

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SERKAN CABI, PH.D., ISIN CAKIR, PH.D.,
and SAFAK MERT, PH.D.

Plaintiffs

v.

BOSTON CHILDREN’S HOSPITAL,
THE CHILDREN’S HOSPITAL
CORPORATION AND ITS AFFILIATED
ENTITIES, UMUT OZCAN, M.D.,
JOSEPH MAJZOUB, M.D.,
SANDRA L. FENWICK,
MICHELE GARVIN, AND
ERX PHARMACEUTICALS, INC.,

Defendants

Civil Action No.: 1:15-cv-12306-DJC

FIRST AMENDED AND VERIFIED COMPLAINT AND JURY CLAIM

1. This case concerns three post-doctoral fellows, Serkan Cabi, Ph.D., Isin Cakir, Ph.D., and Safak Mert, Ph.D. (individually, “Dr. Cabi,” “Dr. Cakir,” and “Dr. Mert”; collectively, the “Fellows”), who worked in the laboratory of Umut Ozcan, M.D. (“Dr. Ozcan”) at Boston Children’s Hospital. The Fellows, by and through their undersigned counsel, file this First Amended and Verified Complaint pursuant to Fed. R. Civ. P. 15(a)(1)(B). The Fellows allege Dr. Ozcan subjected them to severe and pervasive sex-based and race-based comments and that he committed research misconduct. They reported to the Hospital Dr. Ozcan’s research misconduct and the hostile work environment he created and suffered retaliation directly related to it, in violation of hospital policy and federal and state law.

PARTIES

2. Boston Children’s Hospital (“BCH”) is a pediatric hospital and research center with its main campus at 300 Longwood Avenue, Boston, Massachusetts 02115. By its definition, and for the purposes of this lawsuit, BCH includes The Children’s Hospital Corporation and its affiliated entities including The Children’s Medical Center Corporation, Fenmore Realty Corporation, Longwood Research Institute, Inc., 333 Limited Partnership, CHB Properties, Inc. and Longwood Corporation.

3. BCH is a teaching affiliate of Harvard Medical School (“HMS”) and it employs more than fifteen persons. The Articles of Organization for The Children’s Hospital Corporation states that it exists in part to “operate . . . research laboratories” and “participate to the extent desirable or practical, in any activity designed and carried on to promote the general health of the community.” BCH collaborates with the Massachusetts Life Sciences Center, a quasi-public state agency, and other state and local government entities in pursuit of these endeavors. The collaboration goes beyond funding.

4. Dr. Ozcan supervises a laboratory at BCH where he conducts research and advises post-doctoral fellows and research assistants who work with him.
5. Dr. Ozcan is a Principal Investigator at BCH and an associate professor at HMS.
6. Dr. Ozcan is a supervisor at BCH.
7. Some of the research performed in Dr. Ozcan's laboratory is funded by National Institute of Health ("NIH") federal grant money. NIH grant money also provides some of the funding for paying research assistants and post-doctoral fellows in Dr. Ozcan's laboratory. See Exhibit A.
8. BCH is also a source of funding and other resources for Dr. Ozcan's laboratory. BCH receives funding from private and public sources, including but not limited to federal programs such as the NIH.
9. Dr. Ozcan is also a director at ERX Pharmaceuticals, Inc. ("ERX"), a duly organized Delaware corporation with a registered agent, K. Teoman Uysal, 15 Trowbridge Street, Apartment 2, Cambridge MA 02136. See Exhibit B.
10. Through ERX, Dr. Ozcan hopes to market the results of research performed at his laboratory.
11. Dr. Joseph Majzoub, M.D. ("Dr. Majzoub") is Dr. Ozcan's division chief at BCH.
12. Sandra L. Fenwick ("Ms. Fenwick") is the President and Chief Executive Officer of BCH.
13. Michele Garvin, Esq. ("Ms. Garvin") is Senior Vice President and General Counsel of BCH.
14. Dr. Cabi started work at BCH in the laboratory of Dr. Ozcan in June 2009 as a post-doctoral fellow. Dr. Cabi currently resides in Brighton, Massachusetts.
15. Dr. Cakir started work at BCH in the laboratory of Dr. Ozcan in October 2010 as a post-doctoral fellow. Dr. Cakir currently resides in Nashville, Tennessee.
16. Dr. Mert started work at BCH in the laboratory of Dr. Ozcan in April 2012 as a research assistant and he then was promoted to post-doctoral fellow in February 2014. Dr. Mert currently resides in Brighton, Massachusetts.
17. As of June 19, 2014, none of the Fellows were working in Dr. Ozcan's laboratory pursuant to a letter from BCH to each of them.

JURISDICTION

18. Jurisdiction is proper under 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 28 U.S.C. § 1367.
19. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b) and the Local Rules of the United States District Court for the District of Massachusetts.
20. On or about December 29, 2014, the Fellows filed charges with the Massachusetts Commission Against Discrimination and the Equal Employment Opportunity Commission (the "MCAD Complaints"). See Exhibit C
21. The Fellows hereby exercise their right to remove the claims in the MCAD Complaints to this Court for adjudication and they have closed their files with the MCAD and EEOC. See Exhibit C.

