

[REDACTED]

In specific regards to the investigation into the report by Plaintiff, [REDACTED] of her genitals being inappropriately touched by a Massage Envy massage therapist, [REDACTED] testified that she was following Massage Envy policy when she asked Plaintiff to come back to the clinic to be interviewed, despite the fact that she was just sexually assaulted at that very same location:

Q: Did you think it was appropriate to ask Ms. [REDACTED] to come to the clinic where she was a victim of what she claimed to have been inappropriate touching of her genitals by Mr. Deiter?

A: I was following the policy of Massage Envy, and therefore I thought it was appropriate.

See Exhibit "F" at p. 262.

[REDACTED] further testified:

Q: So at least with regards to the February [REDACTED] report concerning Mr. Deiter and the April [REDACTED] incident report concerning Mr. Deiter, everything that you did in those regards was pursuant to Massage Envy Franchising policies and procedures that you were mandated to follow.

A: That's my belief.

See Exhibit "D" at p. 436.

██████████, the clinic manager at Spa Dogs, who conducted the investigation into the report by Plaintiff, ██████████ of her genitals being inappropriately touched by a Massage Envy massage therapist, likewise confirmed that she conducted the entire investigation pursuant to and in accordance with Massage Envy policies and procedures:

Q: And, again, everything that you did with regard to the interviews, investigation, did you do in accordance with the policies and procedures that were presented to you by Massage Envy?

A: As far as I know I did.

Q: And in terms of ██████████ making this report over the phone call, did you do -- in your mind did you do everything that you were supposed to do with regard to the policy and procedures of Massage Envy for a client that reports an incident over the phone?

A: I was under the impression that I was doing.

Q And, again, what was that?

A: Like the whole process?

Q: Well -- and that's meeting face-to-face, correct?

A: Yes.

Q: Now, nothing in these policies and procedures required you to or even suggested to you that you report this to the police; is that correct?

A: As far as I know. And, I mean, I reached out to my regional team, who is there for these specific reasons. And she didn't recommend that I do that. So I went with what, you know, she thought I should do.

See deposition transcript of ██████████ November 1, 2016, pp. 230-231, attached hereto as Exhibit "G."

Ms. Hansen, Massage Envy's General Counsel, confirmed that Massage Envy closely monitors and reviews the adequacy and the results of these investigations:

conduct by massage therapists directly to MEF via a designated online incident reporting form. (See Operations Manual Code of Conduct Reporting and Handling Policy). MEF policy dictates that:

“RDs (Regional Developers, agents and representatives of MEF) should briefly review the automated Incident Reporting Tool with the franchisee and explain the circumstances that would necessitate the completion of an incident report. When allegations of inappropriate conduct are made, the franchisee should notify the RD, and the RD should notify the FSC (Franchise Support Center, aka MEF) as incidents may adversely affect the Massage Envy Brand. In the event a reportable event occurs, the franchisee may use the automated Incident Reporting Tool, which will automatically copy the RD on any incident report submitted and the RD should be actively engaged in assisting with the communication of the incident to the FSC and coordinating any follow-up with or from the FSC.”

Accordingly, MEF was well aware of the significant amount of sexual assaults that occurred at its franchise locations and even provided its franchisees and employees a designated system to funnel that information directly to MEF so that MEF could monitor and coordinate its response to the assaults in a manner that would not affect its brand and business – thus putting money ahead of customer safety.

Additionally, MEF general counsel Melanie Hansen informs franchisees and employees that her “team handles reports of inappropriate conduct.” (Massage Envy University Online Training MEF 497) In its franchise training protocol relating to the handling and reporting of sexual assaults, MEF instructs its franchisees and employees that the ideal goal is to “**avoid police and keep membership.**” (See Franchise Training Manual Risk Management – aka Risky Business, MEF 1671). Moreover, MEF takes this directive to its franchisees a step further in its Procedure for Handling Therapist and Client Incidents. MEF instructs franchisees and their employees that MEF will make the decision whether to notify law enforcement upon a report of sexual assault by one of its employees: