

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
TRIAL COURT DEPARTMENT

JANE DOE 1 and JANE DOE 2, on behalf of  
themselves and others similarly situated,

2284CV00831

*Plaintiffs,*

FILED "AS OF COURSE" AS TO:

v.

JOHN HANCOCK LIFE  
INSURANCE COMPANY (U.S.A.)

JOHN HANCOCK LIFE INSURANCE  
COMPANY (U.S.A.), FIRST FITNESS  
MANAGEMENT, LLC,  
AND COMMONWEALTH FLATS  
DEVELOPMENT CORP. d/b/a SECOND  
WAVE HEALTH & FITNESS,

and

COMMONWEALTH FLATS  
DEVELOPMENT CORP. d/b/a  
SECOND WAVE HEALTH &  
FITNESS

*Defendants.*

**PLAINTIFFS DEMAND  
A JURY TRIAL**

**AMENDED COMPLAINT**

The Plaintiffs, "**as of course**" and in accordance with Rule 15(a) of the Massachusetts Rules of Civil Procedure as to Plaintiffs' claims against Defendant John Hancock Life Insurance Company (U.S.A.) and Defendant Commonwealth Flats Development Corporation d/b/a Second Wave Health & Fitness, hereby amend the complaint in this action so that the same will read as follows:

Plaintiffs, proceeding pseudonymously as Jane Doe 1 and Jane Doe 2 in order to protect their privacy interests, bring this action individually and on behalf of others who are similarly situated, against Defendant John Hancock Life Insurance Company

(U.S.A.) ("John Hancock") and other named defendants. Plaintiffs hereby state and allege and follows:

### INTRODUCTION

1. This case arises out of John Hancock's use of a hidden camera to monitor women changing clothes in the locker room of John Hancock's employee gym. This case also arises from John Hancock's effort to cover-up and minimize these crimes, John Hancock's destruction of evidence of these crimes (in violation of G.L. c. 268, § 13E), and John Hancock's effort to silence victims and prevent them from receiving the closure they still need.

2. On or before April 16, 2019, an unknown party discovered one of John Hancock's own covert surveillance cameras hidden in a ceiling light fixture of the women's locker room of John Hancock's employee gym at 601 Congress Street, Boston. The hidden surveillance camera was connected via coaxial cable to a monitor (also owned by John Hancock) located in a badged-access-only mechanical room in a different part of the building.

3. Using the hidden camera directed at the changing area of the women's locker room, John Hancock and its employees viewed and surveilled the Plaintiffs in a state of undress from sometime in 2015 until December 28, 2018.

4. After an unknown party discovered this crime, John Hancock failed to, prevented, and delayed the reporting of this crime to law enforcement for at least 48 days.

5. During the 48-day delay, John Hancock destroyed, tampered with, and spoliated evidence. John Hancock and its employees touched the hidden camera and other equipment (which constituted the evidence of the crimes) with their bare hands, allowing new fingerprints to be deposited and older fingerprints to be obliterated.

6. During the 48-day delay, John Hancock and its employees dismantled and removed the hidden camera and the monitor prior to any law enforcement being able to collect evidence. John Hancock thereby further spoiled fingerprint evidence, DNA evidence, and other evidence that would have aided law enforcement authorities with their investigation.

7. John Hancock knew or should have known that such conduct violated G.L. c. 268, § 13E and is an independent crime in the Commonwealth of Massachusetts.

8. During the 48-day delay, John Hancock failed to notify or provide any information to victims, including its own employees and underage victims who used the gym as part of John Hancock's relationship with the InnerCity Weightlifting non-profit organization.

9. The hidden camera was finally reported to the State Police on June 3, 2019, by an unknown party.

10. Because the crime was committed at 601 Congress Street, a Massport development property falling under Massport's jurisdiction, Troop F of the State Police (based out of Logan Airport) responded to 601 Congress Street on June 4, 2019. The State Police's Investigative Report provides as follows:

**Synopsis**

SGT Lopes and Trooper D. Walsh meet with Lead Forensic Investigator John F. McCloskey, Senior Director Charles Ziegenbein and Investigator Tom Samoluk, all of John Hancock to discuss a suspicious video monitoring device discovered on 4/16/19. Said device was believed to be positioned in such a manner as to view a women's-only locker room. The device was dismantled by an on-site engineer before MSP investigators could view it. MSP Investigators were notified of the situation on 6/3/19. Trooper Walsh and SGT Lopes will work in conjunction with the John Hancock Security Team to investigate this matter. Physical Evidence was secured (Evidence Submission Form Completed). All evidence was secured in evidence to be later transferred for forensic analysis. This investigation is open and on-going.

11. John Hancock caused and intentionally prevented the reporting of these crimes for 48 days or longer to thwart an effective investigation into John Hancock's own misconduct.

12. On information and belief, John Hancock withheld the fact that John Hancock was the owner of the hidden camera, mobile monitor, and other surveillance equipment in an effort to thwart and hinder the State Police investigation.

13. On information and belief, John Hancock also withheld the fact that John Hancock was the owner of the hidden camera to hide its own culpability for installing the hidden camera and to hide its own culpability for viewing the Plaintiffs in a state of undress.

14. John Hancock also prevented the victims of the crime from learning they had been spied on while in a state of undress for months if not years.

15. Once the victims learned of the privacy violation, John Hancock embarked on a scheme to dissuade victims from going public or seeking out help. John Hancock did these things to conceal its own culpability and protect its own reputation. In so doing, John Hancock harmed the Plaintiffs by denying them closure and access to justice.

16. The surveillance equipment used to capture images of the Plaintiffs in a state of undress was capable of being connected to other devices, where those images could then be saved, sold, or posted on the internet.

17. The scale of the privacy violations against these women and underage girls is massive and difficult to quantify.

18. As a result of John Hancock's negligence and wrongful acts, the victims of these crimes continue to suffer harm to the present day.

### PARTIES

19. Plaintiff Jane Doe 1 is a prior or current female employee of John Hancock who regularly used the John Hancock gym at issue to undress, shower, and change clothing.

20. Plaintiff Jane Doe 2 is a prior or current female employee of John Hancock who regularly used the John Hancock gym at issue to undress, shower, and change clothing.

21. At least one of the Plaintiffs referenced in the preceding two paragraphs resides in the Commonwealth of Massachusetts.

22. Defendant John Hancock is a Michigan corporation, having a principal address of 200 Berkeley Street, Boston, MA 02116.

23. Defendant First Fitness Management, LLC ("First Fitness"), is a Massachusetts limited liability company with a principal address of 35 White Street c/o Healthworks Fitness, Cambridge MA 02140.

24. Defendant Commonwealth Flats Development Corporation d/b/a Second Wave Health & Fitness (“Second Wave”), is a Massachusetts corporation with a principal address of 245 Summer Street, c/o corporate legal - MZ V4C, Boston MA 02210.

#### JURISDICTION AND VENUE

25. Jurisdiction is properly conferred by G.L. c. 212, §§ 3 and 4, and G.L. c. 223A, §§ 2 and 3 because Defendants reside in the Commonwealth, transact business in the Commonwealth, contract to supply services or things in this Commonwealth, and caused tortious injuries and losses that are the subject of this lawsuit by acts in this Commonwealth. Jurisdiction is also conferred by G.L. c. 214, § 1B.

26. Venue is proper under G.L. c. 223, § 1.

#### FACTUAL ALLEGATIONS

##### *601 Congress Street*

27. In 2001, John Hancock signed a 95-year ground lease with Massport for the land in the Boston seaport area known as 601 Congress Street.

28. Construction of the 14-story office building at 601 Congress Street, which would serve as John Hancock’s headquarters, took place from roughly December 2001 to roughly August 2004.

29. In February 2004, Manulife Financial, a Canadian corporation, purchased John Hancock.

30. In late 2004, John Hancock moved some of its offices to 601 Congress Street, which would serve as its headquarters.

31. 601 Congress Street also served as the primary data center for the US and, at one point, housed many of John Hancock's computer servers.

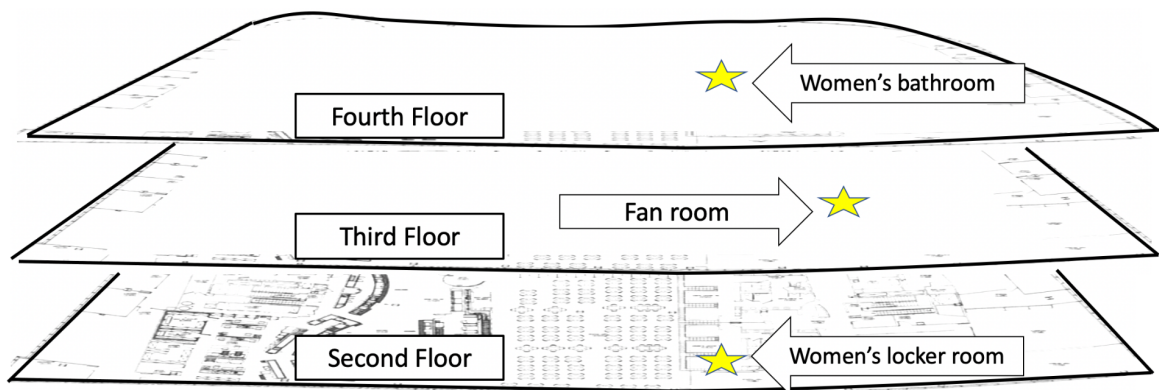
32. A key feature of 601 Congress Street was that it offered a gym facility for employees. The gym was managed and operated by a third party, but membership was mostly limited to John Hancock employees. While membership in the gym required payment of a monthly membership fee, that fee was less than what John Hancock employees would otherwise have to pay on the open market. The gym's location within John Hancock's 601 Congress location, further offered employees a convenient place to work out, shower, and change clothes.

33. The gym was located on the second floor of 601 Congress Street, in the southeast quadrant of the building and near the southeast stairwell.

34. On the building's third floor, in the southeast quadrant and in the general area above the gym, there was a mechanical room near to the southeast stairwell. This mechanical room was also referred to as the "Third Floor Fan Room."

35. On the building's fourth floor, there were bathrooms adjacent to an area known as the "LOFT." These bathrooms were also located in the southeast quadrant of the building and in the general area above the Third Floor Fan Room.

36. The women's locker room in the gym was vertically and horizontally close to the Third Floor Fan Room, which was vertically and horizontally close to the fourth floor bathrooms:



37. John Hancock promoted the gym as an employee benefit, and encouraged the John Hancock employees and Plaintiffs to use the gym and to become members of the gym.

38. As the owner of the building, John Hancock had a non-delegable duty to provide security, surveillance, and utilities, for the safe and secure operation of the on-premises gym.

39. As agents of John Hancock and managers and operators of the gym, First Fitness Management, LLC and Commonwealth Flats Development Corp. d/b/a Second Wave Health & Fitness, had contractual and legal duties to provide security and ensure member safety for employees using the on-premises gym. Specifically, First Fitness Management, LLC and Commonwealth Flats Development Corp. d/b/a Second Wave Health & Fitness, each agreed to supervise and direct management of the on-premises gym.



40. In 2019 and 2020, on information and belief, 601 Congress Street was partially used and occupied by one or more film production companies in connection with the film "I Care a Lot."

41. In January 2021, John Hancock sold the building at 601 Congress Street and assigned its land 95-year ground lease (with Massport) to BioMed Realty for \$362 million.

### *John Hancock's Surveillance Program & Equipment*

42. While John Hancock operated at 601 Congress, John Hancock conducted extensive surveillance of its employees, both covert and overt.

43. As part of its surveillance program, John Hancock used hidden cameras to conduct workplace surveillance of its specific workplace areas. John Hancock's employees were not generally informed of the presence or location of the hidden cameras.

44. As part of its effort to covertly monitor its own employees, John Hancock purchased covert surveillance equipment designed to be positioned in areas to monitor employees without detection.

45. To conduct this surveillance, John Hancock purchased one or more "Covert Surveillance Pin Hole Cameras," which were small cameras with a 3.7 mm lens designed to be placed in unseen or difficult-to-see locations.

46. Similarly, John Hancock purchased one or more "Speco Technologies VMS2 Portable Color LCD Test Monitors." This type of portable monitor is a small display screen that can be connected directly into a surveillance camera output to provide a

real-time demonstration of the picture quality, camera positioning, and field of view. Once the operator of a portable monitor is satisfied with the camera position, the portable monitor can be disconnected from the camera and the camera can then be connected to permanent monitors and recording systems of the surveillance system. Or the operator could continue to use the portable monitor for viewing and surveillance. This type of portable monitor also had a video out port, meaning that it could be connected to a recording device.

*The Corporate Benefits of John Hancock's Covert and Overt Surveillance*

47. The goal of John Hancock's surveillance, both covert and overt, was to benefit John Hancock itself by providing a safe and comfortable environment for John Hancock's employees to work, to prevent theft of John Hancock's property and employees' property, and to monitor the actions of employees and others throughout the building. All of these goals of John Hancock's surveillance benefitted John Hancock substantially in many ways, including but not limited to as follows:

- a. A safe and comfortable work environment helped John Hancock recruit and retain talented, bright, and enthusiastic employees, which in turn helped John Hancock make more money for its shareholders and other stakeholders;
- b. Preventing theft of John Hancock's property benefitted John Hancock by saving John Hancock money, which allowed John Hancock to pass on more money to its shareholders and other stakeholders;
- c. Monitoring the actions of John Hancock's employees benefitted John Hancock by helping John Hancock improve efficiency, which allowed John Hancock to pass on more money to its shareholders and other stakeholders; and
- d. Monitoring the actions of John Hancock's employees benefitted John Hancock by allowing John Hancock to identify and fire bad actors, which reduced John Hancock's exposure to liabilities, improved workplace

safety, and prevented theft of John Hancock's equipment, which allowed John Hancock to pass on more money to its shareholders and other stakeholders.

48. John Hancock's covert surveillance of the women's locker room, including the placement and use of John Hancock's hidden camera, was part of John Hancock's surveillance program and was of the kind of act that was, at least in part, intended to benefit John Hancock in the above specified ways, regardless of how unreasonable it was.

49. John Hancock's authorization of a hidden camera in the women's locker room was not necessarily sexual in nature.

50. Indeed, employers have in the past made unreasonable but nevertheless authorized decisions to install surveillance cameras in areas such as employee locker rooms in order to ferret out disfavored behavior that may be concealed by their employees, including suspected drug use. When employers do this, it is usually because they fail to consider the potential privacy violations that may result. For example, in 1993, significant media attention was generated by the Sheraton Boston hotel's misguided attempt to place surveillance cameras in employee locker rooms to catch an employee suspected of selling drugs.

51. John Hancock's decision to authorize a hidden camera in the women's locker room was similarly misguided, and even though the decision was not necessarily sexual in nature, the decision to authorize the placement of the hidden camera in the women's locker room failed to consider what that it would violate the privacy rights of Plaintiffs.

52. John Hancock further failed to consider that the images of the Plaintiffs' naked bodies or other information obtained from its covert surveillance using a hidden camera in the women's locker room would have a prurient appeal and would be prone to sexual misuse by anyone viewing the information.

53. John Hancock was conducting covert surveillance throughout 601 Congress and it was foreseeable that John Hancock's covert surveillance would conflict with or interfere with the privacy rights of the Plaintiffs.

54. John Hancock should have known that its covert surveillance, if unchecked, would, in certain instances, view the Plaintiffs in a state of undress.

55. John Hancock should have known to take, and should have taken precautions, to prevent its covert surveillance from causing the Plaintiffs harm.

56. John Hancock had no processes in place to supervise or ensure compliance with its surveillance system.

57. John Hancock's surveillance operation involved not just security personnel but also employees in John Hancock's US corporate real estate unit. Corporate real estate employees oversaw facilities management for all of John Hancock's commercial real estate properties, including 601 Congress Street. These employees necessarily had knowledge of John Hancock's HVAC systems and the locations where hidden cameras could be installed and monitored. These John Hancock employees had free access to all electronic equipment, including surveillance equipment, and were able to freely enter the Third Floor Fan Room where the monitor was located and freely enter the gym facilities on the second floor when the gym was not in use. Some of John Hancock's

employees had backgrounds in security and were therefore familiar with using surveillance equipment.

58. John Hancock's employees, acting in the scope of their employment with John Hancock, had access to and were permitted to use all of John Hancock's equipment, including John Hancock's surveillance equipment for the company's purpose of conducting surveillance of the premises and of employees at 601 Congress Street.

59. Further, some of these employees were involved in monitoring surveillance systems or general security.

60. One of these employees was the Control Room Operator at John Hancock, who monitored all John Hancock systems from a control room. He has stated: "I feel like I'm in control of everything in the city...Here in the control room we monitor all systems -- HVAC, life safety, fire alarms, floor temperatures -- for the whole complex..."

61. Another one of these employees worked in building maintenance at John Hancock. This employee had experience in general security. His work for John Hancock included: authorizing and monitoring the arrival and departure of employees, guarding against theft, maintaining security of premises, and writing reports of daily irregularities such as equipment damage, theft, presence of unauthorized persons, or other "unusual occurrences."

62. Some of these John Hancock employees were particularly capable of reviewing mechanical system plans and understanding how the plans tie in to existing systems.

63. Various John Hancock employees also had experience in HVAC service and are thus experienced in working in fan rooms and accessing ceiling crawl spaces, air ducts, vents and fixtures, and ceiling electrical panels.

64. As part of their authority to manage the building, perform routine maintenance, provide security, and conduct surveillance, employees and agents of John Hancock, were given access to the Third Floor Fan Room, the gym, the women's locker room, and were also give access to the building's infrastructure, HVAC system, electrical system, duct work, spaces between floors and ceilings and spaces between walls. This access included access to the space used to house the hidden camera, coaxial cables, and the portable monitor used to view the changing area of the women's locker room at issue in this case.

65. Some of these John Hancock employees continued to access the premises at 601 Congress Street even after John Hancock moved its offices to Back Bay.

*Installation of a Hidden Surveillance Camera in the Women's Locker Room*

66. In 2015, as part of conducting its surveillance activities, John Hancock and its employees accessed the 2nd floor health club to install a hidden camera.

67. To accomplish this, John Hancock and its employees drilled holes in the light fixture for purposes of placing a pinhole camera above the women's locker room. The pinhole camera belonged to John Hancock and was purchased in order to conduct covert surveillance for business purposes.

68. John Hancock and its employees also gained access to and strung a coaxial cable in the space above the ceiling of the women's locker room by moving ceiling tiles

and climbing on a ladder. One end of the coaxial cable was attached to the camera. The other end was run into a utility shaft that connected to the Third Floor Fan Room. The coaxial cable used belonged to John Hancock and was purchased in order to conduct surveillance for business purposes

69. As part of its surveillance activities, John Hancock and its employees provided direct power to the hidden camera by connecting it to a heavy-duty extension cord, which was strung in the space above the ceiling from the women's locker room to an electrical outlet located in a nearby Business Continuity Panel, which was located in a common area outside of the health club. The long extension cord was visible from the space above the ceiling in the common area outside by moving ceiling tiles and climbing on a ladder. The extension cord belonged to John Hancock and was purchased for business purposes.

70. As further part of conducting its surveillance activities, John Hancock and its employees also accessed the Third Floor Fan Room for purposes of connecting the other end of the coaxial cable to a mobile monitor. The Third Floor Fan Room was a restricted-access room and only members of security, maintenance, and corporate real estate were allowed in. The mobile monitor belonged to John Hancock and was purchased in order to conduct surveillance for business purposes.

71. Using the hidden camera directed at the changing area of the women's locker room, John Hancock and its employees viewed and surveilled the Plaintiffs and other women ,who used the gym and were in a state of undress, from sometime in 2015 until December 28, 2018.

72. Thereafter, John Hancock and its employees routinely accessed both the 2nd floor health club (usually on the weekend) to make adjustments to the camera location and accessed the Third Floor Fan Room (usually during gym hours) in order to view the resulting camera footage to determine whether the adjustments were successful.

73. For example, on Saturday, June 3, 2017, John Hancock and its employees accessed the 2nd floor health club to adjust the location of the hidden camera. To accomplish this, John Hancock and its employees drilled additional holes in the light fixture for purposes of changing the viewing angle of the pinhole camera in the women's locker room. John Hancock and its employees then secured the surveillance camera in place with a bracket that belonged to John Hancock and was purchased for surveillance purposes.

74. Throughout the rest of 2017 and 2018, John Hancock made nearly a dozen similar adjustments to the location of the hidden camera by drilling additional holes in the light fixture and repositioning the camera. These adjustments were always on a Saturday, Sunday, or holiday, when the gym was not in use. The existence of multiple drill holes in ceiling fixtures as well as John Hancock access logs confirms the multiple adjustments.

75. When John Hancock and its employees engaged in this conduct of installing or adjusting surveillance equipment and viewing the Plaintiffs in a state of undress, they did so within the scope of their duties to conduct covert surveillance of employees.

76. The foregoing work required John Hancock employees to be granted unfettered access to multiple rooms at 601 Congress Street, have access to the building's



interior infrastructure, have knowledge of where power outlets were located, be familiar with the layout of 601 Congress Street, and have unfettered access to the surveillance equipment, as well as the requisite knowledge and skills to conduct this surveillance.

77. John Hancock and its employees or agents were also free to connect the camera to any viewing or recording device compatible with a CCTV camera. At the time, John Hancock possessed a closed-circuit surveillance system which was capable of viewing and recording images captured by security cameras throughout 601 Congress Street.

78. The pinhole camera at issue was hidden behind ceiling fixtures, at times a light fixture and at other times behind an air vent fixture. Because of the need for drill holes and close proximity of the camera to the locker room area, the drill holes would have been detected if security sweeps for hidden cameras had been conducted. No such security sweeps were conducted by Second Wave Health & Fitness and First Fitness.

79. The mobile monitor and connecting cable were in plain view in the Third Floor Fan Room, and would have been obvious to anyone who entered the room.

80. The power cable for the pinhole camera was connected to the business continuity panel, which was easily and routinely accessed from the common areas of the second floor. The power cable was in plain view to anyone who accessed the BCP panel on the second and third floors.

81. The camera, the power cable, and the video cable connected to the pinhole camera, were in plain view to anyone who had access to the ceiling space above the second floor health club.

82. When John Hancock and its employees or agents engaged in this conduct and viewed the Plaintiffs in a state of undress, John Hancock acted unreasonably and violated the Plaintiffs' privacy.

### *Prior Camera Incident*

83. The 4th floor of 601 Congress Street was a main reception area for visitors who had passed through first-floor security for John Hancock's headquarters.

84. In addition to the reception area, the 4th floor housed a grand, multi-floor atrium with an impressive view of the seaport district and surrounding areas. It also housed a large conference room which was used to host large corporate meetings.

85. The 4th floor also housed an area known as the Lab of Forward Thinking or "LOFT" and John Hancock's "Innovation District," a work area devoted to fostering a culture of innovation and creativity within all facets of John Hancock. The company held out the LOFT as "a model example of innovation within the enterprise: bright, enthusiastic teams tasked with understanding new technologies and who aren't afraid of getting their hands dirty by building prototypes." Many of the "bright, enthusiastic" tech-savvy employees in the LOFT were women.

86. The LOFT occupied the east end of the 4th Floor.

87. Between the main entrance on the 4th floor and the LOFT was a women's bathroom. The bathroom could be used by visitors and John Hancock employees alike.

88. The 4th floor women's bathroom was located in the southeast quadrant of the building, thus allowing a hidden camera to be connected to a monitor in the Third Floor Fan Room.

89. The 4th floor women's bathroom had a large handicap stall. Due to its spaciousness, the handicap stall in the 4th floor women's bathroom was where many women employed at John Hancock would change their clothes after work from work attire to outfits more suitable for after-work social interactions.

90. The fact that the handicap stall in the 4th floor bathroom was used for changing clothes was common knowledge at John Hancock for those employees who worked in LOFT, and was known by John Hancock and its executives.

91. At some point in the Spring or Summer of 2017 there was a surveillance camera protruding through a gap next to a displaced ceiling tile above the handicap stall in the women's bathroom on the 4th floor.

92. The camera-like object had a glass lens at the end and was connected to what appeared to be a coaxial cable.

93. The camera-like object was pointed at the toilet of the 4th floor bathroom.

94. The camera-like object and displaced ceiling tile remained in place for at least a period of 6 months.

95. At first, employees assumed that the object was related to ongoing construction in the building.

96. Executives of John Hancock regularly used this 4th floor bathroom where the camera-like object was observed.

97. On information and belief, John Hancock knew or should have known of this hidden camera in the 4th floor bathroom in 2017 or the first half of 2018, while John Hancock still occupied 601 Congress and well before the hidden camera in the locker room was reported.

98. Eventually the suspicious camera-like object in the 4th floor bathroom disappeared, and the ceiling tile above the handicap stall in the women's bathroom was returned to its proper position.

99. Thereafter, senior management at John Hancock should have immediately ordered a review of all sensitive areas for other suspicious devices and launched an investigation into why there would be any suspicious devices peering into a bathroom stall. Senior management utterly failed to take any appropriate action.

***John Hancock Moves the Hidden Camera and Surveillance Equipment and Tampers with Evidence During the 48-Day Delay in Reporting the Crime***

100. On or before April 16, 2019, one of John Hancock's Covert Surveillance Pin Hole Cameras was found hidden in the ceiling above the women's locker room of the on-site gym at 601 Congress.

101. On information and belief, John Hancock's camera and surveillance equipment was initially discovered by a production company that was using 601 Congress for the filming of the movie "I Care a Lot."

102. After the hidden camera incident became public, representatives of John Hancock verbally told some of its employees that this production company discovered a hidden camera in the women's locker room and surveillance equipment.

103. But during the State Police investigation John Hancock falsely told the police that it – John Hancock – had discovered the hidden camera in the women’s locker room and related monitor.

104. The camera was connected to a mobile test monitor located in the Third Floor Fan Room. This room was typically locked and accessed by key-card entry.

105. Only about 12-18 John Hancock employees had key-card access to the Third Floor Fan Room, including all or virtually all members of John Hancock’s Corporate Real Estate.

106. Prior to any report of the hidden camera to law enforcement, John Hancock and its employees dismantled and/or removed the hidden camera, mobile monitor, and other surveillance equipment. In doing so, John Hancock and its employees touched the hidden camera and other equipment (which constituted the evidence of the crimes) with their bare hands, allowing new fingerprints to be deposited and older fingerprints to be obliterated.

107. John Hancock’s removal of the hidden camera, mobile monitor, and other surveillance equipment benefited John Hancock because it prevented the State Police from determining that John Hancock was responsible for installation of the hidden camera in the women’s locker room.

108. John Hancock knew or should have known that such conduct violated G.L. c. 268, § 13E and is an independent crime in the Commonwealth of Massachusetts.

109. Prior to any report of the hidden camera to law enforcement, employees and agents of John Hancock entered into the space above the second-floor ceiling and

removed the hidden camera and connecting cables, and thereby destroyed, tampered with, and spoliated evidence. This includes but is not limited to fingerprint evidence, DNA evidence, and other evidence that would have aided law enforcement authorities with their investigation. John Hancock knew or should have known that such conduct violated G.L. c. 268, § 13E and is an independent crime in the Commonwealth of Massachusetts.

110. John Hancock prevented and failed to report the hidden camera to the Massachusetts State Police for at least 48 days.

111. During the 48-day delay, John Hancock failed to notify or provide any information to victims, including its own employees.

112. During the 48-day delay, John Hancock also failed to notify or provide any information to underage victims who had used the gym as part of John Hancock's relationship with the InnerCity Weightlifting non-profit organization.

113. During the 48-day delay, John Hancock allowed the evidence of a crime to be moved and the crime scene disturbed.

114. During the 48-day delay, John Hancock allowed fingerprint evidence to be disturbed or spoliated.

115. During the 48-day delay, John Hancock allowed DNA evidence to be disturbed or spoliated.

116. During the 48-day delay, John Hancock allowed the evidence of a crime to be touched with bare hands, thus allowing new fingerprints to be deposited and potentially older fingerprints to be obliterated.

117. During the 48-day delay, John Hancock claims to have conducted its own investigation. However, whatever investigation John Hancock conducted did not include speaking with victims or asking John Hancock employees if they had observed any information that could be useful in the investigation.

118. To the extent that John Hancock conducted an internal investigation, it did not provide any reports or internal conclusions from that investigation to the State Police.

119. To the extent any internal investigation was actually conducted by John Hancock, the goal of the investigation was to protect John Hancock and its reputation, rather than to further justice for the victims.

120. To the extent that any internal investigation was actually conducted by John Hancock, the investigation allowed evidence to be destroyed, tampered with, or spoliated. This includes but is not limited to fingerprint evidence, DNA evidence, video surveillance evidence, access logs, and other evidence that would have aided law enforcement authorities with their investigation.

