

STATE OF INDIANA) ELKHART COUNTY SUPERIOR COURT 2
) SS:
COUNTY OF ELKHART) CAUSE NO. 20D02-1911-CT-243

LINDA GIEREK, and FRANK GIEREK on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

ANONYMOUS 1, ANONYMOUS 2, and
ANONYMOUS 3,

Defendants.

Class Action

Jury Demanded

FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiffs Linda Gierek and Frank Gierek, by counsel, on behalf of themselves and all others similarly situated, for their First Amended Class Action Complaint against Defendants Anonymous 1, Anonymous 2, and Anonymous 3 (collectively “Anonymous Healthcare Provider”), allege as follows:

1. From April to September 2019, Anonymous Healthcare Provider failed to properly sterilize surgical instruments.
2. These improperly sterilized surgical instruments were used in surgeries on more than 1,000 patients of Anonymous Healthcare Provider, exposing them to numerous infectious diseases, including without limitation Hepatitis B, Hepatitis C, and Human Immunodeficiency Virus (“HIV”).
3. Plaintiff Linda Gierek had surgery at Anonymous Hospital on June 24,

2019 and, due to Anonymous Healthcare Provider's failure to properly sterilize its surgical instruments, may have been exposed to innumerable infectious diseases, many of which could be incurable and/or fatal.

4. Frank Gierек is the husband of Linda Gierек.

5. Linda Gierек brings this proposed class action on behalf of herself and a proposed Class, defined below, of Anonymous Healthcare Provider patients who underwent surgery at Anonymous Healthcare Provider from April to September 2019, and who were similarly exposed to infectious diseases.

6. Frank Gierек brings this action on behalf of himself and a proposed Class, defined below, of persons married to Anonymous Healthcare Provider patients who underwent surgery at Anonymous Healthcare Provider from April to September 2019, and who were similarly exposed to infectious diseases.

7. Linda Gierек and Frank Gierек seek certification of two Plaintiff Classes and a judgment in favor of each Class for the emotional trauma, medical expenses, and other injuries and damages that they and each Class have and will suffer as a result of Anonymous Healthcare Provider's negligent acts.

Parties

8. Plaintiff Linda Gierек is and was an Indiana resident and citizen at all relevant times.

9. Plaintiff Frank Gierек is and was an Indiana resident and citizen at all relevant times.

10. Defendant Anonymous 1 is an Indiana non-profit corporation.

11. Defendant Anonymous 1's Registered Agent in the State of Indiana is Alan L. Weldy, VP of Human Resources & Corporate Compliance, 200 High Park Avenue, Goshen, IN 46526. Anonymous 1 is the parent company of Defendant Anonymous 2.

12. Defendant Anonymous 2 is an Indiana non-profit Corporation.

13. Defendant Anonymous 2's Registered Agent in the State of Indiana is Alan L. Weldy, VP of Human Resources & Corporate Compliance, 200 High Park Avenue, Goshen, IN 46526.

14. Defendant Anonymous 3 is an Indiana limited liability company.

15. Defendant Anonymous 3's Registered Agent in the State of Indiana is Alan L. Weldy, VP of Human Resources & Corporate Compliance, 200 High Park Avenue, Goshen, IN 46526.

Facts

16. Plaintiff Linda Gieriek underwent surgery at Anonymous Healthcare Provider on June 24, 2019.

17. In November 2019, Linda Gieriek received a letter from Anonymous Healthcare Provider notifying her that the surgical instruments used during her surgery may not have been properly sterilized.

18. As a result, the surgical instruments used during Linda Gieriek's surgery "may or may not have been completely sterile."

19. According to the letter, due to Anonymous Healthcare Provider's faulty sterilization of the surgical instruments, Linda Gieriek may have been exposed to

countless infectious diseases, including without limitation Hepatitis B, Hepatitis C, and Human Immunodeficiency Virus (“HIV”).

20. Learning of potential exposure to these and other diseases has caused Linda Gierek extreme emotional distress and trauma, which is and will be ongoing for months and years to come.

21. Linda Gierek will also incur medical testing and other expenses for months or years to come.

22. Frank Gierek is and at all times relevant was married to Linda Gierek.

23. Frank Gierek fears and feared for his spouse’s wellbeing as well as his own wellbeing, upon learning that his spouse had undergone a surgery by Anonymous Healthcare Provider in which the surgical instruments may not have been properly sterilized, thereby potentially exposing both himself and his spouse to countless infectious diseases, including without limitation Hepatitis B, Hepatitis C, and HIV.