FACTS

22. While working in Dr. Ozcan's laboratory the Fellows primary responsibilities were conducting research on the biology of obesity and diabetes, and drug development against these conditions, including designing and performing experiments and analyzing the resulting data.
23. At a speech in June 2012, Dr. Ozcan acknowledged, "Serkan [Cabi] and Isin [Cakir] are the really great scientists that are in my lab who did the drug and leptin resistance work." The quote is at 00:26:13 at this link:
http://professional.diabetes.org/Adv_SearchResult.aspx?kwd=umut%20ozcan&sr=global&ResType=ALL&typ=0&adv=True.
24. Dr. Ozcan praised Dr. Cakir in the budget justification of a grant proposal. See Exhibit D.
25. On occasions, Dr. Ozcan introduced Dr. Cakir as his "best research fellow."
26. Dr. Ozcan assigned Dr. Cakir to lead the POMC project in his laboratory and to supervise Dr. Mert before Dr. Mert's promotion to post-doctoral fellow in February 2014.
27. In or around July 2013, Dr. Ozcan raised the salaries of Dr. Cabi and Dr. Cakir from around \$42,000 to \$49,500 so that they were making more in salary than other postdoctoral fellows in the laboratory who had been there for the same amount of time as they had been.
28. On November 12, 2013, Dr. Ozcan praised Dr. Cabi's work in a letter and wrote: "I can comfortably and without overstatement say that Serkan [Cabi] is the smartest scientist that I have met in life, and he will have major contributions to scientific world throughout his career." See Exhibit E.
29. The Fellows witnessed incidents of research misconduct and other misconduct by Dr. Ozcan.
30. On February 7, 2014, Dr. Cabi and Dr. Cakir sent an anonymous email to HMS's Ombuds Office seeking advice and without identifying Dr. Ozcan. See Exhibit F.
31. On February 10, 2014, Dr. Cabi and Dr. Cakir met the HMS Ombudsperson, Melissa Brodrick ("Ms. Brodrick"), without identifying Dr. Ozcan. Ms. Brodrick provided them with some options as to what they can do and informed them that a non-retaliation policy existed in cases such as theirs.
32. On February 10, 2014, Dr. Cabi and Dr. Cakir also called August Cervini ("Mr. Cervini")(BCH's Vice President of Research Administration) to seek advice. Dr. Cabi and Dr. Cakir did not identify themselves nor did they identify Dr. Ozcan in this call. Mr. Cervini suggested they talk to Attorney Dianne McCarthy ("Ms. McCarthy") (Chief Counsel for Research Affairs at BCH). Dr. Cabi and Dr. Cakir called Ms. McCarthy without revealing their identity or that of Dr. Ozcan. Ms. McCarthy encouraged them to report Dr. Ozcan's research misconduct and she assured them that a non-retaliation policy in place would protect them.
33. Dr. Cabi made initial official reports to Ms. McCarthy on March 3, 2014, and to Ms. McCarthy, Mr. Cervini, and Attorney Gretchen Brodnicki ("Ms. Brodnicki") (Dean for Faculty and Research Integrity at HMS) on March 4, 2014, about Dr. Ozcan:
- a) forcing him secretly to conduct research for ERX using BCH and federal funding and resources under threat of retaliation;
 - b) committing research misconduct in scientific manuscripts, federal grant applications, and scientific meeting presentations, and forcing him to commit research misconduct under threat of retaliation in a drug development project with public health consequences;
 - c) creating a hostile work environment with constant cursing and humiliation, talking about his

sexual exploits, not respecting his choice not to drink alcohol, and passing inappropriate comments about his personal life, as well as sexual comments about Dr Cabi's wife;

d) abusing his power by requiring use of Dr. Cabi's bank account for unexplained personal money transfers of unknown origin.

34. Dr. Cakir made initial reports to Ms. McCarthy on March 3, 2014, and to Ms. McCarthy, Mr. Cervini, and Ms. Brodnicki on March 4, 2014, about Dr. Ozcan:

a) forcing him secretly to conduct research for ERX using BCH and federal funding and resources under threat of retaliation;

b) committing research misconduct in scientific manuscripts, federal grant applications, and scientific meeting presentations, and forcing him to commit research misconduct under threat of retaliation in a drug development project with public health consequences;

c) creating a hostile work environment with constant cursing and humiliation, talking about his sexual exploits, insulting his ethnic background, and using his cell phone against his will to harass his female friends as well as harass female employees of BCH;

d) abusing his power by requiring use of Dr. Cakir's bank account for unexplained personal money transfers of unknown origin.

35. Dr. Mert made initial reports to Ms. McCarthy on March 3, 2014, and to Ms. McCarthy, Mr. Cervini, and Ms. Brodnicki on March 4, 2014, about Dr. Ozcan:

a) forcing him secretly to conduct research for ERX using BCH and federal funding and resources under threat of retaliation;

b) committing research misconduct in scientific manuscripts, federal grant applications, and scientific meeting presentations, and forcing him to commit research misconduct under threat of retaliation in a drug development project with public health consequences; and,

c) creating a hostile work environment with constant cursing and humiliation, threats, abuse of power, attempts to control his personal life, and attempts to limit his professional advancement by controlling his professional interactions and communications with fellow scientists in his division.