121. During its purported internal investigation John Hancock opted to do what was best for itself, even if it worked to the detriment of the actual victims of this invasion of privacy.

122. Knowing a crime was committed, John Hancock and its agents knowingly dismantled the monitor, before calling law enforcement. John Hancock knew or should have known that its conduct violated G.L. c. 268, § 13E and is an independent crime in the Commonwealth of Massachusetts.

123. On June 3, 2019, at least 48 days after the claimed discovery of this crime and the heinous invasion of the privacy of its employees and others, someone reported the incident to the Massachusetts State Police.

124. There is no evidence that John Hancock was the reporting party.

125. On June 4, 2019, State Police officers Sgt. Lopes and Trooper David Walsh met with John Hancock security officials Tom Samoluk, John McCloskey, and Charles Ziegenbien to discuss the hidden camera.

126. John Hancock officials admitted to the State Police that the surveillance equipment had been dismantled by an on-sight engineer before State Police investigators could view it.

127. John Hancock did not tell the State Police that the hidden camera, monitor, and other surveillance equipment, was actually owned by John Hancock.

128. John Hancock failed to tell the State Police this because ownership of the covert surveillance equipment would tend to incriminate John Hancock.

129. Around 8:30 or 9 a.m. on June 6, 2019, John Hancock convened a conference call of upper management to discuss the discovery of a hidden camera.

130. At 9:22 a.m. on June 6, 2019, John Hancock's various team leaders were provided an advanced "preview" of an email message that would be sent from John Hancock's CEO Marianne Harrison to all employees at 10:30 a.m. Recipients were also provided with a Q & A. Recipients were instructed not to forward this material to anyone or to brief their teams before CEO Harrison's email was sent out at 10:30 a.m.



131. During the State Police investigation, John Hancock intentionally provided incomplete information to the State Police. John Hancock intentionally withheld from the State Police that it was John Hancock's own surveillance camera and mobile monitor that was used to view the Plaintiffs in a state of undress from 2015 until December 28, 2018.

132. At 10:50 a.m. on June 6, 2019, CEO Harrison sent the pre-written message referenced above to the then-current employees of John Hancock at 601 Congress, which stated as follows:

It's incredibly important to us that you all feel safe and respected every day as a member of our team, and in keeping with that I want to let you know about a situation we are working on with local law enforcement.

As a result of regular maintenance at our previous 601 Congress headquarters, an employee recently discovered an abandoned mobile monitor in a facilities room. After a preliminary investigation it became apparent that the mobile monitor was at one point connected to a limited live feed of the women's locker room in the gym at 601 Congress Street. To the best of our knowledge, the device did not store sound or images. This act was an invasion of privacy and completely unacceptable.

As soon as we were made aware of the situation, we immediately involved investigative services and commenced an internal investigation. We are working with law enforcement to ensure whomever is responsible will be held accountable for this action.

We have checked our Boston, New Hampshire, and Ontario office locations for non-security related monitoring devices in areas including bathrooms, locker rooms and nursing rooms and found nothing. We will be checking all other North American office locations in the coming weeks and moving forward we'll be regularly checking our office locations to ensure your privacy is secure.

When we know the results of the investigation, we will share it as soon as law enforcement permits. In the meantime, I encourage you to speak with your team leaders or HR partner about any concerns or questions you may have. You can also join me for a live conversation about this at 1:00 pm EST; an invitation will follow this e-mail with in-person and dial-in details.

As a reminder, the Lifeworks Employee Assistance Program also has counselors and other tools available confidentially for all employees.

133. In this pre-written statement from the CEO of John Hancock, John Hancock admits that the use of the hidden camera, monitor, and other equipment was an invasion of privacy committed against the Plaintiffs.

134. In this pre-written statement from the CEO of John Hancock, John Hancock admits that John Hancock knew that the hidden camera, monitor, and other equipment constituted evidence of a crime, even though John Hancock tampered with and spoiled that evidence prior to law enforcement being able to conduct an investigation.

135. In this pre-written statement from the CEO of John Hancock, John Hancock admits that John Hancock's top management authorized and directed John Hancock's "internal investigation" and thereby authorized and directed the tampering with and spoiling of evidence prior to law enforcement being able to conduct an investigation.

136. John Hancock's top management knew or should have known that law enforcement needed to be called prior to tampering with, moving, or otherwise spoiling this evidence.

137. John Hancock knew that the hidden camera, monitor, and other equipment constituted evidence of a crime, even though John Hancock tampered with, moved, and spoiled that evidence prior to law enforcement being able to conduct an investigation.

138. This pre-written statement was intentionally misleading to the victims because it implied that John Hancock immediately contacted law enforcement. This was not true, John Hancock delayed at least 48 days, if not longer, and John Hancock may not have been the reporting party. John Hancock did not immediately report the matters as the email implied. Also, only slightly more than a day had elapsed since the State Police had learned of the hidden camera, and so CEO Harrison's statement that "[a]s soon as we were made aware of the situation, we immediately involved investigative services" and "are working with law enforcement" was disingenuous and misleading. For nearly two months, John Hancock had been working behind the backs of law enforcement, only communicating with law enforcement two days prior. In this context, the claim that the device was "recently" discovered was particularly misleading because the device had been discovered months ago and John Hancock simply chose not to make a prompt report to the police.

139. Further, the statement that "[t]o the best of our knowledge, the device did not store sound or images" was misleading because it implied that the monitor could not be connected to a recording device and that the camera itself could not be connected to a recording device.

140. The Harrison email was also notable in that it referenced "*non-security* related monitoring devices in areas including bathrooms, locker rooms and nursing

rooms.” (emphasis added) This was an admission that John Hancock uses hidden cameras for *security-related* purposes in areas such as bathrooms, locker rooms and nursing rooms, as it would have been redundant to specify the type of cameras in areas where there should be no cameras at all, security-related or otherwise.

141. John Hancock failed to inform its past employees who had used the employee gym or other non-employees who had used the gym that their privacy was likely compromised and that they were victims of a gross invasion of privacy and victims of a crime. Unless these past users of the employee gym saw the scant media coverage on this topic, they would still not know about the hidden surveillance camera and monitor.

142. John Hancock made no efforts to contact John Hancock’s former employees or non-employees who used the employee gym, and no efforts were made to inform these individuals of the status of any investigation.

143. At around 1 p.m. on June 6, 2019, a company-wide “town hall” meeting was held. Present at the meeting were Marianne Harrison, Dean Mini, and Thomas Samoluk. Harrison did most of the talking. At the “town hall” meeting, CEO Harrison admitted that the surveillance equipment that had been found belonged to John Hancock and then CEO Harrison claimed that this equipment had “gone missing” roughly 4-5 years prior.

144. In a public statement issued on June 6, 2019, John Hancock stated: “We were shocked and disappointed to learn about this serious invasion of privacy. Once we were alerted to the issue, we immediately launched an internal investigation. We take the

safety and privacy of our employees extremely seriously and are working with law enforcement to ensure whomever is responsible will be held accountable for this action.”

145. This public statement repeated the same misleading messages as were delivered in the pre-written message sent by CEO Harrison earlier in the day, implying that John Hancock had immediately contacted law enforcement, when in fact it had waited at least 48 days before contacting the State Police.

146. Nevertheless, in its internal and public statements, John Hancock made commitments to its employees to ensure that all facts would be discovered and whoever was responsible would be held accountable. John Hancock also made a commitment to provide its employees with the help and support they needed to deal with this horrific news. In making these commitments, John Hancock took on a special duty towards the Plaintiffs, to ensure that the harms against the Plaintiffs were remediated fully.

147. Various media outlets reported the discovery of the hidden camera and the ensuing police investigation later that day on June 6, 2019.

148. The first time that any victims and members of the public learned about the discovery of the hidden camera at 601 Congress Street was on June 6, 2019.

149. Prior to June 6, 2019, the existence of a hidden camera in the women’s locker room was unknown by victims and purposefully concealed by John Hancock.

150. Later in the day on June 6, 2019, a group of victims held a conference call to discuss the massive privacy violation. In that meeting, employees discussed the following topics, and expressed the following concerns, among others:

- a. that John Hancock had not been proactive, that there was general disappointment that victims were told to keep the privacy violation private and not divulge information on social media sharing or in any way communicate outside of John Hancock;
- b. that there would be retribution by John Hancock if the victims shared their experience, their trauma, and their feelings with others, both privately or on social media;
- c. whether restitution was possible for the victims;
- d. that they felt silenced and discriminated against as women;
- e. that there was concern over a lack of guidance from John Hancock regarding how they could share their experience, their trauma, and their feelings with others, both privately or on social media, especially considering John Hancock's prohibition on sharing this experience;
- f. that there were concerns about safety and security going forward at John Hancock; and
- g. John Hancock's lack of urgency in identifying and apprehending suspects.

151. After the aforementioned meeting, and also on June 6, 2019, some of the employees informed John Hancock of the above concerns of the employees and victims, including but not limited to the following concerns, among others:

- a. that John Hancock had not been proactive, that there was general disappointment that victims were told to keep the privacy violation private and not divulge information on social media sharing or in any way communicate outside of John Hancock;
- b. that there would be retribution by John Hancock if the victims shared their experience, their trauma, and their feelings with others, both privately or on social media;
- c. whether restitution was possible for the victims;
- d. that they felt silenced and discriminated against as women;
- e. that there was concern over a lack of guidance from John Hancock regarding how they could share their experience, their trauma, and their

feelings with others, both privately or on social media, especially considering John Hancock's prohibition on sharing this experience;

- f. that there were concerns about safety and security going forward at John Hancock; and
- g. John Hancock's lack of urgency in identifying and apprehending suspects.

152. In response to the above concerns, CEO Harrison told the employees and victims that sharing anything related to this violation of privacy and crime on social media would be a violation of John Hancock's employment term. This was a threat by John Hancock to fire any employee or victim that publicly shared this information. Such a threat was part of John Hancock's concerted effort to silence the voices of their own employees, who were victims.

153. In response to the concerns of the employees and victims, CEO Harrison told the employees and victims that they should not share anything related to this violation of privacy and crime because such sharing could or would infringe on the police investigation.

154. CEO Harrison also told employees and victims that they should not be concerned that there was or would be audio or visual images of the victims online.

155. One of the employees and victims also called the human resources department to explain that she was upset. This employee was told by the human resources department: "Well, lots of male senior executives are also upset."

156. Aside from other vague platitudes that John Hancock would "fix this" or take action to "to right this wrong," John Hancock did not provide any further specific plans to remedy these issues. Several victims felt uneasy about not knowing whether

the perpetrator(s) still worked at John Hancock or still had badged access to secure areas.

157. Employees further requested information from John Hancock regarding what cameras looked like, whether they were hidden or were approved by John Hancock. John Hancock never provided this information.

158. Employees also complained that Manulife's (corporate parent of John Hancock) President and CEO Roy Gori seemed to be absent in any discussions of John Hancock's response.

159. Victims further expressed concern that they would be retaliated against by John Hancock if they told their spouses or other loved ones, or if they attempted to speak about these matters with friends.

160. Victims also expressed concerns that it seemed like John Hancock was placing the burden of seeking help through education and support solely on the victims.

161. On June 7, 2019, Manulife's President and CEO Roy Gori sent an email to all US employees stating:

Team, yesterday Marianne shared some disturbing news with you and I wanted to reach out because I know many of you have been deeply affected by this situation. This behaviour was unacceptable and will not be tolerated. It also goes against all of the values that we stand for and believe in. We've been working with the authorities to deal with this and you can rest assured that we are doing everything in our power to ensure a safe and respectful workplace for every employee.

Thank you to everyone for your efforts to keep our workplace safe and to ensure everyone feels included and



cared for across the team. Please know that you can always reach out to your leadership, your HR partners and our Lifeworks provider for help or support whenever you need it.

Sincerely,

Roy

162. This statement was misleading, as it implied that John Hancock had only recently learned of the shocking news of a hidden camera in the women's locker room and that it had been working with law enforcement since the discovery. In truth, John Hancock had known the truth for months and had not found the news so disturbing to involve law enforcement back in April 2019 or at all work with law enforcement until June 3, 2019.

163. By providing employees with minimal and misleading information, John Hancock added to the already toxic work environment and drove the women who had used the gym into isolation and despair.

164. John Hancock instructed its employees that they should not report the incident outside of the company.

165. Specifically, John Hancock told the Plaintiffs not to make any public reports or social media posts about the invasion of privacy and to keep all communications internal. John Hancock employees understood this instruction as a prohibition against talking to anyone outside of the John Hancock organization, including friends, family, spouses, and other members of support networks. Employees also understood this as a prohibition against communicating with law enforcement or any other organization which may serve to help victims of crime. Because of this instruction, no employee felt

authorized to contact the State Police. For this reason, no employee of John Hancock contacted the State Police to directly provide information that would have aided the investigation.

166. John Hancock blocked public disclosure knowing that, as part of the “#MeToo movement,” victims of sexual crime, especially those involving a breach of trust, had made tremendous strides in obtaining validation, vindication, and support by speaking out and demanding justice.

167. On June 12, 2019, Marriane Harrison sent an email to John Hancock employees stating that the hidden camera investigation and “your safety remain a “primary focus for us.” In the email, John Hancock attempted to provide assurances to victims that there would be “Regular sweeps of bathrooms, locker rooms and nursing rooms” by “Corporate Real Estate in partnership with an independent expert on an ongoing basis,” without any mention that members of John Hancock’s real estate department were involved in the installation and use of the hidden camera and monitor.

168. After the discovery of the hidden camera became public, in June 2019, John Hancock employees made a further written report that in 2017 or 2018 they had previously seen a suspicious camera-like object protruding through a gap next to a displaced ceiling tile above the handicap stall in the women’s bathroom on the 4th floor. This report confirmed that there was building-wide intrusive use of hidden cameras going on at John Hancock that violated the privacy of women by viewing them in a state of undress.

169. John Hancock never forwarded the report of a suspicious device that was seen in the 4th floor bathroom to the State Police.

170. John Hancock purposefully and intentionally withheld this written report of this invasion of women's privacy at John Hancock.

171. John Hancock never followed up with employees about the suspicious device that was seen and reported being seen in the 4th floor bathroom.