Hepatitis B

24. Hepatitis B is a liver infection caused by the hepatitis B virus. Hepatitis B can range from a mild illness with a short lifespan to a serious, lifelong illness. Chronic hepatitis B can cause serious health problems, including but not limited to liver damage, cirrhosis, liver cancer, and even death.

25. The hepatitis B virus is spread when blood, semen, or another type of body fluid infected with the virus enters the body of a person who is not infected. One of the recognized means by which a person can become infected with the virus

is through exposure to infected blood or other body fluids due to contact with medical surgical equipment that has been previously used on an infected person and has not been properly sterilized.

26. A non-exhaustive list of symptoms of acute hepatitis B include: fever; fatigue; loss of appetite; nausea; vomiting; abdominal pain; dark urine; clay-colored bowel movements; joint pain; and jaundice.

27. Symptoms of hepatitis B often do not immediately manifest in the infected individual upon exposure. According to the Center for Disease Control, if symptoms occur, they begin an average of 90 days (or approximately three months) after exposure.

28. Many individuals who have acquired a hepatitis B virus infection may not know they are infected, but they may still spread the virus to others.

29. Although some individuals infected with hepatitis B may successfully treat the disease and clear the virus, many others will remain infected for life because they are unable to clear the virus from their bodies.

30. Chronic hepatitis B can develop into serious disease resulting in long-term health problems. In 2016, there were at least 1,698 deaths related to the hepatitis B virus reported to the Center for Disease Control, and this statistic likely underestimates the actual loss of lives.

31. According to the Center for Disease Control, people with chronic hepatitis B should be monitored regularly by a doctor experienced in caring for

people with hepatitis B in order to check for signs of liver disease and evaluate for possible treatments, including medication.

32. Although not every person with chronic hepatitis B will need to be on medication, once a person starts treatment, he or she will need to take medication for life.

33. For the wellbeing of the individual as well as the public, it is imperative that any individual who suspects a potential risk of exposure to the hepatitis B virus undergo regular blood testing to determine the presence or absence of the disease.

Hepatitis C

34. Hepatitis C is a liver infection caused by the hepatitis C virus. Hepatitis C can range from a mild illness with a short lifespan to a serious, lifelong illness.

35. The hepatitis C virus is most commonly spread when blood infected with the virus enters the body of a person who is not infected. One of the recognized means by which a person can become infected with the virus is through exposure to infected blood or other body fluids due to contact with medical surgical equipment that has been previously used on an infected person and has not been properly sterilized.

36. Chronic hepatitis C can cause serious health problems in the infected individual, including liver damage, cirrhosis, liver cancer, and even death.

37. A non-exhaustive list of symptoms of acute hepatitis C include: fever; fatigue; loss of appetite; nausea; vomiting; abdominal pain; dark urine; clay-colored bowel movements; joint pain; and jaundice.

38. Many individuals who have acquired a hepatitis C virus infection may not know they are infected, but they may still spread the virus to others.

39. Chronic hepatitis C can develop into serious disease resulting in long-term health problems. In 2016, there were at least 18,153 deaths related to the hepatitis C virus reported to the Center for Disease Control, and this statistic likely underestimates the actual loss of lives.

40. According to the Center for Disease Control, people with chronic hepatitis C should be monitored regularly by a doctor experienced in caring for people with hepatitis C in order to check for signs of liver disease and evaluate for possible treatments if the infection should progress from acute to chronic in nature.

41. For the wellbeing of the individual as well as the public, it is imperative that any individual who suspects a potential risk of exposure to the hepatitis C virus undergo regular blood testing to determine the presence or absence of the disease.

Human Immunodeficiency Virus (HIV)

42. HIV, the Human Immunodeficiency Virus, is the virus that causes Acquired Immunodeficiency Syndrome (“AIDS”).

43. The HIV virus spreads through certain body fluids that attack the human body’s immune system—specifically, the CD4 or “T” cells, which the immune

system requires to combat infection. Left untreated, HIV reduces the number of CD4 / T-cells in the body.

