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8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
9 (North County Division)

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11 MARY ARATHOON,  
12 Plaintiff,  
13 vs.  
14 MICHAEL L. DUNLAP; NANCY J.  
DUNLAP; H. SCOTT PECK;  
15 and DOES 1 through 20,  
16 Defendants.

CASE NO.  
COMPLAINT FOR:  
1. Sexual Battery;  
2. Gender Violence;  
3. Intentional Infliction Of  
Emotional Distress;  
4. Negligent Infliction Of  
Emotional Distress; and  
5. Negligence

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18 Plaintiff Mary Arathoon ("Arathoon") alleges:

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GENERAL ALLEGATIONS

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1. Arathoon is and at all material times was an adult resident of San  
21 Diego County, California.

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2. Defendant Michael L. Dunlap ("Mr. Dunlap") is and at all times was  
23 an adult resident of San Diego County, California, as well as a general partner of  
24 a partnership which does and did business as Dunlap, Dunlap & Peck, CPAs  
25 ("DDP"), with its principal place of business in San Diego County, California.

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3. Defendant Nancy J. Dunlap ("Ms. Dunlap") is and at all times was an  
27 adult resident of San Diego County, California, as well as a general partner of  
28 DDP.

1           4.     Defendant H. Scott Peck ("Peck") is and at all times was an adult  
2 resident of San Diego County, California, as well as a general partner of DDP.

3           5.     Arathoon does not know the names of Does 1 through 20. At all  
4 material times, all of the defendants were the agents and employees of each  
5 other, and in doing the acts alleged in this complaint were acting within the  
6 course and scope of such agency. Likewise, all of the defendants conspired with,  
7 and aided and abetted each other, in doing the wrongful things alleged below.

8           6.     On or about September 8, 2003, Arathoon began working as an  
9 assistant for her husband, Lou Arathoon, who was working as an ostensible  
10 independent contractor for Mr. Dunlap and DDP. Arathoon's and her husband's  
11 place of business was an office located inside the DDP offices. From the  
12 beginning, and continuing through May, 2009, Mr. Dunlap sexually assaulted and  
13 battered Arathoon, without her consent, on a continuous and daily basis, and  
14 multiple times each day, by doing such things as:

- 15           a.     Reaching under her skirt with his hand and fondling her
- 16                     genitals;
- 17           b.     Reaching down her shirt and fondling her breasts;
- 18           c.     Reaching down her bra and fondling her breasts;
- 19           d.     Sticking his tongue in her ear;
- 20           e.     Sticking his tongue in her mouth;
- 21           f.     Kissing her;
- 22           g.     Exposing his genitals to her;
- 23           h.     Forcing her hand against his genitals;
- 24           i.     Showing her photographs of his genitals;
- 25           j.     Touching and rubbing her legs, buttocks, and other parts of
- 26                     the body in sexually charged ways; and
- 27           k.     Making lewd comments to her orally and in writing.

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1 FIRST CAUSE OF ACTION  
2 (Sexual Battery Against All Defendants)

3 7. Plaintiff realleges paragraphs 1 through 6.

4 8. By committing the acts alleged in paragraph 6, Mr. Dunlap  
5 committed sexual batteries, as he intentionally touched Arathoon without her  
6 consent in sexually offensive and harmful ways. Ms. Dunlap and Peck are  
7 vicariously liable for Mr. Dunlap's conduct because they were his partners and  
8 his wrongful conduct was committed during the course and scope of his  
9 partnership at DDP.

10 9. As a legal result of the wrongful conduct alleged in this Cause of  
11 Action, Arathoon suffered emotional distress, psychological injuries, mental  
12 anguish, humiliation, depression, and other general damages, as well as economic  
13 losses and psychological expenses. Arathoon alleges she will continue to suffer  
14 both general and special damages in the future in amounts to be proven at trial.

15 10. By committing the wrongful conduct alleged in this Cause of Action,  
16 Mr. Dunlap acted in a despicable manner that amounted to malice, oppression,  
17 and fraud, in conscious disregard of Arathoon's rights and safety, permitting  
18 Arathoon to recover punitive damages against Mr. Dunlap pursuant to Civil Code  
19 § 3294. By ratifying Mr. Dunlap's wrongful conduct, as alleged above, and  
20 because they were Mr. Dunlap's partners, Ms. Dunlap and Peck are likewise  
21 liable for punitive damages.

22 SECOND CAUSE OF ACTION  
23 (Gender Violence Against All Defendants)

24 11. Arathoon realleges paragraphs 1 through 6.

25 12. By doing the things alleged in the First Cause of Action above, Mr.  
26 Dunlap committed physical violence against Arathoon that was based upon her  
27 gender. Ms. Dunlap and Peck are vicariously liable for Mr. Dunlap's conduct  
28 because they were his partners and his wrongful conduct was committed during

1 the course and scope of his partnership at DDP.

2 13. As a legal result of the wrongful conduct alleged in this Cause of  
3 Action, Arathoon suffered emotional distress, psychological injuries, mental  
4 anguish, humiliation, depression, and other general damages, as well as economic  
5 losses and psychological expenses. Arathoon alleges she will continue to suffer  
6 both general and special damages in the future in amounts to be proven at trial.

7 14. By committing the wrongful conduct alleged in this Cause of Action,  
8 Mr. Dunlap acted in a despicable manner that amounted to malice, oppression,  
9 and fraud, in conscious disregard of Arathoon's rights and safety, permitting  
10 Arathoon to recover punitive damages against Mr. Dunlap pursuant to Civil Code  
11 § 3294. By ratifying Mr. Dunlap's wrongful conduct, as alleged above, and  
12 because they were Mr. Dunlap's partners, Ms. Dunlap and Peck are likewise  
13 liable for punitive damages.