172. By 2018, companies like John Hancock knew or should have that secrecy is an ally of sexual abuse. *See e.g.* Vasundhara Prasad, "If Anyone Is Listening, #MeToo: Breaking the Culture of Silence Around Sexual Abuse Through Regulating Non-Disclosure Agreements and Secret Settlements," 59 B.C. L. Rev. 2507 (2018), *available at* <https://lawdigitalcommons.bc.edu/bclr/vol59/iss7/8> (one reason so few people confronted Harvey Weinstein "was that Weinstein enforced a strict code of silence at the workplace.").

173. John Hancock's suppression of media attention or public disclosure was designed to silence its employees and victims and thwart their access to justice.

#### ***John Hancock Thwarts the State Police Investigation***

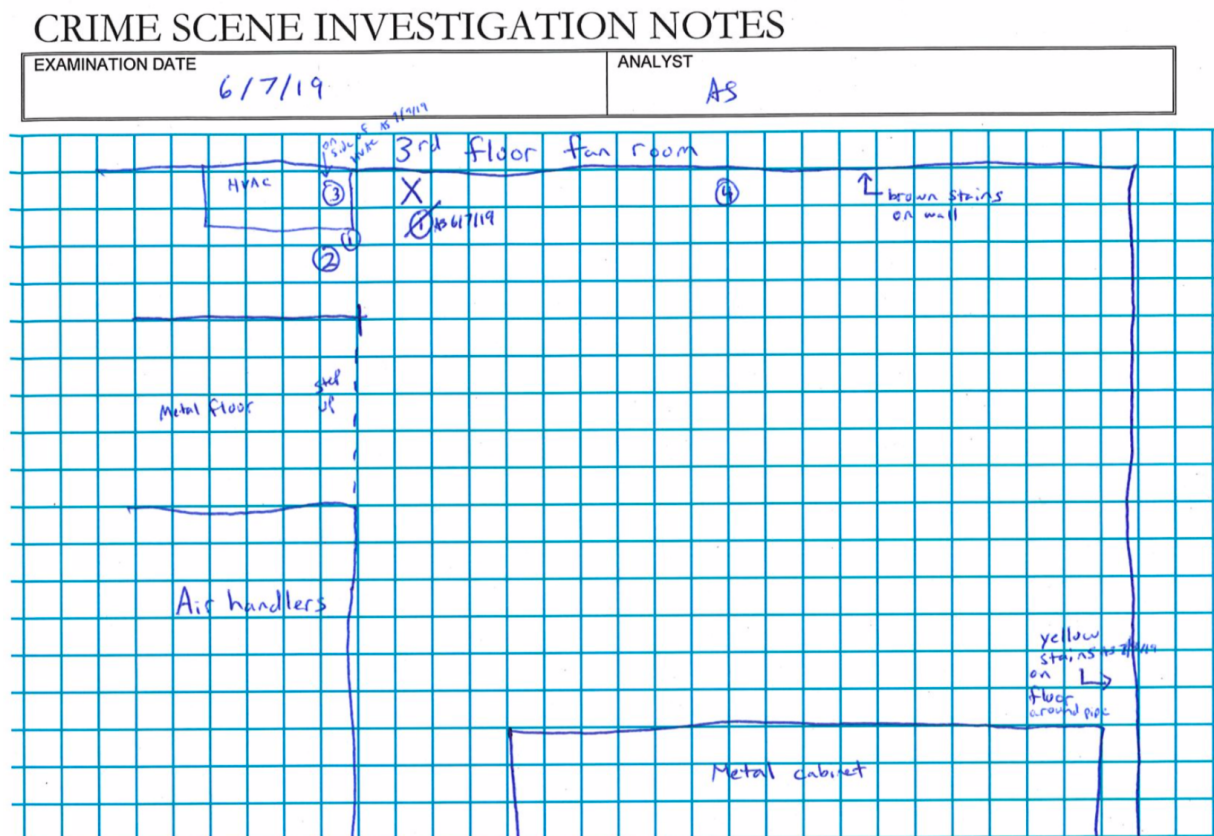
174. As stated above, State Police met with John Hancock personnel on June 4, 2019. When State Police arrived, the camera and mobile monitor had already been removed by John Hancock.

175. Three days later, on the morning of June 7, 2019, the Massachusetts State Police sent members of its investigative and crime scene teams to 601 Congress Street.

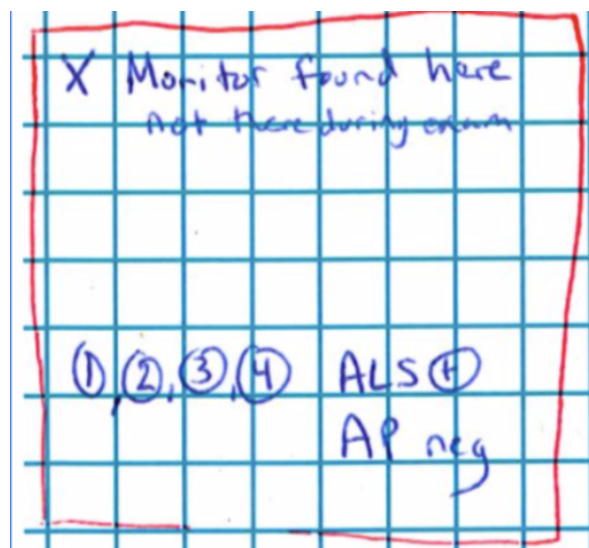
By this point, nearly two months had passed since the camera had been found. As a result of this delay in reporting, State Police referred to the crime as a “past crime.”

176. Troopers Crump, Walsh, and Lopes met with members of the John Hancock security and conducted a “walk through the facility” to see the “areas germane to the investigation.” It was at this point that State Police learned that John Hancock had disturbed the crime scene by removing “the emplaced equipment in April.”

177. A police sketch of the Third Floor Fan Room shows with an “X” the location in the Third Floor Fan Room where the monitor had been found:



178. The police sketch notes that the monitor had been moved and was “not there during exam”:



179. The State Police also noted that the hidden camera had been “dismantled by an on-site engineer” and thus was not installed when investigators searched the locker room.

180. In removing the camera, John Hancock touched and spoiled fingerprint evidence and other evidence that the State Police could have gathered from the camera.

181. The State Police began photographing the crime scene areas.

182. Because John Hancock had tampered with evidence by moving the hidden camera, State Police were not able to photograph the camera *in situ*.

183. State Police investigators were only able to see that holes had been drilled in the duct housing and multiple holes were drilled in a light fixture where the camera had ultimately been placed.

184. The multiple holes drilled in the light fixture were used by John Hancock and its employees for different views of the Plaintiffs in a state of undress.

185. The existence of multiple holes also shows that the hidden camera had been repositioned many times by someone who had authorization to do such work without fear of getting caught. This evidence is corroborated by John Hancock's own access logs, which show that in 2017 and 2018 it accessed the gym on weekends and holidays 12 times for purposes of camera repositioning.

186. On one of the light fixtures, State Police investigators found a bracket, which had been used to mount the camera to the light fixture. This bracket had been moved when John Hancock removed the hidden camera but had been left behind on the fixture.

187. In moving the bracket, John Hancock had touched and spoiled fingerprint evidence and other evidence that the State Police could have gathered from the bracket.

188. Power for the surveillance camera had been provided by an extension cord connecting the camera power supply to an outlet located in a Business Continuity Panel (BCP) located in the ceiling of an adjacent room. The extension cord was still in place in the ceiling, although John Hancock had disturbed it from its original location when it removed the hidden camera.

189. Members of the State Police began collecting evidence, which included: the spy camera that had been found installed above the women's locker room that John Hancock had removed; a mobile monitor, which John Hancock had removed and placed back in its carrying case; a cable connecting the camera to a mobile monitor in the Third Floor Fan Room, which John Hancock had removed; "MGH papers" and an empty soda can, both found near the area where the mobile monitor had been found; a

bracket to hold the spy camera above a drilled hole in the light fixture above the women's locker room, which John Hancock had moved, as well as an adjacent power cable running from the camera location to an outlet located in a Business Continuity Panel (BCP) located in the ceiling of an adjacent room; a nicotine patch; a brown sweatshirt; a black nylon bag; and packs of Marlboro Lights cigarettes.

190. The State Police took into evidence the camera and the mobile monitor, which had been placed in its nylon carrying case, which also belonged to John Hancock. When John Hancock removed the mobile monitor and placed it into its carrying case, John Hancock's employees touched these items with its bare hands, removing critical fingerprint evidence and further caused fingerprint evidence to be destroyed by placing it in its nylon case.

191. John Hancock failed to tell the State Police that the MGH records belonged to another involved John Hancock employee.

192. John Hancock failed to provide the State Police with the identity of the owner of the brown sweatshirt.

193. The State Police also found several packs of Marlboro Lights cigarettes.

194. John Hancock failed to provide information to the State Police about which John Hancock employees smoked cigarettes.

195. The State Police found a nicotine patch. John Hancock failed to provide information to the State Police about which employees used nicotine patches.

196. The State Police found a brown sweatshirt. John Hancock failed to provide information to the State Police about which employee was the owner of the sweatshirt.

197. On July 5, 2019, State Police crime scene investigators returned to the Third Floor Fan Room to examine various stains for possible DNA evidence.

198. At the time the State Police arrived to investigate this possible DNA evidence, the third floor was empty and under construction. DNA evidence was disturbed or lost due to John Hancock's delay in reporting.

199. John Hancock failed to provide surveillance footage to help identify suspects.

200. In September 2019, a John Hancock employee asked whether there were any updates on the "601 incident"? Dean Mini replied that there was an active investigation and stated: "We stand by our commitment to share important details as soon as we can without compromising progress in the investigation." John Hancock failed to live up to this commitment to the Plaintiffs, and failed to share important details with the Plaintiffs, including but not limited to details about John Hancock's involvement in the invasion of privacy and John Hancock's conduct of destroying evidence, John Hancock's delay, and John Hancock's conduct that otherwise thwarted the State Police Investigation.

201. On January, 6 2020, the State Police fingerprint analysis was completed. The State Police only matched one of the fingerprints on the mobile monitor to a John Hancock employee, who was involved in the dismantling and spoliation of the evidence.

202. The State Police were unable to match any other fingerprints, due to the fact that the evidence was spoiled and tampered with by John Hancock.



203. On January 9, 2020, one of the victims sent an email to Tom Samoluk asking if there had been “any developments regarding the camera equipment that was found in the women’s locker room at 601” and noting that “a handful of the women are waiting for an update on the status of the investigation.” Mr. Samouk responded: “We are in regular communication with Mass. State Police regarding their investigation and are currently awaiting some information from them. I don’t want to mention a timeframe right now, but as soon as we can, more information will be communicated.”

204. On January 15, 2020, Tina M. Gryszowka of the State Police emailed Trooper Walsh to “request an elimination standard. It is noted in the police report that the camera was removed by an onsite engineer. Can an elimination standard be collected from the engineer and submitted to the lab for analysis.”

205. On or about January 30, 2020, John Hancock *falsely* informed its employees that the State Police had closed the investigation and John Hancock told its employees that there would be no criminal prosecution. John Hancock falsely stated that the investigation was closed in an effort to discourage the Plaintiffs from speaking to the State Police.

206. John Hancock falsely stated that the investigation was closed in an effort to discourage the Plaintiffs from speaking to the State Police and thereby protect John Hancock from the risk of prosecution for these crimes.

207. On January 30, 2020, CEO Marianne Harrison, on behalf of John Hancock, falsely informed the employees of John Hancock that the State Police had closed its

investigation without making an arrest. After this time, the State Police investigation continued, and was not “closed” as CEO Marianne Harrison falsely claimed.

208. John Hancock was eager to report that the investigation was “closed” so as to further discourage victims from speaking out or speaking directly to the State Police.

209. At that January 30, 2020 meeting, Plaintiff Jane Doe 1 asked Marianne Harrison, Dean Mini, and Thomas Samoluk directly if a “scan of the dark web had been completed and what the results were.” Marianne Harrison, on behalf of John Hancock, responded by stating unequivocally that a dark web scan had been completed and that it didn’t reveal anything. John Hancock’s statement that a dark web scan was conducted was a lie intended to discourage and dissuade the Plaintiffs from contacting law enforcement. John Hancock’s false statement that a dark web scan was conducted was a lie intended to discourage the Plaintiffs from speaking to the State Police and thereby protect John Hancock from the risk of prosecution for these crimes.

210. On March 3, 2020, the State Police Crime Lab began photographing the evidence obtained at 601 Congress and logged the evidence into the LIMS system.

211. On March 4, 2020, the State Police requested a DNA sample from an employee of John Hancock. On information and belief, John Hancock and the employee failed to provide a DNA sample to the State Police. On information and belief, John Hancock’s failure to provide a DNA sample to the State Police upon request, severely hampered the State Police investigation.

212. On March 4, 2020, the State Police “Added Unknown suspect and Unknown victim to Names Tab.”

213. On March 4, 2020, Julianna Moge Hooper of the State Police contacted Trooper Walsh “regarding the number of persons that came into contact with the Items submitted. It is unknown the number of persons that came into contact with these items at this time. Trooper Walsh purportedly confirmed that a John Hancock employee had moved “ items 3-1 [the pinhole camera] and 3-2 [the mobile monitor and two wires] from their original location.”

214. On information and belief, on March 12, 2020, the State Police Crime Lab prepared written examination notes of the previously seized evidence.<sup>1</sup>

215. On July 31, 2020, the State Police sent suspected biological evidence to the Bode laboratory in Virginia for DNA testing.

216. On September 26, 2020, the Bode laboratory issued its findings. It is unclear whether the findings identified any human DNA.

217. The Bode laboratory’s testing “consumed” the sample, meaning that no material was left over for further testing.

218. The Bode laboratory found the presence of a low-level contaminant in the biological material that was not attributable to Bode’s processing of the sample.

219. The State Police received Bode’s report on October 7, 2020. This is further confirmation that the State Police investigation was not “closed” in January of 2020, as John Hancock falsely claimed.

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<sup>1</sup> The notes are dated March 12, 2018, but that appears to be a typographical error.

### *John Hancock Turns Its Back on Victims*

220. As stated above, on January 30, 2020, CEO Marianne Harrison falsely informed the employees of John Hancock that the State Police investigation had come to an end.

221. At a small town hall meeting on January 31, 2020, CEO Marianne Harrison was pressed to give a more thorough explanation but she was unable to. All CEO Harrison could say is that out of a dozen or so possible suspects, the police had identified one primary suspect that John Hancock and MSP believed was responsible, but that the evidence against that person “did not rise above the threshold of criminality” and thus that person would not be identified or prosecuted. Victims pressed for any information about the suspect, including whether he was at any point an employee of John Hancock, whether he still worked for John Hancock, and whether he still had access to places like bathrooms and locker rooms. All CEO Harrison was willing to say is that the person was “no longer here.” Harrison also falsely implied that the person had not been an employee of John Hancock, and rather that he had been a contractor.

