery residency program at The Johns Hopkins Hospital. Dr. Serrano has fulfilled all the requirements to practice medicine in Maryland with an unrestricted license from the Maryland Board of Physicians.

2. Defendant Pamela Lipsett, M.D. (“Dr. Lipsett”) is a resident of Baltimore County, Maryland and is employed by The Johns Hopkins Hospital and/or The Johns Hopkins University as a physician and the Director of the General Surgery residency program.

3. Defendant Julie Freischlag, M.D. (“Dr. Freischlag”) is a resident of Baltimore County, Maryland and is employed by The Johns Hopkins Hospital and/or The Johns Hopkins University as a physician and the Chief of Surgery.

4. Defendant Suzanne Topalian, M.D. (“Dr. Topalian”) is a resident of Montgomery County, Maryland and is employed by The Johns Hopkins Hospital and/or The Johns Hopkins University as a physician and Professor of Surgery.

5. Defendant Steven Leach, M.D. (“Dr. Leach”) is a resident of Baltimore City, Maryland and is employed by The Johns Hopkins Hospital and/or The Johns Hopkins University as a physician and the Director of the National Institutes of Health-funded T32 research grant at the University.

6. Defendant The Johns Hopkins University (“Johns Hopkins”) is a not-for-profit corporation with its principal place of business at 242 Garland Hall, 3400 North Charles Street, Baltimore, Maryland. Johns Hopkins is an elite academic institution comprised of various specialized schools, including The Johns Hopkins School of Medicine (“the Medical School”). Johns Hopkins also does business under the name of Johns Hopkins Medicine.

7. Defendant The Johns Hopkins Hospital (“Hopkins Hospital”) is a not-for-profit corporation with its principal place of business at 600 North Wolfe Street, Baltimore, Maryland. Hopkins Hospital also does business under the name of Johns Hopkins Medicine.

Facts Common to All Counts

8. Dr. Serrano is a highly gifted young surgeon who was regarded by both his teachers and his peers as having an extremely bright future. Dr. Serrano, along with his family, immigrated to this country from Mexico when he was still in elementary school. They settled in

a small mining town in Arizona, where he grew up in modest circumstances. Dr. Serrano spoke only Spanish when he moved to the United States, but he quickly mastered English and now speaks with no accent (even though the elementary school in Dr. Serrano's community had no English as a Second Language program, resulting in his inappropriate placement in classes with developmentally disabled students). After joining his peers in regular classes, Dr. Serrano went on to graduate at the top of his high school class.

9. Dr. Serrano attended the University of Arizona on a full scholarship and graduated in 2000, earning an honors B.S., *summa cum laude*, in both Biochemistry and Molecular and Cellular Biology. He also completed a course of study in Mathematics and Physics, in which he minored. During his senior year, his honors thesis, submitted pursuant to an NIH Minority International Research Training ("MIRT") Fellowship in Germany, was published in the *American Journal of Physiology - Renal Physiology*, a respected peer-reviewed scientific journal. Upon graduation, he was named the University of Arizona College of Science's Outstanding Senior of the Year by vote of the faculty and was awarded the Freeman Medal, which is given to the two most outstanding graduating students, one male and one female. After graduating, Dr. Serrano was awarded a one-year post-graduate NIH MIRT fellowship to conduct biomedical research in Italy.

10. While attending Stanford University School of Medicine on a full scholarship, Dr. Serrano received many awards, including the Medical Scholars Award in 2001 to conduct vaccine research at Stanford, the Traveling Scholars Award in 2002 to conduct a research project at the Mexico City General Hospital, the American College of Surgeons 2004 Travel Award, a National Medical Fellowship, and the Clinical Research Training Program Fellowship to conduct

research at the National Cancer Institute during the 2004-2005 academic year. Dr. Serrano also published four peer-reviewed articles in “high impact” journals, (that is, journals nationally regarded as the most influential and most cited among other publications), the *American Journal of Physiology – Renal Physiology*, the *Journal of Virology*, *Pflugers Archive*, and the *American Journal of Physiology*. Dr. Serrano’s achievements in research greatly exceeded those of the vast majority of incoming residents, including his fellow residents at Hopkins. Dr. Serrano continued publishing academic works while in residency and, to date, has eight peer-reviewed publications to his credit.

11. Dr. Serrano’s ambition has always been to have a career in academic surgery, become the chief of a surgery department, and make significant contributions in the fight against pancreatic cancer, which at present is an almost invariably fatal disease. Each year over 30,000 Americans die from pancreatic cancer, representing approximately 95% of those diagnosed.

12. Stanford’s Associate Dean for Medical Student Advising, in his “Dean’s Letter” to prospective residency programs, wrote that Dr. Serrano “is a tremendous student who demonstrates great intelligence, diligence and productivity,” and that “[w]e are confident that Oscar’s stellar performance in medical school will continue and he will make noteworthy contributions in clinical and basic science.”

13. After graduation from Stanford Medical School, Dr. Serrano was heavily recruited by the most prestigious surgical training programs across the country, including those at Massachusetts General Hospital, which is associated with the Harvard University School of Medicine, and Duke University Medical Center.

14. Dr. Serrano was so sought after that, in an effort to discourage other programs from attempting to recruit him, John Cameron, M.D., then Chief of Surgery at Hopkins Hospital and currently President of the American College of Surgeons, wrote a letter to other surgical residency program chairs to inform them that Dr. Serrano would be joining Hopkins Hospital's program. Later, during Dr. Serrano's interview with Andrew Warshaw, M.D., Chief of Surgery at Massachusetts General Hospital, Dr. Warshaw referred to Dr. Cameron's letter and asked, "What can I do to get you to come here for residency?"

15. The Medical School not only offered Dr. Serrano a place in its highly-competitive residency program, it selected him as one of only six "categorical residents" (out of 30 total slots in the program each year). A categorical resident is distinguished from other, "preliminary," residents in that categorical residents are promised five years of clinical training in addition to the two or three years of research in a laboratory of the resident's choosing. Thus, Dr. Serrano was assured that, with his work ethic and talents, he would graduate from the Hopkins program and be well on his way to a successful career in academic surgery.