44. Over time, the HIV virus weakens an affected individual's immune system so that the body cannot fight off infection properly, making the individual more vulnerable to the development of various infections or cancers that take advantage of the body's compromised condition.

45. Although HIV is most commonly transmitted from one affected individual to another through sexual contact, there are many other recognized means by which a person can become infected with the virus, including exposure to infected blood due to contact with medical surgical equipment that has been previously used on an infected person and have not been properly sterilized.

46. Unlike many other viruses, an individual affected with HIV cannot completely eliminate the presence of the virus, even though treatment. Once an individual acquires HIV, it remains with that person for life.

47. No effective cure currently exists for HIV. It can only be controlled through proper medical care, which most commonly includes antiretroviral therapy (ART).

48. For the wellbeing of the individual as well as the public, it is imperative that any individual who suspects a potential risk of exposure to the HIV virus undergo immediate and regular blood testing to determine the presence or absence of the disease as well as prevent the potential further transmission of the disease.

***Over 1000 Anonymous Healthcare Provider
Patients Were Exposed to Infectious Diseases***

49. Linda Gieriek is among more than 1000 surgical patients of Anonymous Healthcare Provider who were potentially exposed to Hepatitis B, Hepatitis C, HIV, and other infectious diseases due to Anonymous Healthcare Provider's failure to properly sterilize its surgical instruments.

50. Anonymous Healthcare Provider sent letters to many, but likely not all, of these surgical patients that were identical or substantially similar to the letter it sent to Linda Gieriek.

51. Multiple print and television news outlets also reported on Anonymous Healthcare Provider's failure to properly sterilize surgical instruments, further notifying the more than 1000 other surgical patients of their potential exposure to infectious diseases.

52. Like Linda Gieriek, the other surgical patients have and will undoubtedly suffer extreme emotional distress due to their exposure to infectious diseases.

53. Also like Linda Gieriek, the other surgical patients will incur medical testing and other expenses for months or years to come.

54. Mrs. Gieriek's husband, Frank Gieriek, and the spouses of other surgical patients, were also potentially exposed to infectious diseases.

55. Frank Gieriek and the spouses of other surgical patients have and will undoubtedly suffer extreme emotional distress due to their exposure to infectious diseases.

56. Frank Gierek and the spouses of other surgical patients have and will incur testing and other medical expenses for months or years to come.

57. Anonymous Healthcare Provider's failure to properly sterilize surgical instruments was unreasonable, negligent, careless, reckless, and below the appropriate standard of care.

58. Anonymous Healthcare Provider's wrongful acts are the direct and proximate result, without limitation, of its failures to properly train and monitor its employees, and its failures to establish and implement proper safety and sterilization policies and procedures.

59. The injuries sustained by Linda Gierek, the other surgical patients, and the spouses of the surgical patients, were the direct and foreseeable consequences of Anonymous Healthcare Provider's negligent acts.

Class Allegations

Class 1

60. Plaintiff Linda Gierek seeks relief pursuant to Rule 23 of the Indiana Rules of Trial Procedure on behalf of Proposed Class 1 of similarly situated persons

61. The "Proposed Class 1" is defined as:

All patients of Anonymous Healthcare Provider to whom Anonymous Healthcare Provider sent a letter identical or substantially similar to the letter it sent to Linda Gierek or to whom Anonymous Healthcare Provider did not send such a letter but who underwent surgery or other procedures that involved the use of surgical instruments, during the period of time when one or more employees of Anonymous Healthcare Provider did not complete all steps in the surgical instrument sterilization process (approximately but not necessarily limited to April 1, 2019 to September 30, 2019).

62. Plaintiffs reserve the right to alter or amend this proposed definition as the lawsuit proceeds.

63. This action is properly maintainable as a class action under Trial Rule 23(A).

64. The Proposed Class 1 consists of more than a thousand persons, such that joinder of all Proposed Class 1 members is impracticable.

65. There are questions of law and fact that are common to the Proposed Class members.

66. Anonymous Healthcare Provider's failure to properly sterilize its surgical instruments was the direct and proximate result of a systematic and common course of conduct.

67. The claims of Linda Gierек are typical of the claims of the Proposed Class 1 because they are based on the same nucleus of operative facts and legal theories, and Linda Gierек has no interests that are antagonistic to the interests of the Proposed Class members.

