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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

RICHARD FREEMAN,

Plaintiff,

vs.

ROBERT WOOD JOHNSON  
UNIVERSITY HOSPITAL AT  
HAMILTON, INC.,

Defendant.

Civil Action No.

**COMPLAINT**

Plaintiff Richard Freeman, by and through his attorneys, Kranjac Tripodi & Partners LLP, by way of Complaint against Defendant Robert Wood Johnson University Hospital at Hamilton, Inc. (the “Hospital”), hereby alleges as follows:

**INTRODUCTION**

1. Plaintiff brings this action because the Hospital has refused to fully comply with its contractual obligations in the wake of its malicious and unlawful termination of Plaintiff’s position as President and Chief Executive Officer, in flagrant breach of the Employment Agreement between parties. After nine years of exemplary service that was crucial to the dramatic rise in the Hospital’s reputation, services, reach and profitability, Plaintiff’s employment was abruptly terminated—purportedly for cause—for allegedly intentionally violating the Hospital sexual

harassment policy. Specifically, the Hospital claimed that Plaintiff failed to intervene and stop a living art body painting exhibition that was on display at the Hospital foundation's fund-raising event that was held on June 3, 2023.

2. As set forth herein, Plaintiff had no involvement in planning the event or authorizing the exhibition, and was barely aware of it when he arrived at the event. In contrast, more than 40 individuals affiliated with the Hospital, the Hospital foundation or RWJBarnabas Health Partners, LLC ("RWJBarnabas Health")—including, the foundation's Director, a 30-member foundation committee responsible for the event (which included the Chair of the Hospital's Board of Directors and the foundation Chair), the Director of Marketing for the Hospital, the VP of foundation operations for RWJBarnabas Health, and the legal department of RWJBarnabas Health—were responsible for planning and/or authorizing the event and the exhibition in the many months leading up to the event.

3. The Hospital ignored those critical facts, as well as the absence of any complaints during the event, and absurdly deemed Plaintiff's failure to intervene an intentional violation of its sexual harassment policy. It was, without question, a transparent and amateurish attempt to fabricate a justification to avoid having to pay the substantial compensation and benefits required under Sections 3, 4 and 5 of the Employment Agreement for the termination of Plaintiff's employment without cause, and to expedite senior leadership's goal of eliminating CEO positions throughout the network hospitals within RWJBarnabas Health.

#### **PARTIES**

4. Plaintiff is 68 years old and a resident and citizen of the State of Pennsylvania.

5. Defendant is a New Jersey corporation and, therefore, a citizen of the State of New Jersey. Located in Hamilton Township, Mercer County, the Hospital provides medical, surgical,

diagnostic and treatment services. The Hospital is a part of RWJBarnabas Health which, according to its website, “is New Jersey’s largest integrated health care delivery system, providing treatment and services to more than three million patients each year.”<sup>1</sup>

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this matter under 28 U.S.C. § 1332 because there is complete diversity of citizenship among the parties and because the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. Venue is proper under 28 U.S.C. § 1391(b) and (c) because the Hospital is subject to personal jurisdiction in the District of New Jersey and because a substantial part of the events or omissions that gave rise to this action occurred in the District of New Jersey.

### **FACTS**

8. In June 2014, Plaintiff was hired as President and Chief Executive Officer of the Hospital. He signed an employment agreement with the Hospital, made as of June 14, 2014 (the “Employment Agreement”). (A copy of the Employment Agreement is attached as Exhibit 1).

#### ***The Employment Agreement***

9. Paragraph 2 of the Employment Agreement, entitled, *Term of Agreement*, provides a term that is a minimum of three years, with a built-in automatic extension that continues the term until either party provides appropriate notice of termination:

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<sup>1</sup> See <https://www.rwjbh.org/why-rwjbarnabas-health/> RWJBarnabas Health includes twelve acute care hospitals – Clara Maass Medical Center in Belleville, Community Medical Center in Toms River, Cooperman Barnabas Medical Center (formerly Saint Barnabas Medical Center) in Livingston, Jersey City Medical Center in Jersey City, Monmouth Medical Center in Long Branch, Monmouth Medical Center Southern Campus in Lakewood, Newark Beth Israel Medical Center in Newark, RWJUH in New Brunswick, RWJUH Somerset in Somerville, RWJUH Hamilton, RWJUH Rahway and Trinitas Regional Medical Center in Elizabeth. See <https://www.rwjbh.org/why-rwjbarnabas-health-/leadership/>

The Term of this Agreement shall commence on June 16, 2014, and shall end on the later of (a) June 15, 2017, or (b) one hundred eighty (180) days after delivery of a written notice from either Party to the other, unless terminated for cause as set forth below or upon the Executive's notice of termination given to the Hospital as set forth below. The Executive's notice to the Hospital shall be delivered to the Board and President of RWJHCC.