16. The principal reasons that Dr. Serrano selected the residency program at Hopkins were that: (a) he would be a categorical resident contractually assured of completion of training except for cause, and (b) Hopkins offered a Ph.D. program in immunology under a noted physician-scientist, Dr. Elizabeth Jaffee, who was conducting research consonant with Dr. Serrano's career aspirations.

Dr. Serrano's First Year of Residency

17. On the first day of orientation for the Medical School's residency program in late June 2006, Dr. Cameron delivered the annual Halsted History lecture. He began the speech by

observing that, unlike previous years when he was the Chief of Surgery and an active participant in the recruitment process, he did not know the names or faces of any first-year residents, with one exception. The one exception was Dr. Serrano, whom he recognized in the front row and greeted in front of the assembly.

18. On January 19, 2007, Dr. Lipsett notified Dr. Serrano and some other residents of ABC News's intent to film a news documentary series entitled "Hopkins" and invited them to notify the producers of the series whether they were interested in being one of the few to be followed by a film crew in and out of the Hospital. Dr. Lipsett and Dr. Freischlag encouraged Dr. Serrano to agree to be filmed, stating that such highly visible coverage would be good publicity for the Surgery Department. Dr. Lipsett specifically acknowledged that the Hospital would not have any editorial control over the filming or production. ABC News film crews intermittently followed Dr. Serrano – the only first-year resident selected to participate – for three months, filming approximately 70 hours of his life in and out of the Hospital. Dr. Serrano was one of the most filmed doctors, featured in two out of seven episodes of the series.

19. During the evaluation period of Dr. Serrano's first year of residency, he received excellent evaluations from attending physicians, other residents, and nursing staff regarding his performance. These included high marks in such categories as conflict resolution skills, knowledge base, personal interaction skills, professional attitudes and behavior, attitude and work habits, colleague relations, and colleague trust and relationships.

20. In late June 2007, at the end of his first year of residency, Dr. Serrano was asked to give the annual "Intern Lecture" to incoming first-year residents about what it takes to succeed as a resident at Hopkins Hospital. This honor is typically reserved for the "Intern of the

Year.” After Dr. Serrano presented the lecture, Administrative Chief Resident, Jason Sicklick, M.D., congratulated him on giving such a motivational speech, and Dr. Serrano was subsequently approached by many interns seeking advice.

Dr. Serrano’s Second Year of Residency

21. Dr. Serrano spent his second year of residency engaged in clinical work, where he distinguished himself as a skilled surgeon and team leader.

22. In October 2007, Dr. Serrano informed Dr. Lipsett that he had been selected for a position working with Elizabeth Jaffee, M.D., in her laboratory at Hopkins Hospital studying immunotherapy for pancreatic cancer during which time he could complete his Ph.D. This position was to be funded by a highly competitive T32 training grant obtained through the NIH and was a three-year research commitment, one year above and beyond the requirements for residents to graduate.

23. Also in October 2007, the Department of Surgery produced a poster as part of a United Way campaign featuring various Surgery Department employees to be displayed throughout the Hospital. Dr. Freischlag asked Dr. Serrano to be one of the seven employees featured in the poster and, when she learned that Dr. Serrano was out of town and could not attend the photo shoot, she scheduled a separate shoot for Dr. Serrano alone to be added to the poster via computer software. Dr. Serrano was the only resident and the only Hispanic in the poster.

24. As a result of his work at the NIH’s National Cancer Institute Surgery Branch, Dr. Serrano coauthored another manuscript, which was published in the *Journal of Translational Medicine*. In November 2007, Dr. Serrano informed Dr. Lipsett of the pending publication.

25. In mid-May 2008, Arthur Li, Dean of the Faculty of Medicine and Chairman of the Department of Surgery at the Chinese University of Hong Kong, presented Grand Rounds at Hopkins Hospital. After the lecture, Dr. Freischlag, through her assistant, asked Dr. Serrano to escort Dr. Li around the hospital. Dr. Serrano spent approximately three hours giving Dr. Li a tour and discussing the history of Hopkins Hospital and the residency program.

26. This was the second time Dr. Freischlag had requested that Dr. Serrano escort an honored guest. Earlier in that academic year, Dr. Freischlag asked Dr. Serrano to serve as a guide for Linda Reilly, M.D., the Program Director at the University of California at San Francisco and first woman ever to graduate from the surgical residency program at Hopkins. Later, in March 2009, Dr. Freischlag again asked Dr. Serrano to escort a Grand Rounds lecturer, Thomas Krummel, M.D., a noted surgeon and Chairman of the Department of Surgery at Stanford University School of Medicine.

27. Dr. Serrano again received excellent evaluations for his performance during his second year of residency. In particular, Dr. Serrano received high marks for his conflict resolution skills, knowledge base and application, clinical judgment, technical skill, interpersonal communication skills, teamwork, and colleague trust and relationships.

Dr. Serrano's Third Year of Residency

28. Dr. Serrano began his third year of residency conducting laboratory research as a recipient of the NIH T32 research grant. In a meeting with the other categorical residents to determine who would begin their "research years" and who would continue with clinical work, Dr. Serrano had elected to begin what was to be three consecutive years of research.

29. On July 23, 2008, Dr. Serrano was elected by his peers to a leadership role on the House Staff Council, a committee intended to represent the interests of the more than 1,000 Hopkins Hospital residents. In this role, Dr. Serrano was one of only three residents to serve on the Graduate Medical Education Committee, where matters related to residency programs are discussed and actions are taken.

30. In July 2008, Theresa Hartsell, M.D., Co-Director of the Weinberg Surgical Intensive Care Unit and supervisor of all “moonlighting” physicians in the surgical ICUs, asked Dr. Serrano to moonlight in the Cardiac Surgical Intensive Care Unit (“ICU”) as a Fellow in addition to his duties as a resident. This was a challenging assignment because it involved the sickest and most medically fragile patients undergoing some of the most complex treatments in the hospital. While moonlighting in the Cardiac Surgical ICU, Dr. Serrano earned \$100 per hour.

31. The Cardiac Surgical ICU was often short on residents, which meant that Dr. Serrano was frequently scheduled to work in the unit because of his willingness to help. The Medical School limited the number of hours a resident was eligible to provide moonlighting services to 600 hours per year, however, and Dr. Serrano was scheduled so often that, in the 2008-2009 academic year, he reached the 600-hour annual limit in fewer than nine months.