222. No findings as to the cause or extent of the privacy violations or the existence of any remediation efforts were shared with victims.

223. The victims of the massive privacy invasion have not received any closure. The victims are still in the dark about what steps if any were taken to investigate this privacy violation.

224. The Plaintiffs did not know, and with reasonable diligence, could not have known, that there was a hidden camera in the women's locker room prior to John Hancock's announcement on June 6, 2019, regarding the hidden camera and monitor.

225. John Hancock actively and fraudulently concealed information related to the hidden camera from the police and from Plaintiffs prior to June 6, 2019.

226. John Hancock also broke its "commitment to share important details as soon as we can without compromising progress in the investigation."

227. The only thing that John Hancock appears to have done was to quietly fire or urge retirement of involved employees in the hopes that the problem would simply go away. Employees who left John Hancock after discovery of the hidden camera include:

- Thomas Ballard (Senior Technology Supporter - Information Technology), fired May 23, 2019
- Timothy Gallagher (Project Manager - Corporate Real Estate), fired August 14, 2019
- Bruce Pearson (Managing Director of U.S. Corporate Real Estate), retired suddenly in 2020
- Philip Warren (Lead Building Engineer - Corporate Real Estate), fired (on information and belief) in December 2020 and joined Able Services
- Christopher Vargas (Building Maintenance - Corporate Real Estate), fired (on information and belief) in December 2020 and joined Able Services
- John Gailius - (Control Room Operator - Corporate Real Estate), *date unknown*

- James Wells - (employee, Corporate Real Estate), *date unknown*

228. Despite the obvious security failures of John Hancock's security program, John Hancock did not take any actions against or reprimand Dean Mini, who continues to be the US Director/Deputy Chief Security Officer for John Hancock.

***For a Decade beginning in 2009, John Hancock Allowed its Electronic Equipment to Go Missing with Little or No Ability for Detection***

229. Beginning in at least 2009, various pieces of electronic and building-related equipment began to go missing at John Hancock. John Hancock was unaware of these regular and continuous disappearances, even though, for an entire decade, the equipment was being stolen and resold by at least three of its own employees without any contemporaneous detection by John Hancock. Only a limited number of employees had access to the equipment, and yet thefts went undetected for years.

230. For instance, a certain John Hancock employee was stealing equipment such as audio video systems, controls, humidifiers, and fuses and reselling them on eBay. This went on for years without John Hancock detecting it.

231. Another John Hancock employee also began stealing company equipment no later than 2015. These thefts similarly went undetected. Indeed, the person responsible for tracking inventory and auditing for patterns of diversion or theft was none other than this particular John Hancock employee.

232. John Hancock failed to properly supervise its employees and failed to adequately keep track of its audio video systems, surveillance equipment, controls, humidifiers, fuses, and other equipment, which were being stolen and resold as early as 2009.

*In 2014 and 2015, John Hancock Allowed 105 Brand New Laptops to Go Missing*

233. During 2014 and early 2015, 105 laptop computers valued at about \$1,000 each went missing from John Hancock's secure storeroom. John Hancock was allegedly unaware of the disappearance of the laptops at the time of their disappearance, and only learned of the disappearance afterwards. Only a limited number of John Hancock employees had access to the storeroom. The storeroom was also under covert surveillance at the time of the alleged thefts.

234. One of the employees with badged access to this storeroom and other rooms at John Hancock was an employee, who worked in the IT department at John Hancock.

235. On January 20, 2015, John Hancock discovered that six laptops had recently gone missing from the storeroom. The laptops had been placed there on January 15, 2015, and company records indicated that a certain employee's access badge was then used to gain access to the room on January 16, 2015 and January 19, 2015, when John Hancock's office was closed in observance of Martin Luther King, Jr., Day.

236. John Hancock only discovered the disappearance (not through any systems monitoring or security) but because the employee who recalled placing the six laptops was at a loss to understand why the laptops were no longer where they had been left. This employee complaint led to a review of John Hancock's surveillance systems.

237. The subsequent surveillance review revealed that on January 16, 2015, a John Hancock surveillance camera captured an employee entering and exiting the storeroom at various times—in one instance entering empty-handed and exiting with a laptop carrying case, in another entering and exiting with a carrying case, and in a third

entering with a computer bag and exiting carrying the bag and two boxes identical to those used to ship the laptops.

238. The surveillance review revealed that on January 19, 2015, a John Hancock surveillance camera captured this employee entering the room wearing a backpack; the backpack appeared fuller in images captured as this employee exited the storeroom shortly thereafter.

239. A subsequent review by John Hancock of its laptop inventory revealed that under John Hancock's supervision, 105 laptops - each purchased by John Hancock since March 2014 at a cost of more than \$1,000 each - were missing. The bulk of the thefts had gone undetected and was not discovered contemporaneously.

240. In January of 2015, the employee suspected of stealing the laptops resigned from his IT position at John Hancock.

241. This employee allegedly confessed to police that he stole up to 38 of the laptops.

242. John Hancock failed to properly supervise its employees and failed to adequately keep track of these 105 laptop computers in 2014 and early 2015.

243. The theft by a John Hancock IT employee of 105 company-owned laptops was reported on the news media in January 2016. This caused considerable embarrassment to John Hancock.

***John Hancock Falsely Told Employees that Surveillance Equipment Had Previously Gone Missing, But It Never Reported the Missing Equipment to Police***

244. In June 2019, John Hancock falsely told its employees that in 2014 or 2015--around the same time that laptops, fuses, and audio video equipment were being



stolen--the hidden camera and monitor at issue in this case also went missing. This statement was intended to mislead its employees into believing that John Hancock was not responsible for the crime and the illegal use of the camera was not authorized.

245. John Hancock did not report any theft of surveillance equipment to the police in 2014 or 2015.

246. John Hancock also did not report any theft of surveillance equipment to the State Police in 2019 during the investigation into this matter.

247. John Hancock did not tell the State Police that the surveillance equipment went missing because the surveillance equipment did not go missing at all. This statement was fabricated to mislead its employees.

248. John Hancock also did not tell the State Police this fabricated story because to do so would be to admit that John Hancock was the owner of the surveillance equipment, a fact that John Hancock actively concealed from the State Police.

249. John Hancock thus impeded the State Police investigation to prevent what would have been the first break in the case, the identity of the owner of the surveillance equipment.

250. If the State Police had known that the surveillance equipment had belonged to John Hancock, what would have followed was a straightforward investigation into the surveillance equipment's chain of custody. Such an investigation would have revealed John Hancock's own authorization of the locker room surveillance.

251. John Hancock's failures in reporting matters concerning the surveillance equipment to the police, including John Hancock's *claimed* theft of surveillance

equipment in 2014 or 2015 (to the extent such theft ever occurred), as well as the fact that the equipment seized by police belonged to John Hancock, constitutes negligence.

252. John Hancock's failure to prevent the use of its own equipment to view the Plaintiffs in a state of undress constitutes negligence.

### *The Gym at 601 Congress Street*

253. Prior to March 2017, the gym at 601 Congress Street was managed and operated by Commonwealth Flats Development Corp. d/b/a Second Wave Health & Fitness. Upon information and belief, Second Wave Health & Fitness was a spinoff of Wave Fitness, a gym owned and operated by Commonwealth Flats Development Corp. in the nearby Seaport Hotel in Boston.

254. On March 17, 2017, John Hancock announced that the gym would no longer be managed by Second Wave, and that gym management and operation would be transferred to First Fitness.

255. First Fitness holds itself out as a premium gym management company, operating its own line of high-end, women-only "Healthworks" gyms in Brookline, Boston, and Cambridge. First Fitness also operates and manages office building gyms for commercial real estate owners such as Boston Properties, CBRE, Rockhill Management, the Flatley Company, Rubenstein Properties, and Atlantic Management. First Fitness also operates and manages corporate gyms for clients like Fidelity, New Balance, Raytheon, and Gillette.

256. At its Healthworks locations, First Fitness Healthworks imposes rules known as "Club Etiquette" that prohibit the use of cell phones in the locker room. The

policy states further that: "For the privacy and safety of all members, use of small electronic devices is not permitted inside the locker room at any time." The policy does advise that: "Photographic or recording features may be used by Healthworks Staff and members in the club in all areas other than the locker room" with "verbal consent" of all subjects. Defendant First Fitness accordingly had knowledge of the risk associated with the placement of hidden video recording devices in changing areas.

257. Defendant First Fitness' own policies recognize the risk of this type of invasion of privacy and it was foreseeable to Defendant First Fitness that a hidden camera could be placed in the changing area of the women's locker room.

258. At its Republic Fitness location, First Fitness has the identical policies as Healthworks prohibiting cell phones or any recording in the locker room, but with the following additional notice that: "Security cameras with recording capabilities may be in use at our facilities."

259. A safe, secure, and clean locker room is a central feature in most health clubs.

260. In order to ensure safety and security of customers and their belongings, health clubs must monitor and inspect the locker room for various foreseeable risks and hazards.

261. Health clubs are aware that unauthorized video surveillance of patrons in a state of undress, including the use of cell phone cameras by other patrons, is a risk that must be addressed through regular monitoring and inspection of the locker room and bathroom areas.

***Since no later than 2010, Health Clubs Have Been Generally Aware of the Foreseeable Risk of Invasions of Privacy Taking Place in Locker Rooms***

262. For more than a decade, Health clubs have also been aware that unauthorized video surveillance of patrons in a state of undress is a risk that must be addressed through regular monitoring and inspection of the locker room and bathroom areas.

263. It is universally recognized that positioning a surveillance camera in the locker room itself is unreasonable.

264. Owners of buildings that house health clubs, and health club owners, are both responsible for knowing the location and view of all security cameras used to monitor the health club.

265. Owners of buildings that house health clubs, and health club owners, both have a duty to ensure that security cameras used to monitor the health club are not also being used to view patrons in a state of undress or otherwise invading the privacy of patrons and guests.

266. In April 2010, a personal trainer at an Anytime Fitness in Louisiana allegedly used a pen camera to record women in the club's shower room. This incident was reported in the trade press for the gym industry that same month.

267. In June 2013, an employee at a South Carolina YMCA was charged with aggravated voyeurism after allegedly hiding a video camera in the women's locker room. This incident was reported in the trade press for the gym industry that same month.

268. In February 2014, a Planet Fitness employee in Michigan was arrested for secretly video recording patrons in the tanning room. This incident was reported in the trade press for the gym industry that same month.

269. In February 2014, an Anytime Fitness employee in Missouri was arrested for secretly video recording patrons in the tanning room by placing a hidden camera in the alarm clock. This incident was reported in the trade press for the gym industry that same month.

270. In April 2014, a man and a woman were arrested for placing two hidden cameras in two different lockers in the women's locker room of a RecPlex gym in Wisconsin. The cameras had been in operation since January 2014.

271. In June 2014, a member of a Planet Fitness gym in Rhode Island admitted putting a camera in the women's locker room. This incident was reported in the trade press for the gym industry in July 2014.

272. In November 2014, trade press for the gym industry reported that a class action had been filed against Planet Fitness in New Hampshire after a member had been found secretly videotaping other members in the tanning room.

273. In April 2015, trade press for the gym industry reported that the criminal case of the Planet Fitness member in New Hampshire was set to go to trial in June 2015.

274. In June 2015, a man was criminally sentenced for secretly recording boys in the locker room of a Minnesota YMCA. This incident was reported in the trade press for the gym industry.

275. In March 2016, a Life Time Fitness customer in Colorado sued Life Time Fitness and an employee for recording her in the shower with a hidden camera. This incident was reported in the trade press for the gym industry.

276. In April 2016, trade press for the gym industry reported that a member in Indiana had been criminally charged for placing a hidden camera in the tanning bed area of an Anytime Fitness gym. An Anytime Fitness spokesperson stated " I'm sure the staff is trained to be on the lookout for anything that is out of place. As soon as the miniature camera was detected, it was very quickly turned over to police, along with surveillance video of the suspect entering and leaving the tanning room. Staff at the gym cooperated fully with the investigation."

277. In April 2019, the owner of a CrossFit gym in Michigan was sentenced to up-to 20 years for videotaping a minor and 11 years for videotaping adults. The owner was arrested after a female police officer and CrossFit employee noticed a camera being pulled up through a cutaway ceiling tile. This incident was reported in trade press for the gym industry, who noted that the owner had installed hidden cameras in changing rooms, shower areas and bathrooms, capturing video of people using the restroom, undressing, and shots of their private body parts. It was estimated that the hidden recording devices had been in place for at least three years prior to their discovery. At least one victim reported that the owner "took away my confidence, my self esteem and my trust in others."

278. Both Second Wave Health & Fitness and First Fitness represented that the gym at 601 Congress Street had safe and secure locker rooms.

279. If Plaintiffs and Class Plaintiffs had been made aware that the locker room was not safe and secure, they would have canceled their memberships, stopped using the gym, and stopped changing in the locker room.

*John Hancock's Failures*

280. By no later than 2015, John Hancock knew or should have known that its own surveillance equipment was being misused.

281. By no later than 2015, John Hancock knew or should have known that its systems to internally monitor employee use of equipment was deficient.

282. By no later than 2017, John Hancock's own access logs showed that its surveillance equipment was being misused in the second floor health club to invade the privacy of female employees. John Hancock knew or should have known about the misuse based on the unusual activity

283. John Hancock failed to monitor its internal use of surveillance equipment, which turned up on more than one occasion in areas where women had a more than reasonable expectation of privacy.

284. John Hancock ignored a series of red flags and warning signs, and John Hancock failed to make reasonable inquiries into the exact locations of all of its hidden cameras.

285. At all times material hereto, John Hancock either knew or should have known that there was a high probability that its own surveillance equipment was being used improperly and took deliberate actions to avoid exposing how its own employees were misusing the surveillance equipment.

286. At all times relevant hereto prior to June 2019, John Hancock exercised minimal and inadequate supervision of its employees' use of surveillance equipment.

287. At all times relevant hereto prior to June 2019, John Hancock provided minimal and inadequate training of the proper use and tracking of surveillance equipment.

288. John Hancock's claim that, at some point in 2014 or 2015, its surveillance equipment went missing and had for years been unaccounted for is indicative of the failure of supervision and oversight.

289. While there is evidence of John Hancock's failure to keep track of its technology equipment, and evidence of the theft of some of this equipment by employees of John Hancock, there is no evidence that an actual theft of the surveillance equipment at issue in this case actually occurred.

290. John Hancock failed to contemporaneously report to law enforcement a theft of John Hancock's surveillance equipment that was used to view the Plaintiffs in a state of undress.

291. John Hancock further, knew or should have known that it should not have destroyed evidence of a crime such as this because such evidence could be used to identify victims, conduct dark web scans, and be used for remediation purposes.

292. Further, John Hancock displayed great indifference to security by allowing 105 laptops to be stolen from a locked store room before it even bothered to check its covert surveillance to identify the suspect.



293. John Hancock did not keep its own surveillance equipment under the watchful eye of surveillance or knew how or in what manner covert surveillance was being conducted on its behalf. John Hancock failed to put safeguards in place to ensure that its surveillance program did not encroach on the privacy rights of its employees, including the Plaintiffs.

294. Nor did John Hancock keep good records of who had access to the surveillance equipment or in what locations such equipment was installed. John Hancock inadequately and negligently supervised its employees who were given access to and responsibility over the surveillance equipment, including the hidden camera, coaxial cables, and portable monitor used to view the changing area of the women's locker room at issue in this case.

295. John Hancock inadequately and negligently supervised its employees who were responsible for conducting surveillance at 601 Congress Street, and had no controls, guidance, or supervision for the placement of hidden cameras.

296. When John Hancock allowed the hidden camera, coaxial cables, and portable monitor to be used to view the changing area of the women's locker room at issue in this case, and to view the bodies of Plaintiffs in a state of undress, John Hancock failed to ensure that its surveillance at 601 Congress Street did not violate the privacy rights of the Plaintiffs and failed to ensure that John Hancock's supervision did not violate the laws of the Commonwealth of Massachusetts.

297. John Hancock's failures referenced in the preceding paragraphs are inexcusable given the resources of John Hancock and the number of employees it employs to provide security and perform internal investigations.

298. John Hancock employs numerous people who are responsible for providing security and conducting internal investigations.

299. Dean Mini is the US Director/Deputy Chief Security Officer for John Hancock and Manulife. Mini's duties include managing behavioral threats, conducting facility threat risk assessments, conducting security intelligence, conducting employee and executive protection, and supporting investigations. Mini has a background in military security and also worked as an auxiliary police officer in his off time.

300. Thomas Samoluk is the Head of External Affairs & Investigative Services for John Hancock and a member of the U.S. Leadership Team. Samoluk supervises John Hancock's federal and state government relations, including its interactions with law enforcement.

301. John McCloskey is a Lead Forensic Investigator for John Hancock.

302. Charles Ziegenbein is a Senior Director of Investigations for John Hancock.

303. On information and belief, at no point did John Hancock conduct regular security checks or "sweeps" of bathrooms or locker rooms to check for hidden cameras or other surveillance equipment.

304. John Hancock was aware of the feasibility of such regular security checks. Indeed, Dean Mini as head of security was aware of the need to conduct security checks and protect the privacy of employees and information.

305. John Hancock could have conducted such regular security checks but chose not to do so.

306. At all times, John Hancock was willfully blind to the possibility that its employees would be able to use a hidden camera to invade the privacy of women in vulnerable locations. At no point that it occupied 601 Congress Street did John Hancock verify that the locker rooms and bathrooms were free of surveillance equipment. This is clear because any basic security check would have discovered a hidden camera or, at a minimum, the drilled holes in the fixture above the women's locker room. The presence of any supporting cables, including the extension power cord or the coaxial cable that ran to the Third Floor Fan Room, would also have been easily discovered.

307. As early as 2015, John Hancock was on notice that video surveillance equipment had gone missing at around the same time that a John Hancock IT employee stole 105 computers from John Hancock's storeroom over a period of many months and at the same time that countless pieces of electronics were being stolen and resold on eBay. A reasonably prudent employer in the Commonwealth of Massachusetts would have conducted a thorough security sweep of the building that would have uncovered the hidden camera at issue in this case.

308. By 2017 or early 2018, John Hancock was aware of a suspicious camera-like device in the Fourth Floor women's bathroom. The reports of that device, which was removed after complaints, should have prompted a search for other cameras and an identification of missing surveillance equipment.

### *The Gym Management Company Failures*

309. From sometime in early 2015 until December 28, 2018 a hidden camera directed at the changing area of the women's locker room in the employee gym, was used to view and surveille the Plaintiffs in a state of undress.

310. From sometime in early 2015 until December 28, 2018 and during each of their respective management tenures of the gym, both Second Wave Health & Fitness and First Fitness should have detected and prevented this unauthorized surveillance of their patrons, including the Plaintiffs, in a state of undress.

311. Both Second Wave Health & Fitness and First Fitness should have detected and removed the hidden camera from the gym premises.

312. Both Second Wave Health & Fitness and First Fitness failed to provide safe and secure locker rooms for their female patrons.

313. Both Second Wave Health & Fitness and First Fitness were aware of the risks and special vulnerability that locker rooms pose for exposing patrons to covert surveillance.

314. Both Second Wave Health & Fitness and First Fitness were aware that the only safe and legal way for health club operators to ensure that there is no authorized or unauthorized surveillance of the locker room is to conduct frequent checks and look for hidden cameras.

315. By no later than 2015, Second Wave Health & Fitness knew or should have known that surveillance equipment was monitoring its patrons in the women's locker room.

316. By no later than 2017, First Fitness knew or should have known that surveillance equipment was monitoring its patrons in the women's locker room.

317. Both Second Wave Health & Fitness and First Fitness failed to provide safe and secure locker rooms that were free of hidden cameras.

318. The only way for health club operators to ensure that there is no authorized or unauthorized surveillance of the locker room is to conduct frequent checks.

319. Both Second Wave Health & Fitness and First Fitness failed to conduct frequent checks and thus both companies failed to detect a hidden camera in their own operating space.

320. First Fitness, and on information and belief Second Wave Health & Fitness, had contractual duties to provide for the safety and security of patrons through supervision and management.

321. Specifically, the contract between John Hancock and First Fitness (and on information the prior contract between John Hancock and Second Wave Health & Fitness) required First Fitness to supervise and direct the management and operation of the gym in a professional and prudent manner consistent with the management and operation of "first class health and fitness facilities operated in Boston, Massachusetts."

322. The contract between John Hancock and First Fitness (and on information the prior contract between John Hancock and Second Wave Health & Fitness) did not permit the scope or quality of the services provided to be "less than those generally performed by professional fitness management agents of first class facilities in Boston, Massachusetts."

323. Both First Fitness and, on information and belief, Second Wave Health & Fitness, specified that these parties were acting as the Company's agent for the operation of the gym and possessed non-delegable duties to supervise and direct the management and operation of the gyms.

324. Such duties required First Fitness and Second Wave Health & Fitness to stand in the shoes of John Hancock, provide all management and supervision services for the gym, including safety and security, and to maintain the gym not only in a way that was "professional and prudent" but also at levels considered "first class."

325. First Fitness and Second Wave Health & Fitness failed to properly manage or supervise the gym in a manner that was "professional and prudent" or at levels that could be considered "first class."

***John Hancock Fails to Do its Own Monitoring and Instead Relies on Third Parties to Discover the Misconduct of its Own Employees.***

326. On May 15, 2019, Del Hernandez, an Investigator for Xerox Corporation, reported to John Hancock that Xerox had performed a covert purchase of ColorQube1F2 8870/8880 series ink on eBay. The seller of this ink was a John Hancock employee. Xerox used the product serial number listed on the exterior of the packaging of the ink to confirm its original shipment date of May 25, 2017 to John Hancock. Xerox subsequently contacted John Hancock about the issue. Xerox estimated that approximately \$10,000 in ink from John Hancock has been sold by this John Hancock employee's eBay account.

327. During these conversations with Xerox, Darren Grasso, Director, North American Deskside Services for John Hancock, provided information that in January

2019, Xerox ink went missing at John Hancock's location at 601 Congress Street, Boston, MA during the move to 200 Berkeley Street, Boston, MA.

328. On May 17, 2019, Xerox Investigator Del Hernandez reported to John Hancock that on February 22, 2019 Xerox had performed another covert purchase of missing John Hancock ColorQube1F2 8900 series ink on eBay. PayPal information revealed another John Hancock employee as the owner of the eBay account. Xerox used the product serial number listed on the exterior of the packaging of the ink to confirm its original shipment date of October 25, 2016 to John Hancock.

329. Despite knowledge of missing equipment as late as January 11, 2019 about missing IT equipment.

330. John Hancock failed to discover either of its employee's conduct of misusing and selling John Hancock's equipment. It was only through the investigation of Xerox Corporation that John Hancock learned that these employees were stealing thousands of dollars of supplies and equipment from John Hancock.

***John Hancock Allowed Multiple Employees to Steal Thousands of Dollars of John Hancock Technology Equipment and Supplies Over the Course of Several Years.***

331. From 2009 to 2019 John Hancock allowed multiple John Hancock employees to steal thousands of dollars worth of technology equipment from John Hancock. John Hancock negligently failed to prevent misuse and theft of its equipment.

332. Some of the stolen equipment included: Xerox equipment and consumables, and also included electronic equipment such as computer cable locks, video adapter cables, power adapter cables, computer hard drives, random access memory (RAM)

sticks, and graphics cards, a Nortec Humidifier, and a photo of mechanical schedules for John Hancock's corporate facilities in Portsmouth, NH, Xerox ink John Hancock's HP ink, fuses, Creston parts, and several Johnson Controls VMA6F7, and computer docking stations.

333. From August 23, 2004 until their termination in 2019, John Hancock employees were misusing and stealing company technology equipment, computer equipment, and supplies and selling them on eBay.

334. One John Hancock employee made approximately \$20,000 to \$30,000 in profits from selling the supplies and equipment that he stole from John Hancock. His thefts were only discovered by an outside company.

335. Another employee received \$54,766.12 from the sale of stolen John Hancock property and had active listings for the sale of additional equipment at the time that his thefts were only discovered by an outside company.

336. John Hancock did not immediately and voluntarily report either the thefts of either employee to law enforcement.

#### ALLEGATIONS CONCERNING JANE DOE 1 AND JANE DOE 2

337. Jane Doe 1 is a Massachusetts resident who used the women's locker room at 601 Congress as an employee of John Hancock.

338. Jane Doe 1 is a professional with many years of experience and an excellent reputation and ability to lead.

339. Jane Doe 1's reputation and ability to lead would be negatively impacted by identifying herself as a victim of the covert locker room surveillance.



340. Jane Doe 2 used the women's locker room at 601 Congress as an employee of John Hancock.

341. Jane Doe 2 is a professional with many years of experience and an excellent reputation and ability to lead.

342. Jane Doe 2's reputation and ability to lead would be negatively impacted by identifying herself as a victim of the covert locker room surveillance.

343. Both Jane Doe 1 and Jane Doe 2 have suffered and continue to suffer significant damages, including emotional anguish, as a direct and proximate result of Defendants' acts and omissions.

344. Both Jane Doe 1 and Jane Doe 2 suffered greatly when they learned for the first time that their privacy had been violated.

345. The anguish was compounded by John Hancock's failures and refusals to remediate the damage to Plaintiffs' privacy, to bring closure and accountability to the situation, and the betrayal of using false promises that John Hancock would do everything in its power to bring justice to the victims when in fact it did everything in its power to evade justice.

346. Both Jane Doe 1 and Jane Doe 2 have suffered and continue to suffer objective symptomatology directly caused by the Defendants' acts and omissions.

347. The objective symptomatology suffered by Jane Doe 1 and Jane Doe include crying spells, loss of sleep, the need for therapy, the need for pharmacologic treatment, stress, compulsive behavior, and avoidance behavior.

348. After the Hidden Camera Incident was announced, Jane Doe 1 suffered emotional distress and experienced a number of episodes of controllable crying.

349. After the Hidden Camera Incident was announced, Jane Doe 1 suffered loss of sleep.

350. After the Hidden Camera Incident was announced, Jane Doe 1 required, sought out, and participated in therapy with various providers to attempt to overcome the trauma she suffered as a result of the Hidden Camera Incident. Eventually, despite the therapy she received, Jane Doe 1 also needed and began taking pharmacological treatment for depression and anxiety disorder.

351. After the Hidden Camera Incident was announced, Jane Doe 1 experienced and continues to experience extreme worry, anxiety, and nervousness about hidden cameras in situations where she has to use public bathrooms.

352. After and as a result of the Hidden Camera Incident, Jane Doe 1 compulsively checks for signs of a hidden camera above and around the restroom stalls in any public restroom that she is going to use.

353. Jane Doe 1 thinks about and has intrusive thoughts concerning the Hidden Camera Incident and experiences related anxiety every time she uses a public restroom to go to the bathroom.

354. Jane Doe 1 generally thinks about the Hidden Camera Incident and experiences related anxiety every time she uses a public restroom with her children or to change her children's clothes.

355. Whereas before the Hidden Camera Incident, Jane Doe 1 had no problems going to the gym or using a public restroom, now she seeks to avoid situations where she feels her privacy is at risk.

356. Prior to when her privacy was violated as detailed above, Jane Doe 1 enjoyed regularly going to gyms to workout, and these regular workouts and experiences at the gym significantly improved her health and psychological well being.

357. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 1 does not feel she could use a gym and no longer maintains any gym memberships. Jane Doe 1 avoids gyms and health clubs altogether to avoid experiencing the anxiety that she now associates with working out, changing clothes, or showering at a gym.

358. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 1 experiences gym-related anxiety, paranoia, and an uncontrollable fear that if she used a gym or health club she would be secretly or covertly viewed, recorded or surveyed in a state of undress.

359. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 1 regularly checks for hidden cameras above and around the restroom stalls in any public restroom that she is going to allow her children to use.

360. Jane Doe 1 generally thinks about the Hidden Camera Incident every time she happens to drive by or visit the vicinity of 601 Congress Street, which happens frequently.

361. Jane Doe 1's paranoia extended to her home and included intrusive thoughts as to whether her own construction contractors had installed surveillance equipment to attempt to view her in a state of undress. After the Hidden Camera Incident, in situations where contractors come to the house to perform work, Jane Doe 1 experiences additional worries and stress and makes sure not to leave the workers unattended.