68. Linda Gierек is an adequate representative of the Proposed Class 1 and has retained competent legal counsel experienced in class actions and complex litigation.

69. This action is properly maintainable as a class action under Trial Rule 23(B)(1), (2) & (3) because questions of law or fact common to the members of the Proposed Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient

adjudication of the controversy.

70. The questions of law and fact common to the Proposed Class 1 predominate over any questions affecting only individual Proposed Class 1 members, particularly because the focus of the litigation will be on the conduct of the Anonymous Healthcare Provider. The predominant questions of law and fact in this litigation include, but are not limited to:

- a. Whether Anonymous Healthcare Provider failed to properly sterilize surgical instruments;
- b. Whether Anonymous Healthcare Provider failed to properly train employees on each step of the sterilization procedure;
- c. Whether Anonymous Healthcare Provider failed to properly supervise and monitor employees who were responsible for sterilizing surgical instruments;
- d. Whether Anonymous Healthcare Provider failed to establish and implement appropriate and reliable policies and procedures to sterilize surgical instruments;
- e. Whether Anonymous Healthcare Provider established and implemented quality control procedures regarding the sterilization of its surgical instruments; and
- f. Whether Anonymous Healthcare Provider was negligent with respect to its sterilization of its surgical instruments;
- g. Whether Anonymous Healthcare Provider's actions and the resulting

injuries to the Proposed Class 1 constitute negligent infliction of emotional distress;

- h. Whether Anonymous Healthcare Provider's actions and the resulting injuries to the Proposed Class 1 constitute common law negligence;
- i. In the alternative, whether Anonymous Healthcare Provider's actions and the resulting injuries to the Proposed Class 1 constitute medical malpractice; and
- j. The type and amount of relief to which the Linda Gierak and Proposed Class 1 members are entitled.

71. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, as the pursuit of thousands of individual lawsuits would not be economically feasible for individual Proposed Class 1 members and would cause a strain on judicial resources, yet each Proposed Class 1 member would be required to prove an identical set of facts in order to recover damages.

72. On information and belief, no other persons who fall within the Proposed Class 1 definition set forth above have initiated similar litigation, such that individual Proposed Class 1 members do not wish to control the prosecution of separate actions.

73. This class action does not present any unique management difficulties.

Class 2

74. Plaintiff Frank Gierек seeks relief pursuant to Rule 23 of the Indiana Rules of Trial Procedure on behalf of Proposed Class 2 of similarly situated persons

75. The “Proposed Class 2” is defined as:

All persons who are currently married to a member of Proposed Class 1 or who were married to a member of Proposed Class 1 at any time after the corresponding member of Proposed Class 1 underwent surgery or other procedures that involved the use of surgical instruments, during the period of time when one or more employees of Anonymous Healthcare Provider did not complete all steps in the surgical instrument sterilization process (approximately but not necessarily limited to April 1, 2019 to September 30, 2019).

76. Plaintiffs reserve the right to alter or amend this proposed definition as the lawsuit proceeds.

77. This action is properly maintainable as a class action under Trial Rule 23(A).

78. The Proposed Class 2 consists of hundreds of persons, such that joinder of all Proposed Class members is impracticable.

79. There are questions of law and fact that are common to the Proposed Class 2 members.

80. Anonymous Healthcare Provider’s failure to properly sterilize its surgical instruments was the direct and proximate result of a systematic and common course of conduct.

81. The claims of Frank Gierек are typical of the claims of the Proposed Class 2 because they are based on the same nucleus of operative facts and legal theories, and Frank Gierек has no interests that are antagonistic to the interests of the Proposed Class 2 members.

82. Frank Gierek is an adequate representative of the Proposed Class and has retained competent legal counsel experienced in class actions and complex litigation.