36. The reports summarized in the three preceding paragraphs are described in more detail below.

37. Because Dr. Ozcan's laboratory at BCH received NIH funds, it is subject to 42 C.F.R. 93, pursuant to which BCH must act in a quasi-judicial investigatory and disciplinary capacity to investigate allegations of research misconduct (while protecting due process and preventing retaliation against claimants) and then report to the federal government's Office of Research Integrity ("ORI") at the Public Health Service for further action. Because BCH is a teaching affiliate of HMS, the investigation is conducted jointly by BCH and HMS.

38. BCH currently is conducting an inquiry, under 42 C.F.R. 93 and its own research misconduct policy, into the allegations that Dr. Ozcan committed research misconduct.

39. BCH had in place at all relevant times a research misconduct policy.

40. Ms. McCarthy in February 2014 (on the phone), and in March 2014 assured the Fellows that BCH has a non-retaliation policy.

41. Ms. McCarthy in March 2014 in her office assured the Fellows that they would not be damaged in any way because of their report of Dr. Ozcan's misconduct.

42. Non-retaliation against individuals who report research misconduct is mandated by 42 C.F.R. §93.300-§93.302, BCH's research misconduct policy, and HMS's research misconduct policy.

43. Ms. McCarthy in the February 2014 telephone call and in March 2014 in her office told the Fellows that BCH would cause to be assigned an independent senior professor to supervise them.

44. On or about April 17, 2014, Ms. McCarthy gave a presentation hosted by the Boston Bar Association concerning BCH's research misconduct procedure and policy, including that "Protections are put in place to protect the accused as well as those making allegations." See Exhibit G.

45. After they reported his misconduct, Dr. Ozcan filed false charges of scientific misconduct against Dr. Cabi and Dr. Cakir in May 2014.

46. The falsity of Dr. Ozcan's charges is underscored by the fact that he has since then published the very data at issue. Dr. Ozcan alleged in May 2014 that the Fellows falsified and fabricated data without his knowledge but he has also since then taken this very same data and publicly presented it in an article published in *Cell* in May 2015 on which he is an author and it is part of his conclusions in that article.

47. A joint BCH – HMS committee is conducting an inquiry into Dr. Ozcan's charges of research misconduct against Dr. Cabi and Dr. Cakir. BCH is again acting in a quasi-judicial investigatory and disciplinary capacity here under federal law.

48. The research misconduct inquiry referenced in ¶ 47 is a faculty review of a matter within the faculty's scientific expertise. Conclusions about research integrity ultimately are reached by panel members who work independent of the ongoing litigation. The outcome of that investigation does not affect the separate allegations in this Complaint.

49. Pursuant to 42 C.F.R. § 93.307(f), Dr. Cabi and Dr. Cakir are permitted to respond to inquiry reports received by each of them after the filing of the Complaint. Accordingly, Dr. Cabi and Dr. Cakir requested access to certain materials through counsel on or around July 14, 2015.

50. BCH, through counsel, denied access to the materials to which reference is made in the preceding paragraph. For instance, Dr. Cabi and Dr. Cakir asked for access to all laboratory notebooks. BCH first proposed a "trade," in which it sought access to personal data on personal laptops of Dr. Cabi and Dr. Cakir in exchange for the requested access. BCH subsequently provided supervised access to some, though not all, of the requested laboratory notebooks.

51. BCH has not permitted Dr. Cabi and Dr. Cakir access to several other critically important categories of requested materials. This obstruction interferes with the investigation being conducted fairly and with due process.

52. On March 4, 2014, after they had made their report about Dr. Ozcan's misconduct, Dr. Majzoub in his office told Dr. Cabi and Dr. Cakir that he thought it was time for them to get promoted.

53. Dr. Cabi and Dr. Cakir were not promoted after Dr. Majzoub's statement to them.

54. On June 19, 2014, BCH removed the Fellows from Dr. Ozcan's laboratory and from projects they each had developed and on which they had invested years of their careers. See Exhibit H.

55. On June 19, 2014, BCH represented to the Fellows that, "Dr. Majzoub is speaking with other PI's [Principal Investigator] regarding your moving to another lab." See Exhibit H.

56. The Fellows' requested it but BCH never assigned a different professor to supervise them.

I. Patents

57. In a letter dated October 6, 2014, BCH informed Dr. Cabi and Dr. Cakir of its intention to remove each of them from inventorship on two patent applications, Application PCT/US2013/061911 (“SR01”) and Application 61/908,998 (“SR02”) (collectively, “the Patents”). See Exhibit I. This letter further stated, “[the application for SR01 pending in the Patent and Trademark Office] will be corrected now; [the application for SR02] is a provisional application and will be corrected at the time of filing of its corresponding PCT application.”

58. SR01 is also known as Celastrol and Dr. Ozcan, Dr. Majzoub, and the Hospital believe it will be a highly-effective and profitable anti-obesity drug.

59. At all times prior to reporting Dr. Ozcan’s misconduct, Dr. Cabi and Dr. Cakir had been considered by BCH as inventors on the Patents and listed as inventors on relevant applications related to them. See Exhibit I.