362. Jane Doe 1 continues to feel very uncomfortable whenever there are contractors in her home.

363. John Hancock's conduct of destroying and tampering with the evidence of these crimes, in violation of G.L. c. 268, § 13E, ensured that neither John Hancock, nor anyone else at John Hancock who was responsible for these crimes would be prosecuted. John Hancock thereby caused Jane Doe 1 harm and trauma, and Jane Doe 1 suffers damages due to the fact that justice was not done.

364. Jane Doe 1 suffers trauma and post traumatic stress disorder related to the fact that a perpetrator of this violation of privacy was never identified, justice was not done, no criminal charges were brought, no arrests were made, and no one served any jail time for the conduct of placing the hidden camera and using the hidden camera to view and surveil Jane Doe 1's naked body.

365. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 2 has experienced trouble sleeping and anxiety.

366. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 2 regularly suffers from intrusive thoughts.

367. Jane Doe 2 generally thinks about the Hidden Camera Incident and experiences related anxiety every time she uses a public restroom to go to the bathroom.

368. Jane Doe 2's intrusive thoughts have not gone away over time.

369. Prior to when her privacy was violated as detailed above, Jane Doe 2 enjoyed regularly going to gyms to workout, and these regular workouts and experiences at the gym significantly improved her health and psychological well being.

370. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 2 no longer changes or showers in any gym locker room that she uses, and would prefer to remain sweaty and uncomfortable (until arriving home) rather than experience the anxiety that she now associates with changing or showering in a locker room.

371. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 2's gym and workout experience, including the physical and psychological enjoyment, and physical and psychological benefits from going to the gym, have been substantially decreased.

372. After the Hidden Camera Incident was announced, and due to the Hidden Camera Incident, Jane Doe 2 experiences significant avoidance behavior around using a public restroom. This avoidance behavior causes stress, interferes with her normal routines and enjoyment of life, and makes her at times feel physically uncomfortable.

#### CLASS ALLEGATIONS

373. Plaintiffs Jane Doe 1 and Jane Doe 2 bring this action on behalf of themselves and on behalf of all other persons similarly situated.

374. Each person who used the women's locker room at 601 Congress Street between 2014 and 2018 to change clothes or shower at least once suffered an injury.

375. Each person who used the women's locker room at 601 Congress Street between 2014 and 2018 to change clothes or shower at least once is a member of the class of victims (the "Class") and a Class Plaintiff.

376. Upon information and belief, virtually all members of the Class, and certainly more than two-thirds of the members, are Massachusetts citizens and residents.

377. Due to the large number of women who used the gym at 601 Congress Street from 2012 to 2018, joinder of all class members is impracticable.

378. The question of John Hancock's liability and obligation to provide remediation efforts are questions of law or fact common to the Class. If Defendants intentionally or negligently violated the privacy of one Class member, then Defendants necessarily also violated the privacy of all Class members.

379. In this case, Plaintiffs advance several common contentions that are capable of classwide resolution such that a determination of their truth or falsity will resolve the issues that are central to the validity to all claims in one stroke.

380. The claims of Jane Doe 1 and Jane Doe 2 are typical of the claims of the Class.

381. As litigants in their own right who are represented by counsel, Jane Doe 1 and Jane Doe 2 will fairly and adequately protect the interests of the Class.

382. Based on the foregoing, the questions of law and fact common to the members of the Class predominate over any questions affecting only individual

members as to Defendants' liability to Class Plaintiffs, the establishment of procedures to determine individualized damages, and the establishment of procedures for class-wide remediation.

383. Based on the foregoing, a class action is superior to other available methods for the fair and efficient adjudication of the controversy of Class Plaintiffs, the establishment of procedures to determine individualized damages, and the establishment of procedures for class-wide remediation.

384. To date, John Hancock has not taken or funded any remediation efforts. John Hancock has abdicated its assumed responsibility to "fix this" or "right this wrong."

385. The use of effective remediation and monitoring tools and services will be necessary to reduce or eliminate the likelihood of further privacy violations to take place, such as further viewing or dissemination of compromised images of class members.

386. For example, the hiring of forensic data services will be necessary to determine the extent to which infringing images have been disseminated. John Hancock should be liable to pay all fees for the use of forensic data services.

387. For example, the hiring of services that scan or search the "deep web" or "dark web" for infringing images will also be necessary to locate any infringing images or to monitor if new infringing images are posted or shared on the internet. John Hancock should be liable to pay all fees for the use of "deep web" or "dark web" scanning services.

388. For example, the hiring of a “takedown service” will be necessary to force the operators of internet sites or social media platforms to remove infringing images. John Hancock should be liable to pay all fees for the use of takedown services.

389. Plaintiffs will be requesting a two-stage process whereby the first phase will be to determine Defendants’ liability on a class-wide basis, and the second phase will be to determine the process by which: (a) individualized damages will be determined, and (b) class-wide remediation efforts will be undertaken and/or funded.

### **COUNT I - NEGLIGENCE**

*Plaintiff Jane Doe 1 and all Class Plaintiffs against Defendant John Hancock*

390. Plaintiff Jane Doe 1 restates and re-alleges all of the foregoing paragraphs as if fully set forth herein.

391. Defendant John Hancock owed a duty to Plaintiff Jane Doe 1 and all Class Plaintiffs.

392. Defendant John Hancock’s duty to Plaintiff Jane Doe 1, and all Class Plaintiffs arose by virtue of their contractual duty to maintain the premises in safe condition.

393. Defendant John Hancock’s duty to Plaintiff Jane Doe 1 and all Class Plaintiffs arose by virtue of an employer’s duty to provide employees with a safe workplace, including workplace-offered amenities such as an onsite gym.

394. Defendant John Hancock’s duty to Plaintiff Jane Doe 1 and all Class Plaintiffs arose by virtue of their control and/or joint control over premises and their non-delegable duty to provide general safe conditions.



395. Defendant John Hancock's duty to Plaintiff Jane Doe 1 and all Class Plaintiffs arose by virtue of their ownership of the premises and their non-delegable duty to provide general safe conditions.

396. Defendant John Hancock's duty to Plaintiff Jane Doe 1, and all Class Plaintiffs arose by virtue of the special relationship that existed, namely that John Hancock had prior notice of the risk surveillance equipment was missing and was possibly being misused by surveilling private areas.

397. By allowing one or more of its employees or agents to point one of its surveillance cameras in the changing area of the women's locker room, Defendant John Hancock breached their duties to Plaintiff Jane Doe 1 and all Class Plaintiffs.

398. Plaintiff Jane Doe 1 and all Class Plaintiffs were harmed by reason of Defendants' negligence.

399. The harm suffered by Plaintiff Jane Doe 1 and all Class Plaintiffs was the foreseeable result of Defendants' negligence.

400. Defendants negligence proximately caused harm to Plaintiff Jane Doe 1 and all Class Plaintiffs.

401. After John Hancock's leadership became aware that one or more of its employees or agents had installed one of its surveillance cameras in the changing area of the women's locker room, Defendants John Hancock voluntarily assumed to take remedial actions to alleviate the suffering and further victimization of Plaintiff Jane Doe 1 and all Class Plaintiffs.

402. Indeed, John Hancock instructed its employees that it and it alone would work to take remedial actions. John Hancock specifically instructed victims not to speak to any members of the public about the invasion of privacy and the crimes that had taken place.

403. John Hancock's destroying and tampering with the evidence of these crimes, in violation of G.L. c. 268, § 13E, incredible delay in reporting these crimes, John Hancock's communications which had the effect of silencing victims, and John Hancock's failure to provide accurate and truthful information to the police, all constituted negligence, and ensured that neither John Hancock, nor anyone else at John Hancock who was responsible for these crimes would be prosecuted.

404. G.L. c. 268, § 13E is a law that aims to and does benefit victims of crimes, such as Plaintiff.

405. John Hancock's violation of G.L. c. 268, § 13E constitutes negligence.

406. Jane Doe 1, and other class members, suffer trauma and post traumatic stress disorder related to the fact that a perpetrator of this violation of privacy was never identified, justice was not done, no criminal charges were brought, no arrests were made, and no one served any jail time for the conduct of placing the hidden camera and using the hidden camera to view and surveille Jane Doe 1's naked body.

407. Jane Doe 1, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

408. By failing to remediate and hindering the Plaintiffs' ability to seek remediation, Defendants John Hancock breached their duties to Plaintiff Jane Doe 1 and all Class Plaintiffs.

409. Plaintiff Jane Doe 1 and all Class Plaintiffs have been harmed and continue to suffer harm as a result of Defendants' negligence.

410. The harm suffered by Plaintiff Jane Doe 1 and all Class Plaintiffs was the foreseeable result of Defendants' negligence.

411. Defendants negligence proximately caused harm to Plaintiffs Jane Doe 1 and all Class Plaintiffs.

WHEREFORE, for the reasons set forth above, Plaintiff Jane Doe 1 and all Class Plaintiffs are entitled to monetary damages to compensate them for the harm they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

#### **COUNT II - NEGLIGENCE**

*Plaintiff Jane Doe 1, Plaintiff Jane Doe 2, and all Class Plaintiffs  
against Defendants First Fitness Management, LLC and Commonwealth Flats Development  
Corp. d/b/a Second Wave Health & Fitness*

412. Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

413. Defendants First Fitness Management, LLC and Commonwealth Flats Development Corp. d/b/a Second Wave Health & Fitness owed a duty to Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Plaintiffs by virtue of their contractual duty to maintain the premises in safe condition and their control and/or joint control over premises and their non-delegable duty to provide general safe conditions.

414. By allowing and failing to detect a hidden camera in the women's locker room, Defendants First Fitness Management, LLC and Commonwealth Flats Development Corp. d/b/a Second Wave Health & Fitness breached their duty to breached their duties to Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Plaintiffs.

415. Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Plaintiffs have been harmed and continue to suffer harm as a result of Defendants' negligence.

416. Plaintiffs Jane Doe 1, Jane Doe 2, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

417. The harm suffered by Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Plaintiffs was the foreseeable result of Defendants' negligence

418. Defendants negligence proximately caused harm to Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Plaintiffs.

WHEREFORE, for the reasons set forth above, Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Plaintiffs are entitled to monetary damages to compensate them for the harm they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

**COUNT III - INTRUSION OF A PERSON'S  
PHYSICAL SOLITUDE OR SECLUSION**

*Plaintiff Jane Doe 1 and all Class Plaintiffs against Defendant John Hancock*

419. Plaintiff Jane Doe 1 and all Class Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

420. Prior to using the gym at 601 Congress Street, Plaintiff Jane Doe 1 and all Class Plaintiffs enjoyed seclusion, solitude, and bodily privacy.

421. Unbeknownst to Plaintiff Jane Doe 1 and all Class Plaintiffs, Defendant John Hancock had authorized its own employees or agents to purchase and utilize hidden surveillance cameras without advising employees.

422. One or more employees or agents of the Defendant John Hancock, acting within the scope of their duties, positioned one or more hidden surveillance cameras in the women's locker room, without advising the women who used the gym.

423. John Hancock has admitted that its surveillance of the women's locker room was "an invasion of privacy and completely unacceptable."

424. Despite there being a business benefit to John Hancock from covert surveillance, there is no legitimate purpose for installing hidden cameras and conducting covert surveillance of the women's locker room without notice and in violation of the reasonable expectation of privacy.

425. By placing or allowing one or more hidden cameras to be placed in the women's locker room, Defendant John Hancock committed an intentional intrusion into the physical solitude and seclusion of the Plaintiff Jane Doe 1 and all Class Plaintiffs, as well as their bodily privacy.

426. The use of a hidden camera to watch unsuspecting women undress in a locker room was highly offensive and would have been highly offensive to any reasonable person.

427. Defendants' violation of Plaintiff Jane Doe 1 and all Class Plaintiffs' seclusion through the use of the unblinking eye of a hidden camera was lengthy and substantial, and was of a kind that would be highly offensive and objectionable to the ordinary reasonable woman.

428. There is widespread condemnation within the Commonwealth of anyone who willfully photographs, videotapes, or electronically surveils another person who is nude or partially nude, with the intent to secretly conduct or hide such activity, when the other person, in such a place and circumstance, would have a reasonable expectation of privacy in not being so photographed, videotaped, or electronically surveilled, and without that person's knowledge and consent.

429. There is similar widespread condemnation of anyone who willfully photographs, videotapes, or electronically surveils, with the intent to secretly conduct or hide such activity, the sexual or other intimate parts of a person under or around the person's clothing to view or attempt to view the person's sexual or other intimate parts when a reasonable person would believe that the person's sexual or other intimate parts would not be visible to the public and without the person's knowledge and consent.

430. Such conduct has been outlawed in the Commonwealth.

431. Defendants' violation of Plaintiff Jane Doe 1 and all Class Plaintiffs' seclusion caused anguish and emotional distress to Plaintiff Jane Doe 1 and all Class Plaintiffs.

432. The intrusion into seclusion also caused Jane Doe 1, Jane Doe 2, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

WHEREFORE, for the reasons set forth above, Plaintiff Jane Doe 1 and all Class Plaintiffs are entitled to monetary damages to compensate them for the harm they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

**COUNT IV - STATUTORY INVASION OF PRIVACY**  
*Jane Doe 1 and all Class Plaintiffs against Defendant John Hancock*

433. Plaintiff Jane Doe 1 and all Class Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

434. Under Massachusetts law, to state a claim for statutory invasion of privacy pursuant to G.L. c. 214, § 1B, a plaintiff must demonstrate that there was (1) a gathering and dissemination of facts of a private nature that (2) resulted in an unreasonable, substantial or serious interference with his privacy.

435. Here, Defendant John Hancock intruded unreasonably upon Plaintiff Jane Doe 1 and all Class Plaintiffs' solitude or seclusion.

436. This invasion was unreasonable, substantial, and serious.

437. The appearance of Plaintiff Jane Doe 1 and all Class Plaintiffs unclothed bodies, including their sexual or other intimate parts, was private information and highly personal and intimate in nature.

438. By secretly capturing images, disseminating, viewing, and/or recording a women's private locker room without the consent of Plaintiff Jane Doe 1 and all Class Plaintiffs, Defendant John Hancock gathered and disseminated facts of a private nature.

439. John Hancock has admitted, in writing, to Plaintiffs that the surveillance of the women's locker room was "an invasion of privacy and completely unacceptable."

440. Despite there being a potential business benefit to John Hancock from covert surveillance, there is no *legitimate* purpose for installing hidden cameras and conducting covert surveillance of the women's locker room without notice and in violation of the reasonable expectation of privacy.