In either event, the Hospital shall continue to pay the Executive's regular compensation through the effective date of termination, but the Hospital shall have the sole option to require or preclude the Executive from doing so. The Executive shall continue to render services during such notice period, unless the Hospital exercises its option to preclude the Executive from doing so. If the Hospital exercises its right to terminate pursuant to this Section 2, the Executive shall be paid the Severance Benefit set forth in Section 5.2.

10. Plaintiff's compensation is addressed at Sections 3 and 4 of the Employment Agreement, which sections are collectively referred to as "regular compensation" in the Employment Agreement.

11. Section 3 of the Employment Agreement, entitled, "Compensation", provides for (a) "Base Salary" in the amount of \$500,000 in the first year, with discretionary increases (but not decreases) based upon annual reviews by the Executive Compensation Committee of the RWJUHCC Board; (b) annual incentive compensation "based upon the following: Target Incentive Opportunity of 35% of Base Salary for on-plan performance; maximum opportunity of 50% of Base Salary; threshold opportunity of 20%"; and (c) "In addition to the benefits set forth in Section 4 below, . . . participation in any new or additional benefit plans, and policies regarding vacation, sickness and other leave . . ."

12. Section 4 of the Employment Agreement, entitled, "Additional Compensation And Benefits", provides for, *inter alia*, (a) time off, (b) medical, dental and life insurance, (c) Supplemental Executive Retirement Plan (SERP) which "provides for thirteen (13%) of base pay being accrued consistent with the plan document"; (d) 4034(b) Savings Plan participation; (e)

457(b) Plan participation; (f) short term and long-term disability; (g) life insurance, (h) Executive Benefits and Perquisites, (i) Automobile and Cellular Phone; and (j) Housing Allowance.

13. Section 5 of the Employment, entitled, “*Termination*”, addresses termination of the Employment Agreement without cause. In the event that the Hospital elects to terminate Plaintiff’s employment without cause, the Hospital is liable for 180 days of Plaintiff’s “regular compensation” in addition to 12 months of severance payments in the amount of Base Salary (along with continued medical and dental benefits for such period). Specifically, Section 5.1 of the Employment Agreement provides, in relevant part:

The RWJUHCC Board (the “Board”) may terminate Executive’s employment as President and Chief Executive Office of [the Hospital] at any time without cause upon one hundred eight (180) days’ advance written notice to the Executive. . . . In either event, the Hospital shall continue to pay the Executive’s regular compensation through the effective date of termination. . . . If the Hospital exercises its right to terminate pursuant to this Section 5.1, the Executive shall be paid the Severance Benefits set forth in Section 5.2.

14. Section 5.2 of the Employment Agreement is entitled, “*Severance Payments If The Hospital Terminates The Executive’s Employment Without Cause*”, and provides as follows:

In the event that the Hospital Board terminates the Executive's employment as permitted by Section 5.1, or elects to not allow the Term to continue to be extended as permitted by Section 2, the Hospital shall pay the Executive then as Severance Payments. The Hospital shall pay the Executive his Base Salary for twelve (12) months after the effective date of termination and shall continue to provide his medical and dental insurance benefits during such period.<sup>[2]</sup>

15. Section 6 of the Employment Agreement is entitled, “*Termination For Cause*”, and provides for termination of Plaintiff’s employment under the following limited circumstances:

Executive's employment may be terminated by the President of RWJHCC and/or the Board of the Hospital immediately in the event of the following conduct on the part of

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<sup>2</sup> Section 5.3 of the Employment Agreement provides for “Additional Severance Payments Due Upon Any Termination of the Executive’s Employment” in the event that event that the Executive is not fully vested in the Hospital’s Supplemental Executive Retirement Plan or any other qualified plan benefit.

Executive: illegal or intentional refusal to follow reasonable and legal directions of the Chairman of the Hospital's Board or the President and CEO of RWJHCC; habitual unexcused absence from the facilities of the Hospital; habitual substance abuse; intent intentional violation of the Hospital's conflicts of interest policy, or other Hospital policies; crimes of moral turpitude; or insubordination. . . . [<sup>3</sup>] [(Emphasis added).]