60. Dr. Ozcan stated that Dr. Cabi and Dr. Cakir were co-inventors on SR01. See Exhibit K.

61. Dr. Ozcan described some of Dr. Cabi’s contributions to the SR01 and SR02 projects in writing. See Exhibits E, L.

62. BCH decided to remove Dr. Cabi and Dr. Cakir from inventorship on the Patents after they had reported Dr. Ozcan’s misconduct. See Exhibit I. BCH did so because of their report and in retaliation.

63. BCH claims to rely on a report from its patent attorney, Pabst Patent Group, to support its decision to remove Dr. Cabi and Dr. Cakir from inventorship on the Patents after they had reported Dr. Ozcan’s misconduct. See Exhibit I.

64. Pabst Patent Group had previously prepared the applications that included Dr. Cabi and Dr. Cakir as inventors on the Patents. See Exhibit J.

65. Despite numerous requests, BCH has not provided a copy of the Pabst Patent Group report to Dr. Cabi and Dr. Cakir or their counsel.

66. When Dr. Cabi and Dr. Cakir raised concerns in early April 2014 that Dr. Ozcan was going to be listed inaccurately as an inventor on a third patent, not SR01 or SR02, BCH used the opportunity to open the question of inventorship as to SR01 and SR02.

67. Inventorship as to SR01 and SR02 had been settled prior to April 2014 to include Dr. Cabi and Dr. Cakir. See Exhibits E, J, and K.

68. Pabst Patent Group conducted a cursory and result-driven investigation as to inventorship of SR01 and SR02 at the behest of its employer, BCH. The investigation was not thorough nor was it conducted by an independent party.

69. Dr. Cabi and Dr. Cakir each were limited to approximately one hour when speaking with the investigating attorney from Pabst Patent Group. Their attorney was not allowed to participate. Dr. Cabi and Dr. Cakir answered all questions directed by the Pabst Patent Group attorney and provided her all the data she requested.

70. For a competent inventorship investigation, Pabst Patent Group should have had access to all laboratory notebooks and documents related to SR01 and SR02.

71. On information and belief, at least some of the laboratory notebooks referenced in the preceding

paragraph have been destroyed, discarded, or otherwise lost by Dr. Ozcan and/or BCH.

72. Dr. Cabi and Dr. Cakir in July 2014 provided additional documentation and explanation to Pabst Patent Group showing that they each contributed to claims of the Patents and thus held inventorship rights as to SR01 and SR02.

73. Dr. Majzoub is listed as an inventor on SR01. See Exhibit J.

74. Dr. Majzoub did not contribute to the SR01 project. Likewise, he did not contribute to any of the SR01 claims.

75. Dr. Majzoub, however, now has an interest in SR01 pursuant to BCH's policy, attached at Exhibit M, which includes a schedule of revenue for an inventors, the inventor's department, and BCH.

76. Dr. Cabi, Dr. Cakir, and Dr. Mert do not have any interest in ERX.

77. After they made their reports concerning his misconduct, Dr. Ozcan has falsely accused Dr. Cabi and Dr. Cakir of trying to "steal" control of the SR01 and SR02 projects for a competing startup company he inaccurately believed they planned to form.

78. As inventors, Dr. Cabi and Dr. Cakir would be entitled to revenue from SR01 and SR02 pursuant to the BCH policy at Exhibit M. Besides not having the financial resources to form a startup pharmaceutical company, they were already entitled to revenue from SR01 and SR02.

79. BCH's intellectual property ownership policy in effect at all relevant times is at Exhibit M.

80. At all times, the Fellows complied with BCH's intellectual policy at Exhibit M.

II. Publications

81. BCH and Dr. Ozcan have retaliated against the Fellows by preventing them from publishing scientific manuscripts based on their work.

82. The Fellows reported in March 2014 Dr. Ozcan's research misconduct in relation to a manuscript concerning SR01 (the "SR01 Manuscript") and another manuscript concerning SR02 (the "SR02 Manuscript"). SR01 and SR02 acted as anti-obesity compounds in mice.

83. The Fellows reported in March 2014 that Dr. Ozcan fabricated data and falsified data that he included in both the SR01 Manuscript and the SR02 Manuscript. They also reported that Dr. Ozcan presented some data in the SR01 Manuscript and the SR02 Manuscript in a misleading way. They also reported that Dr. Ozcan reported or planned to report falsified data in an NIH grant or progress report.

84. Both the SR01 Manuscript and SR02 Manuscript were to be submitted simultaneously as communicated to the journal editor of *Cell* by Dr. Ozcan in January 2014.

85. The report by the Fellows temporarily stopped submission of the SR01 Manuscript and the SR02 Manuscript containing fraudulent data.

86. On or around March 3, 2014, Dr. Ozcan sent Dr. Cabi and Dr. Cakir apologetic messages in which he assured them that he would not include data to which he believes they objected in the SR01 Manuscript and the SR02 Manuscript. See Exhibits L and N.

87. After the Fellows reported in March 2014 Dr. Ozcan's research misconduct, focus turned to the SR01 Manuscript. The SR02 manuscript was put on hold and BCH acted like there was no misconduct report about it.

88. The Fellows produced a version of the SR01 Manuscript that contained valid data in the

beginning of April 2014. Dr. Ozcan had produced a version of the SR01 Manuscript that included falsified data and misleading presentation of data.

89. Dr. Majzoub originally told the Fellows that he liked their version of the SR01 Manuscript and saw no reason why it could not be published.