14 15. Pursuant to the Unruh Civil Rights Act § 52.4, Arathoon is also  
15 entitled to actual damages, compensatory damages, punitive damages, penalties  
16 of \$25,000 per act of violence, injunctive relief, and any other appropriate relief.

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18 **THIRD CAUSE OF ACTION**  
(Intentional Infliction Of Severe Emotional Distress Against All Defendants)

19 16. Arathoon realleges paragraphs 1 through 6.

20 17. By committing the acts alleged in paragraph 6, Mr. Dunlap engaged  
21 in extreme and outrageous conduct with the intention to cause, or reckless  
22 disregard of the probability of causing, Arathoon to suffer severe emotional  
23 distress. Ms. Dunlap and Peck are vicariously liable for Mr. Dunlap's conduct  
24 because they were his partners and his wrongful conduct was committed during  
25 the course and scope of his partnership at DDP.

26 18. As a legal result of the wrongful conduct alleged in this Cause of  
27 Action, Arathoon suffered emotional distress, psychological injuries, mental  
28 anguish, humiliation, depression, and other general damages, as well as economic

1 losses and psychological expenses. Arathoon alleges she will continue to suffer  
2 both general and special damages in the future in amounts to be proven at trial.

3 19. By committing the wrongful conduct alleged in this Cause of Action,  
4 Mr. Dunlap acted in a despicable manner that amounted to malice, oppression,  
5 and fraud, in conscious disregard of Arathoon's rights and safety, permitting  
6 Arathoon to recover punitive damages against Mr. Dunlap pursuant to Civil Code  
7 § 3294. By ratifying Mr. Dunlap's wrongful conduct, as alleged above, and  
8 because they were Mr. Dunlap's partners, Ms. Dunlap and Peck are likewise  
9 liable for punitive damages.

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11 **FOURTH CAUSE OF ACTION**  
(Negligent Infliction Of Emotional Distress Against All Defendants)

12 20. Arathoon realleges paragraphs 1 through 6.

13 21. By committing the acts alleged in paragraph 6, Mr. Dunlap  
14 negligently engaged in extreme and outrageous conduct causing Arathoon to  
15 suffer severe emotional distress. Ms. Dunlap and Peck are vicariously liable for  
16 Mr. Dunlap's conduct because they were his partners and his wrongful conduct  
17 was committed during the course and scope of his partnership at DDP.

18 22. As a legal result of the wrongful conduct alleged in this Cause of  
19 Action, Arathoon suffered emotional distress, psychological injuries, mental  
20 anguish, humiliation, depression, and other general damages, as well as economic  
21 losses and psychological expenses. Arathoon alleges she will continue to suffer  
22 both general and special damages in the future in amounts to be proven at trial.

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24 **FIFTH CAUSE OF ACTION**  
(General Negligence Against All Defendants)

25 23. Arathoon realleges paragraphs 1 through 6.

26 24. By committing the acts alleged in paragraph 6, Mr. Dunlap breached  
27 his duty to treat Arathoon with reasonable care. Ms. Dunlap and Peck are  
28 vicariously liable for Mr. Dunlap's conduct because they were his partners and

1 his wrongful conduct was committed during the course and scope of his  
2 partnership at DDP.

3 25. As a legal result of the wrongful conduct alleged in this Cause of  
4 Action, Arathoon suffered emotional distress, psychological injuries, mental  
5 anguish, humiliation, depression, and other general damages, as well as economic  
6 losses and psychological expenses. Arathoon alleges she will continue to suffer  
7 both general and special damages in the future in amounts to be proven at trial.

8 **REQUEST FOR RELIEF**

9 **THEREFORE**, plaintiff Mary Arathoon requests a judgment against  
10 defendants Michael L. Dunlap, Nancy J. Dunlap, H. Scott Peck, and Does 1  
11 through 20 for:

12 26. On the First Cause of Action:

- 13 a. General damages of at least \$10,000,000;
- 14 b. Special damages of at least \$1,000,000;
- 15 c. Punitive damages;
- 16 d. Pre-judgment interest;
- 17 e. Attorneys' fees and costs of suit;
- 18 f. Any other proper relief.

19 27. On the Second Cause of Action:

- 20 a. General damages of at least \$10,000,000;
- 21 b. Special damages of at least \$1,000,000;
- 22 c. Punitive damages;
- 23 d. Pre-judgment interest;
- 24 e. Attorneys' fees and costs of suit;
- 25 f. Penalties; and
- 26 g. Any other proper relief.

27 28. On the Third Cause of Action:

- 28 a. General damages of at least \$10,000,000;

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- b. Special damages of at least \$1,000,000;
- c. Punitive damages;
- d. Pre-judgment interest;
- e. Attorneys' fees and costs of suit;
- f. Any other proper relief.

29. On the Fourth Cause of Action:

- a. General damages of at least \$10,000,000;
- b. Special damages of at least \$1,000,000;
- c. Attorneys' fees and costs of suit;
- d. Any other proper relief.

30. On the Fifth Cause of Action:

- a. General damages of at least \$10,000,000;
- b. Special damages of at least \$1,000,000;
- c. Attorneys' fees and costs of suit;
- d. Any other proper relief.

Date: September 30, 2009

Mitchell & Gilleon

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Daniel M. Gilleon, Attorneys for  
Plaintiff Mary Arathoon