32. In addition to moonlighting in the Cardiac Surgical ICU, Dr. Serrano obtained moonlighting positions at both Mercy Medical Center and Sinai Hospital beginning in September and October 2008, respectively. Dr. Serrano worked at Mercy Medical Center as a Surgical Admitting Officer, earning \$60 per hour. During the 2008-2009 academic year, Dr. Serrano earned \$19,440 working at Mercy Medical Center. While at Sinai Hospital,

Dr. Serrano served as a Senior Surgical Resident, earning \$75 per hour. During the 2008-2009 academic year, Dr. Serrano earned \$31,500 working at Sinai Hospital.

33. All of Dr. Serrano's moonlighting positions were approved by Dr. Lipsett and were contingent on her first verifying that he was capable, competent, safe, and able to supervise junior residents, which she did.

The ACGME Investigations

34. On May 1, 2008, the Hopkins surgery residents met to discuss an upcoming survey of residents conducted by the Accreditation Council for Graduate Medical Education ("ACGME"). These surveys are intended to gather candid feedback from residents regarding the residency program's compliance with accreditation standards. The results of these surveys can significantly affect a program's accreditation status and ability to attract top-ranked applicants; any negative feedback from ACGME generally requires a program to reform some aspect of the program and reflects badly on the individuals in charge of the program, such as Dr. Lipsett and Dr. Freischlag.

35. On information and belief, the administration of Hopkins Hospital was concerned about accreditation, particularly in light of the probationary status and near loss of accreditation for its Internal Medicine residency program in 2003, which had been prompted by an intern's complaint regarding violations of ACGME regulations.

36. At the time of the meeting, there were obvious issues within the surgical residency program that needed to be addressed. Among the issues were: (a) residents were expected to exceed the maximum weekly work hours for residents, (b) there were violations of mandated off times, (c) the administration was inflexible with regard to scheduling residents'

duties to allow for pursuit of special opportunities or personal time, (d) the number of surgical procedures was low because of the attrition of attending physicians, and (e) many residents feared retaliation for speaking up about problems in the program.

37. During the meeting, the Administrative Chief Resident, Dr. Sicklick, reviewed for the residents each question on the survey and proposed the proper answers. Dr. Serrano believed the meeting to be a violation of ACGME rules prohibiting a program's administration from providing answers to survey questions. Dr. Serrano publically voiced his disagreement with the purpose of the meeting, which appeared to him to be the administration's effort to cover up the existing problems within the residency program. The senior residents replied that the survey was the wrong venue to "air our dirty laundry" and urged the other residents to accept the coached responses.

38. After the residents' meeting, Dr. Serrano sent a letter to Julia McMillan, M.D., Dean of Graduate Medical Education, expressing his concern about the coached answers to the survey. Dr. McMillan responded that the meeting was not a violation of the ACGME rules because the survey was not directly used for accreditation purposes.

39. On the same day as the residents' meeting, Dr. Lipsett sent an email to Dr. Serrano and the other residents regarding the ACGME survey and the adverse consequences for the program if any of the survey questions were answered negatively.

40. On January 21, 2009, Dr. Lipsett sent an email to the residents regarding an upcoming, but previously unexpected, ACGME site visit to the hospital prompted by an anonymous letter of complaint sent to ACGME. Dr. Serrano was not the author of the letter, but

on information and belief, Dr. Lipsett and Dr. Freischlag believed that he was. On April 1 and 2, 2009, the ACGME conducted its site visit at Hopkins Hospital.

Dr. Serrano Is Terminated Without Cause

41. Just over a week after the ACGME site visit, on April 10, 2009, Dr. Serrano was called to a meeting with Dr. Freischlag, Dr. Lipsett, and Dr. Leach. Dr. Freischlag coldly stated that “this will be a very short meeting” and gave Dr. Serrano a letter which she informed him was formal notice to him that he was being terminated from the residency program, effective June 30, 2009. Dr. Freischlag concluded the meeting by stating to Dr. Serrano that the termination “will be as confidential as you want it to be.”

42. The letter Dr. Serrano was given was dated April 10, 2009 and signed by Dr. Lipsett and Dr. Freischlag. It listed five reasons for Dr. Serrano’s termination: (1) failure to acquire medical knowledge, (2) inability to apply medical knowledge, (3) difficulty in identifying the seriousness of his deficiencies, (4) lack of personal insight into interpersonal problems, and (5) failure to follow standard procedures for patient safety. Dr. Serrano was shocked by the termination and by the reasons given in support of that decision, which were without factual basis.

43. Dr. Serrano’s termination was a most unusual occurrence, particularly because he was then engaged in a year of research. Terminations occur very rarely and, if they happen at all, they occur during one of a resident’s clinical years. A termination during one of a resident’s research years is only conceivable in circumstances involving the most egregious misconduct, such as criminal activity.

The First and Second Factually Baseless and Pretextual Reasons for Dr. Serrano's Termination

44. The termination letter listed as the first alleged reason for Dr. Serrano's termination that "[y]ou have systematically failed to accrue the medical knowledge required to perform as a surgical resident. This is measured by the ABSITE score, your performance review and mock oral exams all of which I have previously reviewed with you" Similarly, the second alleged reason stated that "[y]ou are unable to appropriately apply medical knowledge to the clinical arena. This is noted from mock orals, ABSITE exam, and performance evaluations."

45. The "ABSITE" exam referred to in the letter is the American Board of Surgery In-Training Exam, a test administered annually that is intended to help residents prepare for the American Board of Surgery Qualifying Examination ("ABSQE"), administered to all graduates of surgery residency programs. Poor results on this exam are common at Hopkins and it is virtually unprecedented for such results to serve as the grounds for termination. In fact, during Dr. Serrano's first year of residency, a graduating chief resident scored in the first percentile on the ABSITE. The following year only one in five graduating chief residents were projected to achieve passing scores on the ABSQE, but all five were allowed to graduate.