90. Shortly thereafter, Dr. Majzoub informed the Fellows that their version of the SR01 Manuscript could not be published.

91. BCH represented Dr. Majzoub as an independent party who would help resolve the conflicting data in the SR01 Manuscript. These representations took place in BCH, including in Ms. McCarthy's office and by Dr. Majzoub, in March and April 2014.

92. Dr. Majzoub in actuality had a conflict of interest concerning SR01, as does Dr. Ozcan.

93. In April 2014, Dr. Majzoub instructed the Fellows to include falsified data and falsified interpretation in the SR01 manuscript. They rejected Dr. Majzoub's instructions.

94. In April 2014, Dr. Majzoub instructed the Fellows to provide to Dr. Ozcan a detailed analysis of some of the data concerning which they filed their scientific misconduct allegations against Dr. Ozcan.

95. In April 2014, Dr. Majzoub informed the Fellows that Dr. Ozcan had asked for the quantification of a fabricated western blot. Dr. Majzoub in emails stated that Dr. Ozcan wanted this quantification and even after objection by the Fellows, Dr. Majzoub insisted that Dr. Ozcan wanted it anyway. Because their division head, Dr. Majzoub, asked for this quantification, Dr. Cabi and Dr. Cakir carried out the quantification and sent it to Dr. Majzoub by email while noting for him that it had been fabricated data to which they had objected.

96. In May 2014, Dr. Ozcan denied ever having asked for the quantification of the fabricated western blot and asked for the removal of Dr. Cabi and Dr. Cakir from his laboratory because they had performed this quantification. Dr. Ozcan also used this information to craft his false scientific misconduct allegations against Dr. Cabi and Dr. Cakir. Dr. Majzoub knew why Dr. Ozcan wanted this information; moreover, before he asked them to perform the quantification, the Fellows warned Dr. Majzoub, Ms. McCarthy, and Mr. Cervini that they feared Dr. Ozcan would retaliate against them. Dr. Majzoub thus assisted Dr. Ozcan to craft false accusations against Dr. Cabi and Dr. Cakir and thus tampered with the 42 C.F.R. 93 investigatory process.

97. In May 2014, the Fellows reported Dr. Majzoub's actions and conflict of interest to Mr. Cervini. That same month, Dr. Cabi and Dr. Cakir reported to Ms. McCarthy that Dr. Majzoub was not a neutral party in this matter and that he had a conflict of interest. BCH took no action.

98. In September 2014, BCH assigned another professor, Morris White, PhD ("Dr. White"), to assist with the SR01 Manuscript.

99. The Fellows worked with Dr. White for about 2 months on the SR01 Manuscript.

100. Dr. White stated to the Fellows that he agreed with their points regarding invalid or misleading data in Dr. Ozcan's version of the SR01 Manuscript. See Exhibit O.

101. The Fellows provided Dr. White, at his request, the raw data related to certain experiments referenced in the SR01 Manuscript. They also provided Dr. White an Excel spreadsheet file listing

falsified figures in Dr. Ozcan's version of the SR01 Manuscript. Dr. White provided this Excel spreadsheet file to Gary R. Fleisher, M.D. ("Dr. Fleisher") (Chief of BCH's Department of Medicine).

102. In subsequent meetings, Dr. White stated that he agreed with the validity of the version of the SR01 Manuscript written by the Fellows and he suggested some improvements to it. See Exhibit O.

103. Dr. White agreed with the Fellows not to include some of Dr. Ozcan's data in the SR01 Manuscript. See Exhibit O.

104. After the Fellows made changes pursuant to Dr. White's comments, Dr. White informed them that BCH was moving toward submitting Dr. Ozcan's version of the SR01 Manuscript instead.

105. BCH and Dr. Ozcan then gave the Fellows the opportunity to publish the SR01 Manuscript but only if they accepted the validity of all of Dr. Ozcan's data. See Exhibit P.

106. On November 24, 2014, Dr. Fleisher sent the Fellows a letter concerning the SR01 Manuscript's proposed upcoming submission scheduled for November 26, 2014 See Exhibit P.

107. The Fellows received Dr. Fleisher's letter on November 25, 2014, and it had a response deadline of 4:00 p.m. on November 26, 2014. See Exhibit P.

108. Dr. Fleisher's letter claimed that a copy of the proposed SR01 Manuscript was included in the mailing. A copy of the SR01 Manuscript was not included, however. See Exhibit P.

109. Dr. Fleisher's letter offered the Fellows three choices concerning the SR01 Manuscript: (a) agree to co-authorship and agree with the validity of all data contained within it; (b) agree to co-authorship with acknowledgment as to participation only as to certain portions of data but agree with the validity of all data contained within it; or, (c) agree not to be a co-author at all. See Exhibit P.

110. The Fellows sent, before the response deadline, an email to Dr. Fleisher asking for a copy of the SR01 Manuscript proposed to be submitted. In that email they each stated, "I have: (1) no obligation to be an author on a fraudulent manuscript; and, (2) no obligation to give up my authorship rights of my work. Your letter requests that I choose between those two options and I can do neither." See Exhibit P.

111. The Fellows refused to forfeit their authorship rights but at the same time refused to allow their names to be associated with a manuscript tainted by research misconduct.