83. This action is properly maintainable as a class action under Trial Rule 23(B)(1), (2) & (3) because questions of law or fact common to the members of the Proposed Class 2 predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

84. The questions of law and fact common to the Proposed Class 2 predominate over any questions affecting only individual Proposed Class 2 members, particularly because the focus of the litigation will be on the conduct of the Anonymous Healthcare Provider. The predominant questions of law and fact in this litigation include, but are not limited to:

- a. Whether Anonymous Healthcare Provider failed to properly sterilize surgical instruments;
- b. Whether Anonymous Healthcare Provider failed to properly train employees on each step of the sterilization procedure;
- c. Whether Anonymous Healthcare Provider failed to properly supervise and monitor employees who were responsible for sterilizing surgical instruments;
- d. Whether Anonymous Healthcare Provider failed to establish and implement appropriate and reliable policies and procedures to sterilize

surgical instruments;

- e. Whether Anonymous Healthcare Provider established and implemented quality control procedures regarding the sterilization of its surgical instruments; and
- f. Whether Anonymous Healthcare Provider was negligent with respect to its sterilization of its surgical instruments;
- g. Whether Anonymous Healthcare Provider's actions and the resulting injuries to the Proposed Class 2 constitute negligent infliction of emotional distress;
- h. Whether Anonymous Healthcare Provider's actions and the resulting injuries to the Proposed Class 2 constitute common law negligence;
- i. Whether Frank Gierek and the Proposed Class 2 members were foreseeable victims of Anonymous Healthcare Provider's tortious conduct; and
- j. The type and amount of relief to which Frank Gierek and Proposed Class 2 members are entitled.

85. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, as the pursuit of thousands of individual lawsuits would not be economically feasible for individual Proposed Class 2 members and would cause a strain on judicial resources, yet each Proposed Class 2 member would be required to prove an identical set of facts in order to recover damages.

86. On information and belief, no other persons who fall within the Proposed Class 2 definition set forth above have initiated similar litigation, such that individual Proposed Class 2 members do not wish to control the prosecution of separate actions.

87. This class action does not present any unique management difficulties.

CAUSES OF ACTION

88. The following is a non-exhaustive list of causes of action supported by the facts of this case. *ARC Constr. Mgmt., LLC v. Zelenak*, 962 N.E.2d 692, 697 (Ind. Ct. App. 2012) (“Under Indiana’s notice pleading system, a pleading need not adopt a specific legal theory of recovery to be adhered to throughout the case.”). These causes of action shall not in any way limit the legal bases for liability or recovery in this case.

COUNT I NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS (On Behalf of Proposed Class 1)

89. Plaintiffs incorporate the allegations set forth above as though set forth fully here.

90. Anonymous Healthcare Provider performed surgical and possibly other procedures involving surgical instruments on the members of the Proposed Class 1 from the period of approximately April 1, 2019 to September 30, 2019.

91. Anonymous Healthcare Provider had a professional and legal duty to perform those procedures in a safe, sterile, reasonable, and professional manner.

92. Anonymous Healthcare Provider breached those duties by using surgical instruments that may not have been properly sterilized.

93. Anonymous Healthcare Provider's actions constituted direct physical impacts to Line Gierak and each member of the Proposed Class 1.

94. As a direct and proximate result of Anonymous Healthcare Provider's breaches of these duties, the members of the Proposed Class 1 were potentially exposed to innumerable infectious diseases, including potentially incurable and fatal diseases.

95. The members of the Proposed Class 1 each suffered extreme and serious emotional distress and trauma as the result of the negligent conduct of Anonymous Healthcare Provider.

96. The injuries suffered by the members of the Proposed Class 1 were the direct and foreseeable consequences of Anonymous Healthcare Provider's breaches of their professional and legal duties.

COUNT II
NEGLIGENCE
(On Behalf of Proposed Class 1)

97. Plaintiffs incorporate the allegations set forth above as though set forth fully here.

98. Anonymous Healthcare Provider performed surgical and possibly other procedures involving surgical instruments on the members of the Proposed Class 1 from the period of approximately April 1, 2019 to September 30, 2019.

99. Anonymous Healthcare Provider had a professional and legal duty to perform those procedures in a safe, sterile, reasonable, and professional manner.

100. Anonymous Healthcare Provider breached those duties by using surgical instruments that may not have been properly sterilized.

101. As a direct and proximate result of Anonymous Healthcare Provider's breaches of these duties, the members of the Proposed Class 1 were potentially exposed to innumerable infectious diseases, including potentially incurable and fatal diseases.

102. The members of the Proposed Class 1 each suffered extreme and serious emotional distress and trauma, and will incur medical testing and other expenses as the result of the negligent conduct of Anonymous Healthcare Provider.