46. The mock oral exam to which the letter refers is conducted internally at the Medical School to prepare residents for the General Surgery Oral Board Examination administered to all graduating general surgery residents. In December 2008, Dr. Serrano took part in a mock oral exam at the request of Dr. Lipsett, which was an unusual request because Dr. Serrano was both the most junior resident asked to take this mock exam and was in the middle of a non-clinical research year. It was customary to have all non-clinical residents take the exam six months later, in June 2009, because non-clinical residents are not exposed on a

daily basis to the clinical material on the exam and thus are allowed additional time to prepare. Instead, Dr. Lipsett only gave Dr. Serrano approximately one month's notice before he was to participate in the exams, six months ahead of the rest of his peers.

47. Moreover, Dr. Lipsett personally approved Dr. Serrano's requests to moonlight both in Hopkins Hospital and in other area hospitals, which required her verification that Dr. Serrano was capable, competent, safe, and able to supervise junior residents. Thus, the claim that Dr. Serrano had not obtained and applied proper medical knowledge is contradicted by her certification of Dr. Serrano's abilities as a doctor by allowing him to take on additional medical responsibility as a moonlighting doctor, particularly in the Cardiac Surgical ICU.

The Third and Fourth Factually Baseless and Pretextual Reasons for Dr. Serrano's Termination

48. As the third reason for Dr. Serrano's termination, the termination letter alleged that "[y]ou have difficulties identifying the seriousness of your deficiencies and often attribute problems to others. This has inhibited your learning and development as a surgeon . . . ," and as the fourth alleged reason that "[y]ou lack personal insight into interpersonal difficulties with nurses and colleagues. This has inhibited effective teamwork and resulted in patient harm and loss of trust that is critical to the effective delivery of medical and surgical care" These were also without factual basis. While Dr. Serrano had made occasional errors in the course of his clinical residency, these errors were typical of physicians at his level of training, were minor in nature, and did not result in any harm to patients. Dr. Serrano's performance evaluations from all three years of residency consistently indicated that he was a solid team player, as well as a respected leader.

49. Indeed, on April 15, 2009, less than a week after Dr. Serrano was informed of the termination but before it had become publically known, Dr. Serrano was unanimously elected by his peers of all disciplines to serve as President of the House Staff Council, a demonstration of how well-respected and trusted he actually was. This was the second consecutive year that he was elected to the House Staff Council by the same colleagues with whom he supposedly displayed “interpersonal difficulties.”

50. Neither Dr. Lipsett nor Dr. Freischlag could have had any genuine concerns regarding Dr. Serrano’s interpersonal skills when they pressed him to agree to be filmed for the ABC News documentary, for which he was filmed without editing and was representing Hopkins Hospital and the Medical School to national and international audiences. Also, Dr. Freischlag selected Dr. Serrano on three separate occasions to personally escort honored guests of Hopkins Hospital, including as recently as the month prior to his termination.

**The Fifth Factually Baseless and
Pretextual Reason for Dr. Serrano’s Termination**

51. As the fifth reason for Dr. Serrano’s termination, the termination letter alleged that “[y]ou have violated standard procedures for patient safety such as failure to conduct a time-out and wrong side procedure, as well as failure to appropriately supervise a more junior resident.” Like the other purported reasons for Dr. Serrano’s termination, this one was baseless. As stated above, while Dr. Serrano had made occasional errors in the course of his clinical residency, these errors were typical of physicians at his level of training, were minor in nature, did not result in any harm to patients, and predated the letter by approximately two years.

The Defendants' Post-Termination Conduct

52. Not content to fire Dr. Serrano without cause and drive him out of the Johns Hopkins General Surgery residency program, the defendants engaged in a vicious and scurrilous campaign calculated to ruin Dr. Serrano's career and make it impossible for him to find other employment in his chosen field.

53. On information and belief, Dr. Freischlag disclosed at a faculty meeting that Dr. Serrano was undergoing counseling and suggested that he was mentally ill. Not only was this a breach of Dr. Serrano's right of confidentiality and privacy, but it was grossly and intentionally misleading because Dr. Freischlag failed to disclose among other things: (a) that Dr. Serrano was undergoing counseling at Dr. Lipsett's insistence and over Dr. Serrano's objection; and (b) despite the fact that the Hopkins professionals who had evaluated him – a psychiatrist and a psychologist each of whom, unlike Dr. Lipsett, were qualified to diagnose mental disorders – had each independently concluded that he had no mental disorder of any kind. In fact, Dr. Serrano does not suffer from a mental disorder and has never been diagnosed with a mental disorder of any kind.

54. Subsequent to his illegal termination, in an attempt to fulfill his T32 research grant obligations and maintain employment, Dr. Serrano applied for and was accepted for a research position at the NIH.

55. On information and belief, in early May 2009, Dr. Lipsett and Dr. Leach falsely informed Steven Rosenberg, M.D., Ph.D., the Surgery Branch Chief of the Center for Cancer Research at the NIH, that Dr. Serrano had a personality disorder and had been disruptive in the residency program at the Medical School. They further intimated to Dr. Rosenberg that Dr.

Serrano was involved in some sort of illegal or criminal activity, by vaguely telling him that Dr. Serrano's file was under review for some type of legal action.

56. Subsequently, on May 7, 2009, Dr. Rosenberg notified Dr. Serrano that his earlier offer of employment at the NIH was revoked.

57. On information and belief, in or about May 2009, Dr. Freischlag spoke with Adrian Barbul, M.D., the Chair of Surgery at Sinai Hospital, and misrepresented Dr. Serrano's performance in the Medical School's General Surgery residency program and falsely stated that Dr. Serrano was mentally ill.

58. On or about June 4, 2009, after he spoke with Dr. Freischlag, Dr. Barbul informed Dr. Serrano that he would no longer be permitted to moonlight at Sinai after his termination became effective at the Medical School.

59. On information and belief, Dr. Freischlag and Dr. Lipsett widely disseminated claims that Dr. Serrano had been terminated from the residency program at the Medical School because of a mental illness and lack of satisfactory performance. This information reached David Spain, M.D., the Chief of Trauma and Critical Care Surgery at Stanford University School of Medicine, who, during a conference in June 2009, told an attending physician at Hopkins Hospital that he had heard that Dr. Serrano was mentally ill.