112. Dr. Fleisher subsequently sent the Fellows a copy of the SR01 Manuscript. As they anticipated, the manuscript was Dr. Ozcan's version and it contained the falsified data to which they had objected.

113. On the version of the SR01 manuscript sent to the Fellows in November 2014, two post-doctoral fellows who did not contribute to the project were listed as equally-contributing co-first authors as Dr. Cabi and Dr. Cakir. Dr. Mert's name also now appeared sixth in the list of authors; earlier versions listed him third. These changes diminished and diluted all of their contributions.

114. Dr. Ozcan's version of the SR01 Manuscript was submitted to a scientific journal, *Cell*, without the names of Dr. Cabi, Dr. Cakir, and Dr. Mert as authors.

115. The removal of their names as authors of the SR01 Manuscript means Dr. Cabi, Dr. Cakir, and Dr. Mert each lost a valuable publication from their curriculum vitae. By removing their names without their approval, BCH and Dr. Ozcan have also committed plagiarism.

116. The SR01 Manuscript containing falsified, fraudulent, and/or misleading data has been published by the journal, *Cell*, in May 2015. The citation is Liu, Junli et al. *Cell*, Volume 161, Issue 5, 999 – 1011 and it is online at [http://www.cell.com/abstract/S0092-8674\(15\)00559-0](http://www.cell.com/abstract/S0092-8674(15)00559-0).

117. By submitting the SR01 Manuscript for publication before the report of the 42 C.F.R. 93 joint BCH – HMS committee, Dr. Ozcan and BCH have circumvented that committee.

118. BCH participated in the removal of the Fellows from authorship of the SR01 Manuscript.

119. Dr. Fleisher's letter of November 24, 2014, gave the Fellows a choice between authorship on a manuscript containing data that they reported to be false, fabricated, or misleading, or giving up their authorship rights. See Exhibit P.

120. BCH used the Fellows' need to publish, as they pursue jobs and grants, as leverage to try to quash the challenge of the Fellows as to the validity of Dr. Ozcan's data.

121. Dr. Fleisher wrote his letter of November 24, 2014, on BCH letterhead and he served as Chief of Medicine at BCH at the time. See Exhibit P.

122. On information and belief, the SR02 Manuscript has or will be submitted for publication with invalid data and without the names of Dr. Cabi, Dr. Cakir, or Dr. Mert as authors.

123. Dr. Ozcan has prevented Dr. Mert's publication of research related to his doctoral dissertation.

III. Dr. Ozcan's workplace misconduct

124. Dr. Ozcan created a hostile work environment, abused his power, threatened retaliation, and retaliated against members of his laboratory, including but not limited to the Fellows. Dr. Ozcan subjected them to severe and pervasive sex-based and race-based comments, insults to the ethnicity of the Fellows, and sexually violent and racially offensive threats.

125. The MCAD charges attached at Exhibit C indicate causes of discrimination based on race, sex, and national origin as well as sexual harassment and these charges describe in detail Dr. Ozcan's race and sex based statements. On April 7, 2015, the MCAD denied a motion to dismiss by Dr. Ozcan.

126. BCH knew about Dr. Ozcan's behavior due to prior complaints.

127. In December 2011, Dr. Ozcan equated African Americans to monkeys when Dr. Cabi, Dr. Cakir, and several other members of his laboratory were at a meal at the Beer Works restaurant in Kenmore Square, Boston.

128. On June 23, 2012, at a laboratory social event Dr. Ozcan held in his house, Dr. Ozcan gave Dr. Cabi a drink or drinks which, according to Dr. Ozcan, did not contain alcohol. Dr. Ozcan knew that Dr. Cabi did not drink alcohol. Dr. Ozcan also knew that the drink(s) contained alcohol and he had them prepared with lots of mint and sugar to hide the taste of alcohol. For two years following this incident, Dr. Ozcan mocked Dr. Cabi publicly and in front of his co-workers for drinking alcohol.

129. Dr. Ozcan repeatedly and routinely made inappropriate comments in front of Dr. Cabi's colleagues at work, such as saying that Dr. Cabi was having too much sex with his wife.

130. Dr. Ozcan repeatedly and routinely told explicit sexual stories about his personal life and spoke about his sexual prowess, particularly whenever he returned from scientific meetings or vacation. This behavior created an extremely uncomfortable work environment for the Fellows.

131. In February 2014, Dr. Ozcan sent Dr. Cabi and Dr. Cakir an angry email that threatened that two manuscripts prepared for submission to the scientific journal *Cell* would be combined into a single manuscript and submitted to a less prestigious journal so as to harm their careers. Such threats were routine by Dr. Ozcan during the years Dr. Cabi and Dr. Cakir were in his laboratory.

132. Dr. Ozcan sometimes demanded of Dr. Cabi and Dr. Cakir specific data from certain

experiments, regardless of the actual outcome, and sought to ensure compliance by threatening not to write them a recommendation letter and threatening not to publish their research results.

133. In 2012, Dr. Ozcan instructed Dr. Cakir and another member of his laboratory, Dr. Hilde Herrema (“Dr. Herrema”), to lie when interviewed by BCH after Dr. Amani Batarseh reported that Dr. Ozcan sexually harassed her. Dr. Ozcan asked Dr. Cakir to say that Dr. Batarseh liked to talk about male genital organs all the time and that she was an obscene and indecent person. Dr. Ozcan asked Dr. Cakir to say highly positive things about him.