16. Under the foregoing sections, a termination of Plaintiff's employment without cause, would require the Hospital to pay Plaintiff for 18 months after such notice is provided as follows: (i) six months of regular compensation (and benefits), and (ii) 12 months of Base Salary (and benefits). Conversely, under a termination of employment for cause under Section 6 of the Employment Agreement, no such payments to Plaintiff would be required.

***The Hospital's Dramatic Transformation Under Plaintiff's Leadership***

17. At the start of Plaintiff's tenure in June 2014, the Hospital was in a dire state. Its finances were in a deep loss and its reputation and quality scores were dreadful. Plaintiff immediately revamped the services offered and cut costs by consolidating management positions and eliminating other administrative positions. Through those measures, the Hospital turned a profit in his first year as President & CEO, which it had not come close to achieving in the years prior to Plaintiff's arrival.

18. In conjunction with those measures, Plaintiff focused on repairing the quality and reputation of the Hospital through a variety of strategic moves that were pivotal in its (i) dramatic rise from a dismal "C" rated hospital to an "A" rated hospital under The Leapfrog Group Hospital Safety Grading System, where the Hospital remained for fourteen consecutive quarters; and (ii)

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<sup>3</sup> Section 6 of the Employment Agreement requires the Hospital to provide written notice to Plaintiff in the event of a termination for cause as follows: "Should any of these situations occur, the Chairman of the Hospital's Board or the President and CEO of RWJHCC will provide Executive written notice specifying the effective date of such termination. . . ."

rise in the Center for Medicare and Medicaid Services (“CMS”) ratings from “C” to a highly respected “B.”

19. Along with the rise in safety and quality, Plaintiff’s leadership and focus on key areas, including, for example, the following initiatives, were instrumental in the growth of its reputation for quality care and its overall profitability:

- Installing an in-house 24/7 Hospitalist Program, and creating a “closed-model” 24/7 intensivist program, allowing for better management of the medical care within the Hospital.
- The focus on nursing resulted in the Nursing Department receiving a Nursing Magnet designation in 2020, the highest level of nursing designation in the country.
- The focus on relationships with medical staff led to development of a Neurosurgical Program, raising the reputation of the Hospital for complex services, as well as the formation of the Rothman Surgical Center relationship which is now the most profitable surgical center in the RWJBarnabas Health system.
- The focus on the Cardiac Program led to it becoming one of the most successful Cardiac Programs in the RWJBarnabas Health system.
- The focus on building the Primary Care Services Network led to strategic development of primary care locations throughout Hamilton, Robbinsville and Lawrenceville.
- The focus on employee relations and satisfaction, resulting in the highest employee engagement survey scores in the entire system.
- The hosting of outreach events brought in communities, including West Windsor, Princeton, Pennington, Hopewell, Allentown, Trenton and others, that did not know

of RWJ Hamilton or would seek services elsewhere due to RWJ Hamilton's poor reputation previously.

- During the Covid-19 Pandemic, despite being overwhelmed with patients, the Hospital continued to provide the highest quality of care to the community, receiving praise from community leaders. The Hospital was the only one in the RWJBarnabas Health system that was able to provide 24-hour turnaround for patients awaiting Covid test results; and the Hospital was the first in the area to offer vaccines and actively went out into the communities to offer support.

20. As a result of all those Plaintiff-led initiatives and crucial relationships that he fostered inside and outside of the Hospital, it is currently achieving the best operating margin in RWJBarnabas Health system, as well as the best numbers in terms of length of stay and cost per discharge.

21. In recognition of his vital role in the Hospital's success, the Hospital's Board of Directors (the "Board") voted to increase Plaintiff's Base Salary nearly annually, starting from \$500,000 in 2014 and reaching \$650,000 in 2023, in addition to 20-30% (on average) performance-based annual incentive compensation and that he received.

***Mark Manigan's "One-Family, One-System"  
Centralized Management Initiative***

22. Despite the Hospital's success under his leadership, in July of 2022, Sherri Smith, Director of Marketing for the Hospital, said in a meeting that Plaintiff would be "retired" soon, implying that Plaintiff (who was certainly not planning to retire) would be forced out.