60. After his termination from the residency program, Dr. Serrano again attempted to salvage the T32 research grant funding he had been awarded by transferring the funding to a new research project at the Medical School, something commonly done by grantees. To that end, he sought out a position, and was tentatively appointed, as a postdoctoral fellow in the laboratory of Allan Hess, Ph.D., a Professor in the Division of Immunology and Hematopoiesis and Director

of the Human Immunology Core Laboratory at the Medical School. Dr. Serrano was informed that the only remaining step in the application process was to complete the appropriate administrative paperwork required by the grantor.

61. On information and belief, in or about July 2009, Dr. Lipsett and Dr. Leach spoke with Dr. Hess and falsely stated that Dr. Serrano had a personality disorder and was a disruptive presence in the general surgery residency program prior to his termination. Further, Dr. Hess was told that his hiring decision had to be reviewed by the Johns Hopkins Legal Department and the Dean's Office.

62. By a letter dated July 14, 2009, Dr. Hess informed Dr. Serrano that he was no longer pursuing the appointment of Dr. Serrano in light of the "circumstances of your departure from the Department of Surgery."

Count One
BREACH OF CONTRACT
Against Defendants Johns Hopkins and Hopkins Hospital

63. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

64. Effective July 1, 2006, Dr. Serrano and the Medical School entered into an agreement for Dr. Serrano to work as a categorical resident in the General Surgery residency program for a period of at least seven years. Dr. Serrano performed all of his obligations under the agreement for three years and was ready, willing, and able to continue doing so upon the conclusion of the third year of his residency employment.

65. By letter dated April 10, 2009, effective July 1, 2009, Defendants breached the Medical School's employment agreement with Dr. Serrano by terminating Dr. Serrano's

employment without cause at the conclusion of only three out of eight years of categorical residency.

66. As a direct, proximate, and consequential result of Defendants' breach of their employment agreement with Dr. Serrano, he has been deprived of five years of salary and fringe benefits, and the opportunity to supplement his income by moonlighting and other activities associated with that employment. Dr. Serrano was also deprived of future income that would have resulted from completion of the Hopkins residency program.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor, and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00), plus reasonable attorneys' fees and costs of suit; and award such other and further relief as the interests of justice may require.

Count Two
WRONGFUL TERMINATION
Against Defendants Lipsett, Freischlag,
Johns Hopkins and Hopkins Hospital

67. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

68. Dr. Serrano was employed as a resident physician at Johns Hopkins, earning an annual salary and other benefits. As a resident physician, Dr. Serrano was required to participate in and cooperate with various initiatives performed by the ACGME in oversight of credentialed residency programs.

69. In the spring of 2008, the ACGME conducted a survey of resident physicians at Johns Hopkins to determine what, if any, problems existed within John Hopkins's General Surgery residency program.

70. Coinciding with the administration of ACGME's survey, the administration of Johns Hopkins convened a meeting of resident physicians and coached responses to the survey. Dr. Lipsett also sent an email to Dr. Serrano and the other residents regarding the ACGME survey and the adverse consequences for the program if any of the survey questions are answered negatively. Believing the administration's actions to be a violation of ACGME rules prohibiting a program's administration from providing answers to survey questions, Dr. Serrano refused to be a party to falsely or misleadingly answering the ACGME survey questions and publically objected. Dr. Serrano also reported his concerns to the Johns Hopkins employee designated as the liaison for ACGME matters.

71. Dr. Serrano was terminated after he refused to falsely or misleadingly answer the ACGME survey questions and was erroneously suspected of having filed a complaint with the ACGME.

72. Dr. Serrano's termination was wrongful and without any cause whatsoever and resulted from retaliation for Dr. Serrano's rightful refusal to be party to the falsification of a report to ACGME, which is both a medical review committee and an accrediting organization under Maryland law. Dr. Serrano was also wrongfully terminated without cause in retaliation for, as the Defendants erroneously believe, his submission of a complaint to the ACGME.

73. The avowed public policy of the State of Maryland under Md. Code, Health Occupations Article, § 1-401, is to encourage physicians and others to participate in the activities

of medical review committees without fear of reprisal or liability of any sort. Defendants violated that policy by terminating Dr. Serrano for participating in the activities of the ACGME and/or for their erroneous belief that Dr. Serrano had done so by sending the anonymous complaint to the ACGME.

74. It is also the public policy of Maryland under Md Code, Health Occupations Article § 14-307(d)(1), COMAR 10.32.01.03(D)(1), and 10.32.01.02(B)(3), that the ACGME is entrusted with the role of accrediting postgraduate clinical medical education programs, such as the General Surgery residency program at the Medical School, from which physicians must obtain one year of training to be eligible for a license to practice medicine. The public policy of Maryland is clear that the licensing of physicians is intended to protect the public health and safety. *See, e.g., Cornfeld v. State Bd. of Physicians*, 174 Md. App. 456, 481 (2007). Further, Maryland public policy as stated in *St. Agnes Hospital of City of Baltimore, Inc. v. Riddick*, 751 F. Supp. 75, 77 (D. Md. 1990), provides that the accreditation of postgraduate clinical medical education programs is vital to the protection of public health and safety.

75. Thus, the Defendants violated the public policy of Maryland by terminating Dr. Serrano for objecting to the Defendants' efforts to falsify the surveys to be submitted to the ACGME, which would be used to determine accreditation status and, ultimately, protect the public from physicians who are unqualified to practice medicine.

76. Maryland public policy also states that accreditation decisions regarding postgraduate clinical medical education programs like those made by ACGME determine whether such a program may seek reimbursement from the Center for Medicare and Medicaid Services for residency training expenses. 42 U.S.C. § 1395ww; 42 C.F.R. § 415.152(1).

Defendants violated this public policy by terminating Dr. Serrano for objecting to the Defendants' efforts to falsify the surveys to be submitted to the ACGME, which would be used to determine the Defendants' accreditation status and, ultimately, its entitlement to reimbursement for the cost of training residents.

77. Defendants' conduct in terminating Dr. Serrano was deliberate, malicious, willful, and intentionally calculated to inflict harm upon Dr. Serrano and avoid the public policy of Maryland.