441. Pursuant to G.L. c. 214, § 1B, the superior court shall have jurisdiction in equity to enforce such right and in connection therewith to award damages.

442. Jane Doe 1, and other class members, have suffered harm as a result of the intrusion.

443. Jane Doe 1, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

WHEREFORE, for the reasons set forth above, Plaintiff Jane Doe 1 and all Class Plaintiffs are entitled to monetary damages to compensate them for the harm they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

**COUNT V - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

*Jane Doe 1 and all Class Plaintiffs against Defendant John Hancock*

444. Plaintiff Jane Doe 1 and all Class Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

445. Unbeknownst to Plaintiff Jane Doe 1 and all Class Plaintiffs, Defendant John Hancock had authorized its own employees or agents to purchase and utilize hidden surveillance cameras without advising employees.

446. One or more employees or agents of the Defendant John Hancock, acting within the scope of their duties, positioned one or more hidden surveillance cameras in the women's locker room, without advising the women who used the gym.



447. In so doing, Defendant John Hancock knew or should have known that their conduct would cause emotional distress.

448. While there may have been a benefit to John Hancock's covert surveillance, Defendant John Hancock had no *reasonable* purpose to install hidden cameras or otherwise conduct covert surveillance of the women's locker room without notice and in violation of the reasonable expectation of privacy.

449. The use of a hidden camera to watch unsuspecting women undress in a locker room was extreme and outrageous.

450. Defendants' conduct caused Plaintiff Jane Doe 1 and all Class Plaintiffs to suffer emotional distress.

451. Jane Doe 1, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

452. The emotional distress suffered by Plaintiff Jane Doe 1 and all Class Plaintiffs was severe.

WHEREFORE, for the reasons set forth above, Plaintiffs Jane Doe 1 and all Class Plaintiffs are entitled to monetary damages to compensate them for the emotional distress they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

**COUNT VI - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
*Plaintiff Jane Doe 1 and all Class Plaintiffs against Defendant John Hancock*

453. Plaintiff Jane Doe 1 and all Class Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

454. The above-named Defendants owed a duty to Plaintiff Jane Doe 1 and all Class Defendants.

455. Defendants' duty to Plaintiffs Jane Doe 1 and all Class Defendants arose by virtue of their contractual duty to maintain the premises in safe condition.

456. Defendants' duty to Plaintiffs Jane Doe 1 and all Class Defendants arose by virtue of an employer's duty to provide employees with a safe workplace, including workplace-offered amenities such as an onsite gym.

457. Defendants' duty to Plaintiffs Jane Doe 1 and all Class Defendants arose by virtue of their control and/or joint control over premises and their non-delegable duty to provide general safe conditions.

458. Defendants' duty to Plaintiffs Jane Doe 1 and all Class Defendants arose by virtue of their ownership of the premises and their non-delegable duty to provide general safe conditions.

459. Defendants' duty to Plaintiffs Jane Doe 1 and all Class Defendants arose by virtue of the special relationship that existed, the foreseeable consequences of Defendants' negligence, and whether their prior notice of such a risk.

460. By allowing one or more of its employees or agents to point one of its surveillance cameras in the changing area of the women's locker room, Defendants John Hancock breached their duties to Plaintiffs Jane Doe 1 and all Class Defendants.

461. Plaintiffs Jane Doe 1 and all Class Defendants suffered emotional distress by reason of Defendants' negligence.

462. Jane Doe 1, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

463. Plaintiffs Jane Doe 1 and all Class Defendants have suffered physical harm manifested by objective symptomatology.

464. The objective symptomatology suffered by Jane Doe 1 includes crying spells, loss of sleep, the need for therapy, the need for pharmacologic treatment, stress, compulsive behavior, and avoidance behavior.

465. A reasonable person would have suffered emotional distress under the same circumstances.

466. The emotional distress suffered by Plaintiffs Jane Doe 1 and all Class Defendants was the foreseeable result of Defendants' negligence.

467. Defendants negligence proximately caused Plaintiffs Jane Doe 1 and all Class Defendants to suffer emotional distress.

468. After John Hancock's leadership became aware that one or more of its employees or agents had pointed one of its surveillance cameras in the changing area of the women's locker room, Defendants John Hancock voluntarily assumed to take remedial actions to alleviate the suffering and further victimization of the Plaintiffs.

469. Indeed, John Hancock instructed its employees that it and it alone would work to take remedial actions. John Hancock specifically instructed victims not to speak to any members of the public about the invasion of privacy and the crimes that had taken place.

470. By failing to remediate and hindering the Plaintiffs' ability to seek remediation, Defendant John Hancock breached their duties to Plaintiffs Jane Doe 1 and Jane Doe 2.

471. Plaintiff Jane Doe 1 has suffered and continues to suffer emotional distress as a result of Defendants' negligence.

472. Plaintiff Jane Doe 1 has suffered physical harm manifested by objective symptomatology.

473. A reasonable person would have suffered emotional distress under the same circumstances.

474. The emotional distress suffered by Plaintiff Jane Doe 1 was the foreseeable result of Defendants' negligence.

475. Defendants negligence proximately caused Plaintiff Jane Doe 1 to suffer emotional distress.

WHEREFORE, for the reasons set forth above, Plaintiffs Jane Doe and Jane Doe 2 are entitled to monetary damages to compensate them for the harm they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

**COUNT VII - NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

*Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Plaintiffs against Defendants  
First Fitness Management, LLC and Commonwealth Flats Development Corp.  
d/b/a Second Wave Health & Fitness*

476. Plaintiff Jane Doe 1 and Jane Doe 2 and all Class Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

477. The above-named Defendants owed a duty to Plaintiff Jane Doe 1, Plaintiff Jane Doe 2, and all Class Defendants.

478. Defendants' duty to Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants, arose by virtue of their contractual duty to maintain the premises in safe condition.

479. Defendants' duty to Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants arose by virtue of their control and/or joint control over premises and their non-delegable duty to provide general safe conditions.

480. Defendants' duty to Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants, arose by virtue of the special relationship that existed, the foreseeable consequences of Defendants' negligence, and whether their prior notice of such a risk.

481. By allowing one or more of its employees or agents, or some other individual, to use surveillance cameras in the changing area of the women's locker room, Defendants breached their duties to Plaintiffs Jane Doe 1 and Jane Doe 2, and all Class Defendants.

482. Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants, suffered emotional distress by reason of Defendants' negligence.

483. Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants, have suffered physical harm manifested by objective symptomatology.

484. A reasonable person would have suffered emotional distress under the same circumstances.

485. Jane Doe 1, Jane Doe 2, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

486. The emotional distress suffered by Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants, was the foreseeable result of Defendants' negligence.

487. Defendants negligence proximately caused Plaintiffs Jane Doe 1 and Jane Doe 2, , and all Class Defendants, to suffer emotional distress.

488. By failing to remediate and hindering the Plaintiffs' ability to seek remediation, Defendants breached their duties to Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants.

489. Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants, have suffered and continue to suffer emotional distress as a result of Defendants' negligence.

490. Plaintiffs Jane Doe 1, Jane Doe 2, and all Class Defendants have suffered physical harm manifested by objective symptomatology.

491. The objective symptomatology suffered by Jane Doe 1 and Jane Doe 2 includes crying spells, loss of sleep, the need for therapy, the need for pharmacologic treatment, stress, compulsive behavior, and avoidance behavior.

492. A reasonable person would have suffered emotional distress under the same circumstances.

493. The emotional distress suffered by Plaintiffs Jane Doe, Jane Doe 2, and all Class Defendants, was the foreseeable result of Defendants' negligence.

494. Defendants negligence proximately caused Plaintiffs Jane Doe, Jane Doe 2, and all Class Defendants, to suffer emotional distress.

WHEREFORE, for the reasons set forth above, Plaintiffs Jane Doe and Jane Doe 2, and the Class Plaintiffs are entitled to monetary damages to compensate them for the

harm they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

**COUNT VIII - NEGLIGENT TRAINING AND SUPERVISION**  
*Plaintiff Jane Doe 1 and all Class Plaintiffs against Defendant John Hancock*

495. Plaintiffs John Doe 1 and all Class Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

496. The person or persons who caused the secret recording of the women's locker room were employees or agents of Defendants John Hancock.

497. In the course of their duties, the person or persons responsible for covert surveillance interacted with gym patrons in the course of Defendants' business.

498. Defendants failed to use reasonable care in the selection, supervision, and training of such employees or agents.

499. Defendants' failure to use such reasonable care was the proximate cause of harm to Plaintiff Jane Doe 1 and all Class Plaintiffs.

500. After Defendants' leadership became aware that one or more of its employees or agents had pointed one of its surveillance cameras in the changing area of the women's locker room, it knew that its employees or agents would be responsible for the investigation, the turnover of evidence to the police, and as well as the efforts to provide its employees with remediation.

501. Defendants also necessarily knew that its employees conducting the investigation and communication with victims would interact with such victims in the course of Defendants' business.

502. Defendants failed to use reasonable care in the selection, supervision, and training of such employees or agents.

503. Defendants' failure to use such reasonable care was the proximate cause of additional harm to Plaintiff Jane Doe 1 and all Class Plaintiffs.

504. Jane Doe 1, and other class members, also suffer distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

WHEREFORE, for the reasons set forth above, Plaintiff Jane Doe 1 and all Class Plaintiffs are entitled to monetary damages to compensate them for the harm they have suffered or will continue to suffer in the future, in an amount to be proven at trial.

**COUNT IX - INJUNCTIVE RELIEF: ESTABLISHING A REMEDIATION CLASS**  
*against all Defendants*

505. Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

506. If Defendants are found to have negligently or intentionally violated the privacy of one Class member, they will be found to have been negligently or intentionally violated the privacy of all Class members.

507. Defendants' negligent or intentional privacy violations caused Class members to suffer ongoing harm, namely actuality or the intolerable probability that images or videos of Class members in a state of undress have been disseminated and are currently available or will in the future become available for mass viewing or download over the internet, including through unmoderated websites, social media platforms, free or fee-based and membership based porn sites, and unindexed sectors of the internet including the "deep web" and the "dark web."



508. There are effective remediation and monitoring tools and services available to reduce or eliminate the likelihood of further privacy violations to take place. For example, there are forensic data services that can determine the extent to which infringing images have been disseminated. There are also takedown services that assist in forcing operators of websites and social media platforms to remove infringing photos. And there are services that scan or search the deep web or dark web for infringing images.

509. The use of such methods will significantly decrease the risk that further privacy violations will take place.

510. The periodic use of such methods is reasonably necessary, especially as Massachusetts is one of a few states that has not outlawed non-consensual pornography.

511. The cost of the periodic use of such methods is reasonably commensurate with their necessity. Indeed, the cost to remediate for any one member of the Class will not be much less than the cost to remediate for the entire Class.

512. Accordingly, injunctive relief ordering the Defendants to provide the Class with remediation methods is appropriate and necessary to prevent further harm to the Class.

WHEREFORE, for the reasons set forth above, Plaintiffs Jane Doe 1 and Jane Doe 2 and Class Plaintiffs are entitled to injunctive relief ordering the Defendants to provide the Class with remediation methods is appropriate and necessary to prevent further harm to the Class.

**COUNT X - REMEDIATION CLASS DAMAGES**  
*against all Defendants*

513. Plaintiffs restate and re-allege all of the foregoing paragraphs as if fully set forth herein.

514. As an alternative to injunctive relief, the Court may also order Defendants to establish and fund a remediation program for all members of the Class.

515. If Defendants are found to have negligently or intentionally violated the privacy of one Class member, they will be found to have been negligently or intentionally violated the privacy of all Class members.

516. Defendants' negligent or intentional privacy violations caused Class members to suffer ongoing harm, namely actuality or the intolerable probability that images or videos of Class members in a state of undress have been disseminated and are currently available or will in the future become available for mass viewing or download over the internet, including through unmoderated websites, social media platforms, free or fee-based and membership based porn sites, and unindexed sectors of the internet including the "deep web" and the "dark web."

517. There are effective remediation and monitoring tools and services available to reduce or eliminate the likelihood of further privacy violations to take place. For example, there are data forensic services that can determine the extent to which infringing images have been disseminated. There are also takedown services that assist in forcing operators of websites and social media platforms to remove infringing photos. And there are services that scan or search the deep web or dark web for infringing images.

518. The use of such methods will significantly decrease the risk that further privacy violations will take place.

519. The periodic use of such methods is reasonably necessary, especially as Massachusetts is one of a few states that has not outlawed non-consensual pornography.

520. The cost of the periodic use of such methods is reasonably commensurate with their necessity. Indeed, the cost to remediate for any one member of the Class will not be much less than the cost to remediate for the entire Class.

521. Accordingly, Defendants should pay Class members for their reasonably foreseeable damages by funding remediation methods that allow the Class members to avoid further privacy violations.

WHEREFORE, for the reasons set forth above, Plaintiffs Jane Doe 1 and Jane Doe 2 and Class Plaintiffs are entitled to an award of monetary damages in connection with a remediation program for all members of the Class.

#### **PRAYERS FOR RELIEF**

WHEREFORE, the Plaintiff requests that the Court:

1. For monetary damages and judgment as requested under the Counts I through Counts VIII, and Count X;
2. For the establishment of a class of Plaintiffs and any necessary sub-classes of Plaintiffs pursuant to Mass. R. Civ. P. 23;
3. For a finding that Plaintiffs are proper representatives of the Class;

4. For an order appointing the lawyers and law firms representing Plaintiffs as counsel for the Class;
5. For the establishment of a procedure whereby members of the Plaintiff class or classes can adjudicate their individualized damages;
6. For prejudgment and post-judgment interest, any applicable attorneys fees and costs;
7. For any appropriate remedies to remediate any harms suffered by members of the Plaintiff Class and to monitor and prevent such future harms;
8. For an incentive award to Plaintiffs Jane Doe 1 and Jane Doe 2 to compensate them for their work on behalf of the Plaintiff Class;
9. Such other relief as the Court deems just and proper.

**TRIAL BY A JURY IS DEMANDED**

Respectfully submitted,

PLAINTIFFS JANE DOE 1 AND JANE  
DOE 2, on behalf of themselves and all  
others similarly situated,

By their attorneys,

Dated: July 18, 2023

/s/ Michael J. Duran

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**CERTIFICATE OF SERVICE**

I, Michael J. Duran, hereby certify that on July 18, 2023, a true copy of the above document was served upon on the attorney of record for each party by email as follows:

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Dated: July 18, 2023

/s/ Michael J. Duran  
Michael J. Duran Esq.