23. Smith's statement was in-line with Mark Manigan's ("Manigan") stated vision of a "One-family, One-system" management structure. Manigan is the newly-minted CEO of RWJBarnabas Health who previously served as President of RWJBarnabas Health. The "One-



family, One-system” management structure sought to achieve more centralized management within RWJBarnabas Health’s senior leadership for all 12 of the system’s acute care hospitals, rather than having the various hospitals managed independently through their own CEOs, as the Hospital was with Plaintiff.<sup>4</sup>

### ***Events Leading To Wrongful Termination***

24. The Robert Wood Johnson University Hospital at Hamilton Foundation (the “Foundation”) is the fund-raising arm of the Hospital. According to its webpage, the Foundation “exists to supplement the vital services and programs at RWJUH Hamilton[,]” through the “thousands of donors and friends who make philanthropic contributions and selflessly give their time to keep [the] community healthy.”

### ***Planning For The Event***

25. Jessica Alleman (“Alleman”) is the Director of the Foundation. Alleman is employed by RWJBarnabas Health and reports directly to Vicki Robinson, the VP of Foundation Operations at RWJBarnabas Health and Glenn Miller, Chief Development Officer at the RWJBarnabas Health Foundation.<sup>5</sup>

26. The Cancer Center at the Hospital provides disciplinary cancer care in a warm and welcoming environment. Through its Holistic Program, the Cancer Center treats the whole person and not just the disease, by offering various therapies and services at no cost to patients and their

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<sup>4</sup> The “Leadership” page within the RWJ Barnabas Health website describes senior leadership as follows:

Led by Mark E. Manigan, President and Chief Executive Officer, the corporate executive team is comprised of senior leaders representing the functional disciplines charged with executing upon the strategic imperatives of RWJBarnabas Health and supporting the local teams at each of our facilities.

See <https://www.rwjbh.org/why-rwjbarnabas-health-/leadership/>

<sup>5</sup> RWJBarnabas Health is sometimes referred to as “Corporate” among the employees of the Hospital and the various individuals involved with the Foundation.

families, including live art demonstrations, boutique services, music and singing, and spiritual care.

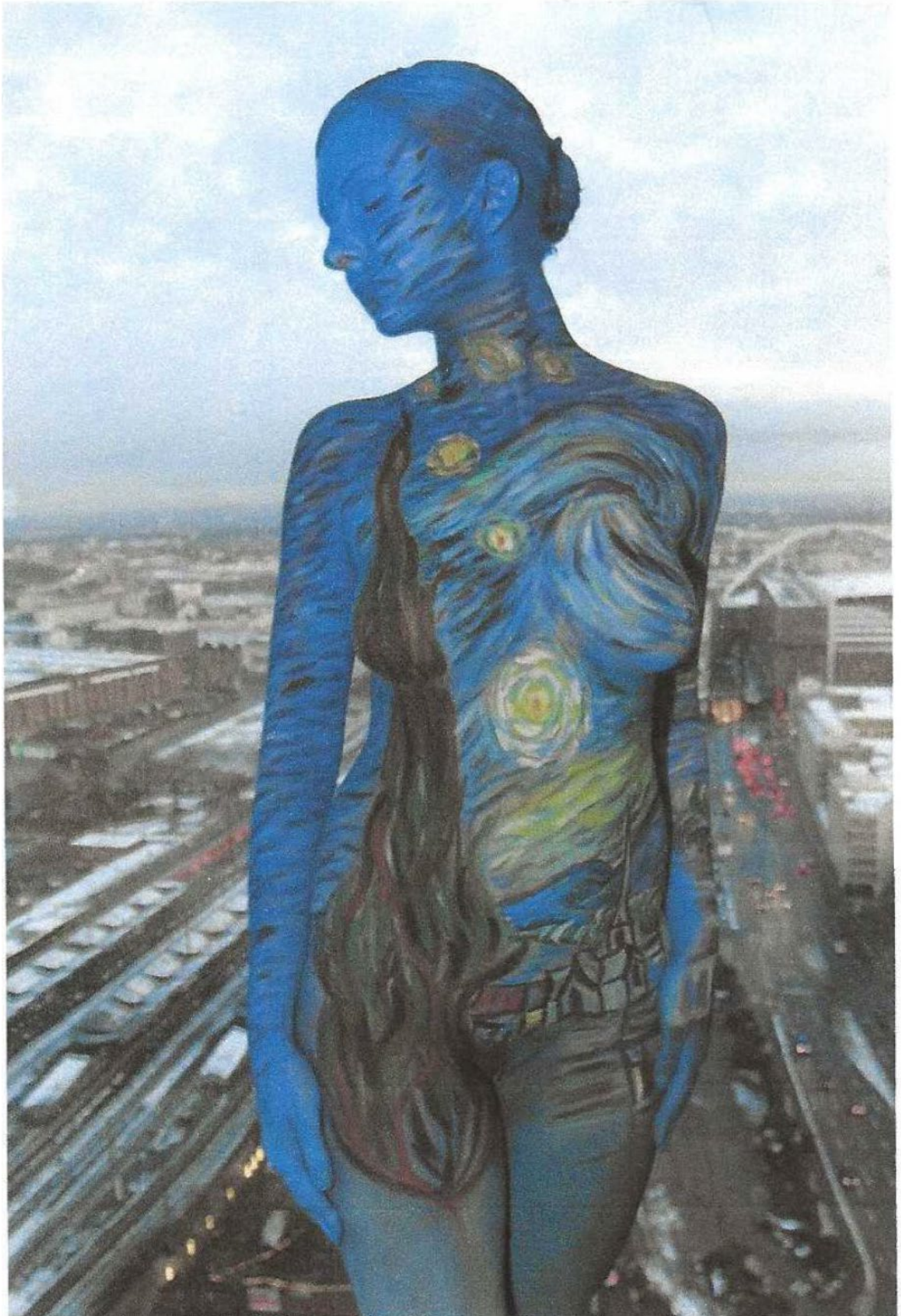
27. The Foundation has hosted annual “We v. C” fundraising events which have provided all funding for the Holistic Program at the Cancer Center for the last seven years.

28. On June 3, 2023, the Foundation hosted the 7<sup>th</sup> Annual We v. C “Under the Italian Sky”-themed event at Glenmore Farm in Hopewell, New Jersey (the “Event”). The Foundation marketed the Event as “embracing all things Italian”, with a “free flowing evening of interactive guest experiences, signature culinary and spirit offerings, art, live entertainment, event themed giveaways and more.”

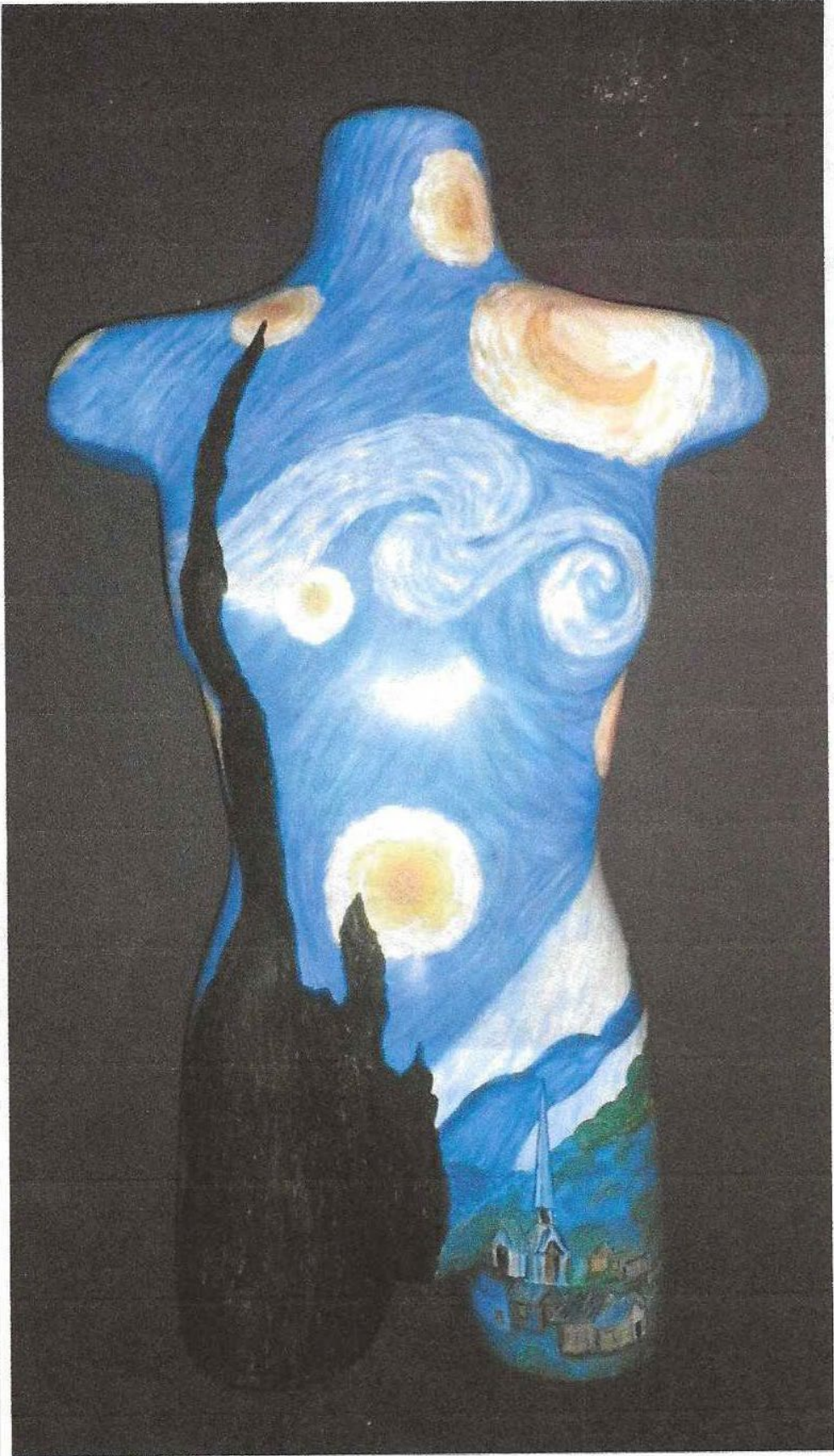
29. Planning for the Event was a year in the making. A We v. C 2023 Event Committee (the “Committee”) was formed, and three Event Tri-Chairs were appointed, all of whom reported to Alleman. Plaintiff’s wife, Lisa Freeman (“Lisa F.”) was one of the Tri-Chairs.

30. On August 22, 2022, Lisa F. sent an email to Alleman, with a subject entitled, “*Living Art – RWJUH – We vs. C Event – 6.3.23*”, making suggestions for the art exhibition at the Event, which included living art body painting images. Forwarding the following images, Lisa F. wrote: “Love the Mona Lisa ! Body Paint Challenge can be seen on Youtube. Very cool”









31. Responding by email that same day, Alleman wrote: “I think I’d like it more if they were in black pants or a black skirt. The fishnets are trippy to me lol but it is really cool[.]” There was no indication from Alleman that the living art body painting images were offensive or otherwise inappropriate for the Event.

32. Body art painting images were then presented to the Committee (which included Hospital Board Chair Nina Melker, Foundation Board Chair Yolanda Stinger, Board member Vijay Aluwalia and Foundation staff), nine months before the Event, at the September 22, 2022 Committee meeting. They were again presented to the Committee in a September 29, 2022 email sent by Alleman, who wrote:

Dear We vs. C Committee:

Thank you all again for your commitment to We vs. C 2023.

We are excited to announce that our 2023 theme for We vs. C is Under the Tuscan Sky - attached is an Inspiration Deck for the event's theme.

Attached are the documents that were distributed at our 09/22meeting, if you were unable to attend the meeting, please take a few moments to review.

33. The “Inspiration Deck” that Alleman referred to and attached to her email was distributed and discussed during the September 22 meeting. At page 25 of 29 of the Inspiration Deck, the following body painting images were prominently displayed under the category, “Entertainment/Activities”:



34. None of the Committee members objected to the body art images contained in the Inspiration Deck.

35. Artist Leon Rainbow (<https://www.leonrainbow.com/>) would present the living art body painting exhibition under a contract with the Foundation, dated December 14, 2022 (the “LR Contract”).

***Corporate Had No Objections Concerning The LR Contract  
Or The Living Body Art Exhibit***

36. Alleman was fully aware of the need for a contract with Leon Rainbow and the need to submit it to Corporate for approval, as reflected in an email sent on November 18, 2022 by Lisa F. to Leon Rainbow and Alleman, which stated, in part:

Jess[ica] - Can you please launch the Payment Works Link to Leon so we can move forward with the contract process ?

Leon- I would like to secure the contract by December 8th at the very latest. I will be away after Thanksgiving so any conversation we need to create the contract, I would need to do so prior to this Wednesday (and my time is a bit limited given a holiday week). I could schedule phone time this Monday if necessary.



If you have something that I can take a look sooner, that would be fine. *I usually request that other items are added prior to submitting to the hospital.* [(Emphasis added).]

37. As per protocol with every vendor contract, Alleman, as Director of the Foundation and an employee of RWJ Barnas Health, would have forwarded the LR Contract to RWJBarnabas Health's legal department ("Corporate Legal") for review and approval, as well as launching the vendor payment enrollment link.