134. In May 2013, Dr. Ozcan grabbed Dr. Cakir’s iPhone by force against his will and used it to send sexual text messages to Kelly Feeley (“Ms. Feeley”) (Program Manager of Endocrinology Division). Dr. Ozcan pretended to be Dr. Cakir texting Ms. Feeley and in the texts, Dr. Ozcan invited her to his house.

135. In late May 2013, Dr. Ozcan again grabbed Dr. Cakir’s iPhone by force against his will and used it to send sexual text messages to Dr. Cakir’s female friend, Berna Tosun (“Ms. Tosun”). Again, Dr. Ozcan pretended to be Dr. Cakir texting Ms. Tosun to invite her to Dr. Ozcan’s house. Dr. Ozcan had invited Ms. Tosun to his house a week earlier when he had met her.

136. Dr. Ozcan pressured Dr. Cakir to arrange dates for him with the sister of Dr. Cakir’s girlfriend. Dr. Ozcan used Dr. Cakir’s iPhone to send a text message to Dr. Cakir’s girlfriend, pretending to be Dr. Cakir. In the text message, Dr. Ozcan praised himself and asked Dr. Cakir’s girlfriend to arrange a meeting for him with her sister.

137. Dr. Ozcan forced Dr. Cakir to text him while he was on dates. Dr. Ozcan instructed Dr. Cakir to write as if he was a woman who wanted him sexually. Dr. Ozcan would change Dr. Cakir’s name in his phone to that of a woman and leave the phone out so that his date would see the text and think other women wanted him sexually.

138. In late February 2014, in the Center for Life Sciences 16th floor conference room, Dr. Ozcan asked Dr. Cabi and Dr. Cakir a question on a scientific matter. They answered Dr. Ozcan’s question. Dr. Ozcan then said in Turkish in front of Dr. Mert: “If your answer is not correct, I am going to hire two gay black men and get you fucked in the ass.” Such statements were routine for Dr. Ozcan in interacting with subordinates.

139. Dr. Ozcan repeatedly mocked Dr. Cakir’s ethnic background in front of other people, told him that he looked as stupid as a Laz (referring to Dr. Cakir’s background), that he looked as empty as a Laz, and that he was as stupid as a person from the Black Sea region, which is the region from which Dr. Cakir and his family originate.

140. After Dr. Cakir made his complaint in March 2014, Dr. Ozcan continued calling Dr. Cakir names next to his colleagues and other professors. For example, Dr. Ozcan kept calling Dr. Cakir an “asshole” in front of Dr. Herrema.

141. In 2012 in his office, Dr. Ozcan said to the Fellows that all Turkish women are worth is “being

fucked.” Dr. Ozcan knew their mothers are Turkish. Dr. Ozcan passed similar comments at other times.

142. Dr. Ozcan would threaten Dr. Mert that if he did not like experiment results, or if Dr. Mert failed to publish what he called a “sexy, sensational paper,” or did not produce for him the data results he wanted (regardless of an experiment’s outcome), he would terminate Dr. Mert, write a bad recommendation letter about him, and cancel publication of one of his projects.

143. Dr. Ozcan would threaten the Fellows if the data from experiments differed from what he expected. If the findings conflicted with what he wanted, Dr. Ozcan typically would first curse and accuse the person at issue of being an “idiot,” including in front of other colleagues. When the Fellows would insist on the accuracy of their findings, often because they had obtained the same result from repeated experiments, Dr. Ozcan would threaten to terminate them or take other action.

144. In March 2013, Dr. Ozcan stated loudly that African Americans were useful only for cleaning jobs. An African American cleaning lady with whom Dr. Mert chatted occasionally was on the hall and Dr. Mert said to Dr. Ozcan, “this woman works so hard, like our grandmothers,” and Dr. Ozcan replied, “these blacks and Mexicans are only useful for cleaning jobs.”

145. While Dr. Mert was in Turkey during defense of his PhD thesis, Dr. Ozcan sent him emails demanding that he put Dr. Ozcan’s name on its cover. Dr. Ozcan said he would not allow publishing anything from the thesis until he and Dr. Cabi and Dr. Cakir provided him with the data he wanted for the SR01 and SR02 projects. The research from Dr. Mert’s thesis remains unpublished and is growing increasingly stale.

146. Dr. Ozcan frequently accused Dr. Mert of being a terrorist, including in front of other people.

147. Dr. Ozcan frequently described Dr. Mert as “filth.”

148. When Dr. Mert returned from Turkey as a post-doctoral research fellow on February 27, 2014, Dr. Ozcan told him, “you are not a PhD level person, I had to give this shit load of money because of NIH regulations. Because of this, you have to buy my coffee every day from your budget.”

149. Dr. Ozcan often forced people in his laboratory to do personal, non-research related service work for him.

150. Dr. Ozcan frequently used sexual language in the workplace. Dr. Ozcan would describe experiments by the Fellows as “masturbation” in front of people from other laboratories. In an effort to combat Dr. Ozcan’s requests for invalid data, the Fellows would suggest to Dr. Ozcan that certain experiments be repeated so as to reiterate the accuracy of their findings; Dr. Ozcan would dismiss doing so as “masturbation” to indicate that he thought repeating the experiments was unnecessary. Dr. Ozcan would also often say, “I will fuck you if [a specific] experiment won’t be finished today.”