78. As a direct, proximate, and consequential result of Defendants' wrongful termination of Dr. Serrano, he has been left without employment, deprived of an annual salary and benefits, suffered damage to his reputation, and has otherwise been damaged.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in the amount of in an amount unknown at this time with precision, but, upon information and belief, not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00), plus punitive damages of Three Million Dollars (\$3,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Three
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS:
INTERFERENCE WITH A PROSPECTIVE ADVANTAGE
Against Defendants Lipsett, Freischlag, Topalian,
Johns Hopkins and Hopkins Hospital

79. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

80. Dr. Lipsett's letter imposing counseling acknowledged, in accordance with Johns Hopkins policy, that such services are "confidential."

81. On information and belief, Dr. Freischlag breached the promised and required confidentiality when she openly discussed Dr. Serrano's counseling at a faculty meeting. Suzanne Topalian, M.D., a Professor of Surgery at the Medical School, subsequently and improperly shared Dr. Serrano's confidential information with Dr. Jaffee, with whom Dr. Serrano was scheduled to begin his Ph.D. studies in immunology. Prior to this, Dr. Jaffee had been enthusiastic about Dr. Serrano coming to work for her: she wrote numerous letters of recommendation and positive evaluations about him, applied for research grants naming Dr. Serrano as a participant in her research, and prepared Dr. Serrano's workspace in her laboratory. Upon learning this confidential information, Dr. Jaffee requested a meeting with Dr. Lipsett.

82. On or about June 13, 2008, Dr. Jaffee and Dr. Lipsett met. At the meeting, despite knowing that Dr. Serrano had never been diagnosed with a mental disorder and that she was not qualified to diagnose such a disorder, Dr. Lipsett told Dr. Jaffee that Dr. Serrano was mentally ill. This statement was false, and maliciously made, and it damaged Dr. Serrano's career. Very soon after the meeting, Dr. Jaffee rescinded her offer of employment to Dr. Serrano.

83. This ruined opportunity to work with Dr. Jaffee was a significant setback for Dr. Serrano's career. Dr. Serrano had been attracted to Hopkins in part because of the parallels between Dr. Jaffee's work on immunotherapy for pancreatic cancer and his own aspirations for scientific study. He also knew that Dr. Jaffee consistently mentored Ph.D. students with a

clinical background so that they completed their studies in three years rather than the typical five-and-one-half years. Finding another laboratory in which to work would have consumed at least a year, and that laboratory was unlikely to have offered the same caliber of research as Dr. Jaffee's. Further, there would not have been enough time to complete the Ph.D. program on the typical five-and-one-half year track before Dr. Serrano would be required to return to clinical residency work.

84. Because Dr. Serrano's offer of employment with Dr. Jaffee was withdrawn, Dr. Serrano began working in another laboratory at Johns Hopkins. However, because the work in that laboratory did not apply to immunology, his chosen Ph.D. program, and because it would have taken too long to find a compatible laboratory to work in, Dr. Serrano was forced to withdraw from the Ph.D. program.

85. At the time of the faculty meeting, Dr. Freischlag knew that Dr. Jaffee had offered Dr. Serrano a position in her laboratory and that Dr. Serrano had completed a significant portion of the administrative process necessary to begin his work with Dr. Jaffee as part of his Ph.D. program in immunology. This work also qualified as research to fulfill Dr. Serrano's obligations under the NIH T32 grant.

86. Without legal justification, Dr. Freischlag, Dr. Topalian, and Dr. Lipsett intentionally, improperly, and maliciously interfered with Dr. Serrano's agreement to begin work with Dr. Jaffee by inducing Dr. Jaffee to rescind her offer to Dr. Serrano, thus depriving him of a significant educational and economic opportunity.

87. Acting outside of their capacities as employees and with an improper motive to injure Dr. Serrano, Dr. Freischlag and Dr. Topalian improperly disclosed to Dr. Jaffee that

Dr. Serrano was under counseling and Dr. Lipsett falsely and maliciously stated that Dr. Serrano was mentally ill.

88. As a direct, proximate, and consequential result of Dr. Freischlag's, Dr. Topalian's, and Dr. Lipsett's conduct, Dr. Serrano has suffered and will continue to suffer lost employment opportunities, income, additional tuition costs, and other damages.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00), plus punitive damages of Three Million Dollars (\$3,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Four
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS:
INTERFERENCE WITH A CONTRACT
Against Defendants Lipsett, Freischlag, Leach,
Johns Hopkins and Hopkins Hospital

89. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

90. On or about May 2009, despite knowing that Dr. Serrano was never diagnosed with a mental disorder and that they were not qualified to diagnose such a disorder, Dr. Lipsett, Dr. Leach, and Dr. Freischlag represented to another employer, Steven Rosenberg, M.D. at the NIH, that Dr. Serrano has a mental disorder. These statements were false and maliciously made, and they damaged Dr. Serrano's career.

91. Dr. Lipsett, Dr. Leach, and Dr. Freischlag misrepresented Dr. Serrano's mental health to Dr. Rosenberg in an intentional and willful manner calculated to dissuade potential

employers from hiring Dr. Serrano, thus harming his career and livelihood. The Defendants' conduct was perpetuated with the intentional and improper purpose of causing damage and was without justifiable cause.

92. Shortly after Dr. Lipsett's, Dr. Leach's, and Dr. Freischlag's representations that Dr. Serrano was mentally ill were made to Dr. Rosenberg, Dr. Serrano was informed by the NIH that he was denied a position of employment for which he had previously been accepted.

93. The loss of this position at the NIH greatly harmed Dr. Serrano by depriving him of employment and denying him the opportunity to advance his career. Further, Dr. Serrano lost another opportunity to engage in work that qualified as research to fulfill his obligations under the NIH T32 grant.

94. As a direct, proximate, and consequential result of Dr. Freischlag's, Dr. Lipsett's, and Dr. Leach's conduct, Dr. Serrano has suffered and will continue to suffer lost employment opportunities, income, additional tuition costs, and other damages.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in the amount of in an amount unknown at this time with precision, but, upon information and belief, not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00), plus punitive damages of Three Million Dollars (\$3,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Five
TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS:
INTERFERENCE WITH A PROSPECTIVE ADVANTAGE
Against Defendants Lipsett, Leach,
Johns Hopkins and Hopkins Hospital

95. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

96. On or about July 2009, despite knowing that Dr. Serrano was never diagnosed with a mental disorder and that they were not qualified to diagnose a mental disorder, Dr. Lipsett and Dr. Leach represented to Dr. Allan Hess that Dr. Serrano had a mental disorder. These statements were false, and maliciously made, and they damaged Dr. Serrano's career.