38. There was no mystery as to what the subject matter of the LR Contract was. The following description was contained in the "Overview" section of the LR Contract:

Leon Rainbow (www.LeonRainbow.com) will design and create an amazing *"Living Art" body painting* for the RWJUH-Hamilton - We vs. C Event - 6.3.23 at Glenmore Farm, 105 Pennington-Hopewell Road, Hopewell, NJ from 5 pm - 9:30 pm. Strolling Mona Lisa- will showcase at 6:30 pm and stroll both venue grounds taking photos with guests and sponsors thru 9 pm. The Mona Lisa will have a custom frame made of foam.

Living Starry Nights Body Art- will be in process *(live painting by LR. in front of guests from 6 pm thru 8 pm or maybe 8:15 pm allowing the remainder of the evening to take photos with the finished piece living art model)* (until 9:30 pm). RWJ will provide a small table for painting supplies and stool. RWJ will provide changing area for model(s). [(Emphasis added).]

39. To eliminate any conceivable doubt as to the subject matter of the LR Contract, the "Supplies and Expenses" section of the LR Contract provides as follows:

- Body Paint= \$200
- Custom Frame Fabrication = \$300
- Model Fees (2 models \$250/model = \$500)

40. What's more, according to the We vs. C Committee Meeting Minutes for the December 15, 2022 meeting, under the category, "Entertainment and Novelty Chair Update", the Committee discussed that *"[t]here will be walking art and a live body painting of Starry Night."* [(Emphasis added).]

41. Any literate human being (let alone Corporate Legal) would certainly know that the LR Contract involved the live painting of models (who would be less than fully clothed) occurring in front of guests. Critically, Corporate Legal, which would have been in best position to judge whether the living art body painting exhibit would or could run afoul of any Hospital policies, raised no objections or concerns.

42. Corporate Legal was actively engaged in this matter. Alleman made clear that she had either weekly or bi-weekly has calls with Corporate Foundation members to discuss events, and that the Event was being scrutinized by Corporate Foundation and Legal. Alleman, in multiple conversations with the Committee Chairs, indicated that Corporate Legal (and the Corporate Foundation) had many questions about the Event, including matters such as venue, hold harmless documents, vendor proof of insurance, marketing and collateral promoting alcohol sponsors, alcohol licensing, the ambulance on site, the glass-blower on site, and vendor activities (such as having bees on site at the honey station). Yet no questions or concerns were raised with respect to the living art body painting exhibit.

43. In addition, Hospital Marketing, led by Sherri Smith, and Corporate Marketing would have approved the “collateral”, *i.e.*, the brochure describing the Event, that was sent to guests along with invitations to the Event. Significantly, the collateral offers the following sponsorship opportunity for the living body art, described as “Human Canvas Starry Night”:

**BELLA ITALIANO- \$8,000**

- 8 event tickets with Reserved Seating
- **Sponsor of Human Canvas Starry Night** or Living Mona Lisa Artistic Exhibits

(See Exhibit 2 (emphasis added)).

44. Two Committee Chairs, Lisa F and Donna Bouchard, requested a virtual conference to confirm that there were no issues or concerns with the Event. On May 24, 2023, just weeks before the Event, a virtual conference was convened with Alleman, Justine McCarthy (“McCarthy”) from Corporate (who was provided by Corporate Foundation to help support the Event because Alleman was pregnant and would need help that evening), and Vicki Robinson, VP of Foundation Operations at Corporate.

45. During that virtual conference, Lisa F. asked several times if anyone had any concerns/issues whatsoever about the Event. The only issues that were raised related to renting one or two extra 20x40 tents and/or securing hand-held umbrellas for preparation in the event of rain. No other concerns/issues were presented during the virtual call.

46. Plaintiff’s only involvement in advance of the Event was to resolve a dispute as to whether one or two tents should be prepared in the event of rain. He had no other involvement in the Event and had no knowledge of the living body art exhibit prior to the Event, and he did not actually observe until almost the end of the Event.

47. All of the appropriate and responsible parties—which did not include Plaintiff—authorized the living body art exhibit.

***June 3, 2023 – The Event***

48. The Event was attended by approximately 250 guests, more than 60 vendors (including support staff), and 22 Committee members. Notably, Vicki Robinson, VP of Foundation Operations at RWJBarnabas Health and Justine McCarthy, Director of Development and Strategic Initiatives at RWJBarnabas Health, also attended. And The following Hospital Board members attended the Event: Nina Melker (Chair), Michael Pratico (Vice Chair), Dr. Ed Wingfield (Pres.

of Medical Staff), Dr. Cynthia Vona, Lynne Cannon, Bill Walsh, Harold Fink, Bill Rue and ViJay Aluwalia (also on the Committee).