103. The injuries suffered by the members of the Proposed Class 1 were the direct and foreseeable consequences of Anonymous Healthcare Provider's breaches of their professional and legal duties.

COUNT III
(Pleaded in the Alternative)
MEDICAL MALPRACTICE
(On Behalf of Proposed Class 1)

104. Plaintiffs incorporate the allegations set forth above as though set forth fully here.

105. Anonymous Healthcare Provider performed surgical and possibly other procedures involving surgical instruments on the members of the Proposed Class 1 from the period of approximately April 1, 2019 to September 30, 2019.

106. Anonymous Healthcare Provider had a legal duty to perform such procedures in a manner that met or exceeded the applicable medical standard of care.

107. By performing these procedures with surgical instruments that were not properly sterilized, Anonymous Healthcare Provider failed to meet the applicable standard of medical care.

108. Anonymous Healthcare Provider's breaches of the standard of care constitute medical malpractice.

109. As a direct and proximate result of Anonymous Healthcare Provider's medical malpractice, the members of the Proposed Class suffered and will continue to suffer extreme emotional distress and will incur medical testing and other expenses.

110. As the spouses of members of Proposed Class 1, each member of Proposed Class 2 was potentially exposed to the same innumerable infectious diseases, including potentially incurable and fatal diseases to which the members of Proposed Class 1 were exposed.

111. The members of the Proposed Class 2 each suffered extreme and serious emotional distress and trauma, and have/will incur medical testing and other expenses as the result of the negligent conduct of Anonymous Healthcare Provider.

112. As spouses of the members of Proposed Class 1, each member of Proposed Class 2 was a foreseeable victim of Anonymous Healthcare Provider's medical malpractice.

113. The injuries suffered by the members of the Proposed Class 2 were the direct and foreseeable consequences of Anonymous Healthcare Provider's breaches of their professional and legal duties.

**COUNT IV
NEGLIGENCE
(On Behalf of Proposed Class 2)**

114. Plaintiffs incorporate the allegations set forth above as though set forth fully here.

115. Anonymous Healthcare Provider performed surgical and possibly other procedures involving surgical instruments on the members of the Proposed Class 1 from the period of approximately April 1, 2019 to September 30, 2019.

116. Anonymous Healthcare Provider had a professional and legal duty to perform those procedures in a safe, sterile, reasonable, and professional manner.

117. Anonymous Healthcare Provider breached those duties by using surgical instruments that may not have been properly sterilized.

118. As a direct and proximate result of Anonymous Healthcare Provider's breaches of these duties, the members of the Proposed Class 1 were potentially exposed to innumerable infectious diseases, including potentially incurable and fatal diseases.

119. As the spouses of members of Proposed Class 1, each member of Proposed Class 2 was potentially exposed to the same innumerable infectious diseases, including potentially incurable and fatal diseases to which the members of Proposed Class 1 were exposed.

120. The members of the Proposed Class 2 each suffered extreme and serious emotional distress and trauma, and have/will incur medical testing and other expenses as the result of the negligent conduct of Anonymous Healthcare Provider.

121. As spouses of the members of Proposed Class 1, each member of Proposed Class 2 was a foreseeable victim of Anonymous Healthcare Provider's negligence.

122. The injuries suffered by the members of the Proposed Class 2 were the direct and foreseeable consequences of Anonymous Healthcare Provider's breaches of their professional and legal duties.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs, on behalf of themselves and the Proposed Classes, respectfully pray that the Court certify the Proposed Plaintiff Classes pursuant to Indiana Rule 23(A) and (B)(1), (2), & (3) and enter orders and/or judgments against the Defendants and in favor of Plaintiffs and the Proposed Classes in an amount that will fairly compensate them for those losses and damages they have and will sustain as a result of Defendants' wrongdoing.

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves and all others similarly-situated,
respectfully demand a trial by jury.

Respectfully submitted,

WALTER J. ALVAREZ, P.C.

/s/ Walter J. Alvarez

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CERTIFICATE OF SERVICE

I certify that on February 7, 2020, a copy of the foregoing was filed electronically with Efile.INCourts.Gov. On the same date the foregoing was served on all counsel of record by operation of the Court's electronic filing system pursuant to Ind. Trial Rule 86. Parties may access this filing through the Court's system.

/s/ Eric S. Pavlack
Eric S. Pavlack