97. Dr. Lipsett and Dr. Leach misrepresented Dr. Serrano's mental health to Dr. Hess in an intentional and willful manner calculated to dissuade Dr. Hess from hiring Dr. Serrano, thus harming his career and livelihood. The Defendants' conduct was perpetuated with the intentional and improper purpose of causing damage and was without justifiable cause.

98. Shortly after Dr. Serrano was terminated from Johns Hopkins and after Dr. Lipsett's and Dr. Leach's representations that Dr. Serrano was mentally ill, Dr. Serrano was informed by Dr. Hess that he was denied a position of employment for which he was a strong candidate.

99. The loss of this potential position with Dr. Hess greatly harmed Dr. Serrano by depriving him of employment and denying him the opportunity to advance his career.

100. Further, as a result of the loss of this position, Dr. Serrano will incur a payback obligation to the NIH for the amount of the T32 research grant awarded to him to pursue

research. Under the payback obligation, Dr. Serrano would owe the federal government for two years of unfulfilled research.

101. As a direct, proximate, and consequential result of Dr. Lipsett's and Dr. Leach's conduct, Dr. Serrano has suffered and will continue to suffer lost employment opportunities, income, additional tuition costs, and other damages.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Seven Hundred Fifty Thousand Dollars (\$750,000.00), plus punitive damages of Three Million Dollars (\$3,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Six
DEFAMATION
Against Defendants Lipsett,
Johns Hopkins and Hopkins Hospital

102. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

103. In or about September 2008, Dr. Lipsett falsely and maliciously stated to two Johns Hopkins employees that Dr. Serrano had a mental illness, namely a personality disorder. This statement was defamatory in that it tended to injure Dr. Serrano in his profession and employment.

104. Dr. Lipsett knowingly made the aforementioned false and defamatory statements about Dr. Serrano.

105. The recipients of Dr. Lipsett's communications reasonably understood these communications to be defamatory.

106. Because Dr. Lipsett knew that two Johns Hopkins mental health professionals – a psychiatrist and a licensed clinical social worker – had each concluded that Dr. Serrano did not suffer from a mental disorders and that she herself was not qualified to make such a diagnosis, Dr. Lipsett acted with knowledge of the falsity of the statements and with the intent to harm Dr. Serrano in his profession and employment.

107. In the alternative, Dr. Lipsett negligently made the aforementioned false and defamatory statements about Dr. Serrano.

108. As a result of the false and defamatory statements made by Dr. Lipsett, Dr. Serrano was harmed, his standing and reputation at Johns Hopkins, Hopkins Hospital, and in the community were impaired, and he suffered mental anguish and personal humiliation.

109. As a direct, proximate, and consequential result of the false and defamatory communications made by Dr. Lipsett, Dr. Serrano was terminated from his employment as a resident at Johns Hopkins and has lost several prospective employment opportunities, thereby suffering a loss of prospective income which he would have earned from a continued salary and benefits.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Ten Million Dollars (\$10,000,000.00), plus punitive damages of Ten Million Dollars (\$10,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Seven
DEFAMATION
Against Defendants Lipsett, Leach,
Johns Hopkins and Hopkins Hospital

110. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

111. In or about May 2009, Dr. Lipsett and Dr. Leach falsely and maliciously stated to Dr. Rosenberg at the NIH, another employer, that Dr. Serrano had a mental illness, namely a personality disorder. These statements were defamatory in that they tended to injure Dr. Serrano in his profession and employment.

112. In their statements, Dr. Lipsett and Dr. Leach knowingly made the aforementioned false and defamatory statements about Dr. Serrano.

113. The recipients of Dr. Lipsett's and Dr. Leach's communications reasonably understood these communications to be defamatory.

114. Because they knew that two Johns Hopkins mental health professionals – a psychiatrist and a licensed clinical social worker – had each concluded that Dr. Serrano did not suffer from a mental disorder and that they themselves were not qualified to make such a diagnosis, Dr. Lipsett and Dr. Leach acted with knowledge of the falsity of the statements and with the intent to harm Dr. Serrano in his profession and employment.

115. In the alternative, Dr. Lipsett and Dr. Leach negligently made the aforementioned false and defamatory statements about Dr. Serrano.

116. As a result of the false and defamatory statements made by Dr. Lipsett and Dr. Leach, Dr. Serrano was harmed, his standing and reputation at the NIH and in the community were impaired, and he suffered mental anguish and personal humiliation.

117. As a direct, proximate, and consequential result of the false and defamatory communications made by Dr. Lipsett and Dr. Leach, Dr. Serrano lost several prospective employment opportunities and will continue to lose opportunities, thereby suffering a loss of prospective income which he would have earned from a continued salary and benefits.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Ten Million Dollars (\$10,000,000.00), plus punitive damages of Ten Million Dollars (\$10,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Eight
DEFAMATION
Against Defendants Lipsett, Freischlag,
Johns Hopkins and Hopkins Hospital

118. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

119. In or before June 2009, Dr. Lipsett and Dr. Freischlag falsely and maliciously stated to a third party or parties that Dr. Serrano had a mental illness, namely a personality disorder. These statements were defamatory in tending to injure Dr. Serrano in his profession and employment. In or about June 2009, David Spain, M.D., the Chief of Trauma and Critical Care Surgery at Stanford University, told an attending physician at Hopkins Hospital, that he had heard that Dr. Serrano was mentally ill.

120. Dr. Lipsett and Dr. Freischlag knowingly made the aforementioned false and defamatory statements about Dr. Serrano.

121. The recipients of Dr. Lipsett and Dr. Freischlag's communications reasonably understood these communications to be defamatory.