49. The living art body painting exhibit was on-going for several hours. Nobody complained about it, and nothing unusual or otherwise inappropriate occurred during the Event which would have necessitated any action by Plaintiff to intervene and stop the exhibit.

***June 29, 2023 – The Unlawful Termination***

50. As of June 28, 2023, more than three weeks after the Event, no complaints regarding any aspect of the Event had been brought to Plaintiff's attention. That afternoon, Plaintiff was requested by Bill Arnold ("Arnold"), President, Southern Region of RWJBarnabas Health, to join a conference call that would start shortly. Two people on the conference call told Plaintiff that there were complaints about the Event and asked him questions about it. Plaintiff confirmed that he did not know about the living body art painting exhibit until he arrived at the Event, that nobody complained to him about it at the Event, and that he did not consider it offensive.

51. The next day, Plaintiff received a call from Arnold and Mary Deno ("Deno"), Senior VP of Human Resources for RWJBarnabas Health, requesting a meeting.

52. At that meeting on June 29, 2023, without any forewarning and after nine years of exemplary service as President and CEO, Arnold and Deno made the shocking announcement that Plaintiff was being "terminated for cause", "effectively immediately", for "intentionally violating the Hospital's sexual harassment policy."

53. More specifically, Plaintiff was told that he "intentionally" violated the Hospital's sexual harassment policy because he allowed the living art body painting exhibition to occur and then failed to intervene and stop it, as it was happening, during the Event.

54. Apparently, 22 members of the Committee (which included the Chairman of the

Hospital Board, Foundation Board and other Hospital Board members), the Director of the Foundation, the VP of Foundation Operations at RWJBarnabas Health (who was present at the Event), Director of Development and Strategic Initiatives at RWJBarnabas Health (who was also present at the Event), Hospital Marketing, Corporate Marketing and Legal at RWJBarnabas Health, believed that there was nothing wrong with the living art body painting exhibition. In spite of that and the absence of any complaints during the Event, according to Arnold and Deno, it was an intentional violation of the Hospital's sexual harassment policy to allow it.

55. Even if, for the sake of argument, these facts could be ignored and the living body art exhibition could be deemed a violation of the sexual harassment policy, under no circumstances could it be deemed an "intentional" violation of the sexual harassment policy to justify the termination of Plaintiff's employment with cause under Section 6 of the Employment Agreement.

56. Consequently, Defendant terminated Plaintiff's employment without cause under Section 5 of the Employment Agreement.

57. By letter dated July 7, 2023, Plaintiff placed Defendant on notice that the termination of his employment was without cause under Section 5 of the Employment Agreement and demanded all of the payments and benefits mandated under Sections 3, 4 and 5 of the Employment Agreement.

58. Defendant rejected Plaintiff's demand.

### **COUNT ONE**

#### **(Breach of Contract)**

59. Plaintiff repeats and realleges the allegations contained in each of the preceding paragraphs as if set forth in their entirety herein.

60. Plaintiff performed all of the obligations required of him under the Employment Agreement.

61. Defendant terminated Plaintiff's employment without cause under Section 5 of the Employment Agreement.

62. Contrary to Defendant's position, Plaintiff did not intentionally violate the sexual harassment or any other policy so as to justify a termination of his employment with cause under Section 6 of the Employment Agreement.

63. By deeming the termination of Plaintiff's employment with cause under Section 5, in the absence of an intentional violation of policy, Defendant has breached the Employment Agreement.

64. As a direct and proximate result of such breach, Plaintiff has sustained damages in the form of the payment and benefits under Sections 3, 4 and 5 of the Employment Agreement that Defendant has refused to provide.

**WHEREFORE**, judgment should be entered in favor of Plaintiff and against Defendant as follows:

- (a) Adjudicating and declaring that Defendant's termination of Plaintiff's employment was without cause under Section 5 of the Employment Agreement;
- (b) For compensatory damages;
- (c) For interest, costs of suit and attorneys' fees; and
- (d) For g such other and further relief as the Court may deem just and equitable.

Dated: August 29, 2023

KRANJAC TRIPODI & PARTNERS LLP

By: s/ Joseph Tripodi

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*Attorneys for Plaintiff*

**CERTIFICATION PURSUANT LOCAL CIVIL RULE 11.2**

I hereby certify that the matter in controversy is not the subject of another action pending in any Court or of a pending arbitration proceeding and that no other action or arbitration proceeding is contemplated. I further certify that I am not aware of any other parties who should be joined in this action at this time.

Dated: August 29, 2023

s/ Joseph Tripodi  
Joseph Tripodi