122. Because they knew that two Johns Hopkins mental health professionals – a psychiatrist and a licensed clinical social worker – had each concluded that Dr. Serrano did not suffer from a mental disorders and that they themselves were not qualified to make such a diagnosis, Dr. Lipsett and Dr. Freischlag acted with knowledge of the falsity of the statements and with the intent to harm Dr. Serrano in his profession and employment.

123. In the alternative, Dr. Lipsett and Dr. Freischlag negligently made the aforementioned false and defamatory statements about Dr. Serrano.

124. As a result of the false and defamatory statements made by Dr. Lipsett and Dr. Freischlag, Dr. Serrano was harmed, his standing and reputation in the medical field and in the community were impaired, and he suffered mental anguish and personal humiliation.

125. As a direct and proximate result of the false and defamatory communications made by Dr. Lipsett and Dr. Freischlag, Dr. Serrano has lost several prospective employment opportunities and will continue to lose opportunities, thereby suffering a loss of prospective income which he would have earned from a continued salary and benefits.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Ten Million Dollars (\$10,000,000.00), plus punitive damages of Ten Million Dollars (\$10,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Nine
DEFAMATION
Against Defendants Lipsett, Leach,
Johns Hopkins and Hopkins Hospital

126. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

127. On or about July 2009, Dr. Lipsett and Dr. Leach falsely and maliciously stated to Dr. Allan Hess, Ph.D., a Professor of Immunology and Hematopoiesis at the Medical School, that Dr. Serrano had a mental illness, namely a personality disorder. These statements were defamatory in tending to injure Dr. Serrano in his profession and employment.

128. Dr. Lipsett and Dr. Leach knowingly made the aforementioned false and defamatory statements about Dr. Serrano.

129. The recipients of Dr. Lipsett's and Dr. Leach's communications reasonably understood these communications to be defamatory.

130. Because they knew that two Johns Hopkins mental health professionals – a psychiatrist and a licensed clinical social worker – had each concluded that Dr. Serrano did not suffer from a mental disorders and that they themselves were not qualified to make such a diagnosis, Dr. Lipsett and Dr. Leach acted with knowledge of the falsity of the statements and with the intent to harm Dr. Serrano in his profession and employment.

131. In the alternative, Dr. Lipsett and Dr. Leach negligently made the aforementioned false and defamatory statements about Dr. Serrano.

132. As a result of the false and defamatory statements made by Dr. Lipsett and Dr. Leach, Dr. Serrano was harmed, his standing and reputation at Johns Hopkins, Hopkins

Hospital, and in the community were impaired, and he suffered mental anguish and personal humiliation.

133. As a direct, proximate, and consequential result of the false and defamatory statements made by Dr. Lipsett and Dr. Leach, Dr. Serrano was no longer considered for employment as a postdoctoral research fellow in Dr. Hess's laboratory, thereby incurring the cost of a payback obligation to the NIH for the balance of the T32 research grant awarded to him for research work and other damages and injuries.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Ten Million Dollars (\$10,000,000.00), plus punitive damages of Ten Million Dollars (\$10,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Ten
INVASION OF PRIVACY:
UNREASONABLE PUBLICITY GIVEN TO PRIVATE LIFE
Against Defendants Freischlag, Topalian,
Johns Hopkins and Hopkins Hospital

134. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

135. On information and belief, Dr. Serrano's counseling was openly discussed at a faculty meeting in the spring of 2008 by Dr. Freischlag and shared with Dr. Jaffee afterwards by Dr. Topalian, despite Johns Hopkins's policy of keeping such information confidential and the promise to Dr. Serrano that it would be kept confidential.

136. The information discussed with respect to Dr. Serrano's counseling was of a very personal and sensitive nature, including Dr. Serrano's most secret thoughts about himself, his friends and family, his career, and his relationships with his superiors and peers alike. Most, if not all of the information disclosed, was private medical information protected under the Health Insurance Portability and Accountability Act, 42 U.S.C. § 1320d.

137. The improperly publicized facts about Dr. Serrano were of no valid concern to the attendees at the faculty meeting.

138. The disclosure of this sensitive information is highly offensive to Dr. Serrano and constitutes unreasonable publicity given to his private life.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in the amount of in an amount unknown at this time with precision, but, upon information and belief, not less than Ten Million Dollars (\$10,000,000.00), plus punitive damages of Ten Million Dollars (\$10,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Count Eleven
INVASION OF PRIVACY: FALSE LIGHT
Against Defendants Lipsett, Freischlag,
Johns Hopkins and Hopkins Hospital

139. Dr. Serrano realleges and incorporates by reference the allegations of fact contained in the previous paragraphs.

140. Two Johns Hopkins mental health professionals concluded that Dr. Serrano was not affected by a mental disorder. These determinations were made known to Dr. Lipsett and Dr. Freischlag.

141. Despite the conclusion by two Johns Hopkins mental health professionals that Dr. Serrano was not affected by any mental illness, Dr. Lipsett and Dr. Freischlag represented to various individuals in the medical community that Dr. Serrano suffered from a mental disorder. Alternatively, Dr. Lipsett and Dr. Freischlag published facts about Dr. Serrano in a reckless manner.

142. After Dr. Lipsett and Dr. Freischlag published these facts, Dr. Serrano and his colleagues received communications from many medical professionals regarding his mental health, he lost several employment opportunities, and he suffered great emotional distress.

143. Defendants improperly publicized facts about Dr. Serrano that placed him in a false light by attributing to him conduct and characteristics that were false.

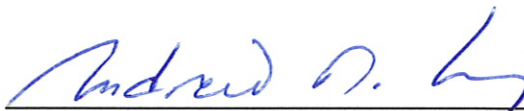
144. Defendants knew that the facts publicized about the private life of Dr. Serrano were false, or communicated them with a reckless disregard for the truth of those facts.

145. Any reasonable person would find these publicized comments to be highly offensive.

WHEREFORE, Dr. Serrano prays that judgment be entered in his favor and against defendants for compensatory damages in an amount unknown at this time with precision, but, upon information and belief, not less than Ten Million Dollars (\$10,000,000.00), plus punitive damages of Ten Million Dollars (\$10,000,000.00), reasonable attorneys' fees, and costs of suit; and award such other and further relief as the interests of justice may require.

Jury Demand

Dr. Serrano demands that his cause be tried by a jury.



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Dated: August 25, 2009