151. Dr. Ozcan abused his power and further harmed their careers by prohibiting the Fellows from interacting with certain other scientists. Dr. Ozcan prohibited the Fellows from speaking with some scientists even within their own division at BCH. For example, Dr. Ozcan forbade the Fellows from speaking with David Breault, M.D., Ph.D. (“Dr. Breault”). Dr. Ozcan referred to Dr. Breault as “the son of a whore” and repeatedly expressed hatred for him.

152. Dr. Ozcan described nearly every other principal investigator in his department in derogatory terms and as one of his enemies.

153. During the time Dr. Mert was a research assistant in Dr. Ozcan's laboratory, Dr. Ozcan prohibited him from talking with Maria Joachim ("Ms. Joachim"), a research assistant in Dr. Majzoub's laboratory. Ms. Joachim had heard about Dr. Ozcan's behavior and reported it to Dr. Majzoub, for which Dr. Ozcan would refer to her as a whore. For instance, in late May 2012 or early June 2012, Dr. Ozcan told Dr. Mert, "if I see you talking with this whore I will fuck you."

154. BCH received several reports about Dr. Ozcan's conduct in his laboratory but did not make an adequate investigation nor did it take adequate remedial actions to address them.

155. According to BCH's position statements in response to the MCAD Complaints, one of BCH's counsel conducted an investigation after the Fellows made work environment related complaints in March 2014. See Exhibit Q.

156. According to BCH's position statements in response to the MCAD Complaints, the investigation found that Dr. Ozcan: (a) "routinely subjected his staff to generalized, non-race or sex-based threats, intimidation, humiliation, language and behavior that was both offensive and stress-inducing"; (b) made "demands that work be redone until results he liked were reached, and threats to his researchers' abilities to publish the results of their work" which "reflected a hostile and aggressive leadership style[.]" See Exhibit Q.

157. In his position statement under oath in response to the MCAD Complaints, Dr. Ozcan inaccurately states that BCH did not make the findings described in the above paragraph. BCH subsequently filed a statement to the MCAD repudiating Dr. Ozcan's misstatement. See Exhibit Q.

IV. Dr. Ozcan's unethical financial practices

158. In September 2013, Dr. Ozcan gave Dr. Cakir \$1,800 and instructed him to deposit that money to his personal bank account. The next day, Dr. Ozcan asked Dr. Cakir to return the money to him. Dr. Cakir felt obligated and pressured to participate because Dr. Ozcan was his supervisor. Dr. Ozcan expressed an unclear concern about the IRS but never gave Dr. Cakir a clear explanation as to why he forced him to make this financial transaction.

159. In September 2013, Dr. Ozcan gave Dr. Cabi \$2,700 and instructed him to deposit that money to his personal bank account. The next day, Dr. Ozcan asked Dr. Cabi to return the money to him. Dr. Cabi felt obligated and pressured to participate because Dr. Ozcan was his supervisor. Dr. Ozcan expressed an unclear concern about the IRS but never gave Dr. Cabi a clear explanation as to why he forced him to do make this financial transaction.

160. In January 2014, Dr. Ozcan in his house offered Dr. Cabi \$12,000-15,000 to conduct research secretly in BCH facilities using the resources of BCH and NIH for ERX's work.

161. In January 2014, Dr. Ozcan in his house offered Dr. Cakir \$12,000-15,000 to conduct research secretly in BCH facilities using the resources of BCH and NIH for ERX's work.

162. In February 2014, Dr. Ozcan forced the Fellows to test the potency of an ERX compound on mice purchased by NIH funding provided to BCH.

163. According to BCH's position statements in response to the MCAD Complaints, its investigation found that "Dr. Ozcan inappropriately requested that Drs. Cakir and Cabi use the Hospital's facilities and its mice to perform tests for his own company in direct contradiction of his obligations and representations under the Hospital's Conflict of Interest Management Plan[.]" In these position statements, BCH failed to acknowledge that these mice resources are paid for by federal funds and Dr. Cakir was paid full time through federal funds. See Exhibit Q.

164. On information and belief, BCH failed to inform the NIH or other relevant agencies about this misuse of federal funds to which reference is made in the preceding paragraph.

165. According to BCH's position statements in response to the MCAD Complaints, its investigation found that, "Without legitimate reason, Dr. Ozcan asked Drs. Cakir and Cabi to deposit large sums of money into their bank accounts and then quickly to return those amounts to him, allegedly putting Drs. Cakir and Cabi at risk for tax liabilities he feared he would face by depositing large sums of cash into his own account." See Exhibit Q.

V. Retaliation against the Fellows

166. After March 2014, Dr. Ozcan told his laboratory members to stop talking to the Fellows.

167. During April-June 2014, Dr. Ozcan rejected the purchase of research materials Dr. Cabi and Dr. Cakir needed to continue conducting their experiments and he ordered the termination of some of their ongoing experiments.

168. During April-June 2014, Dr. Ozcan specifically prohibited the research assistants in the laboratory from helping the Fellows though they were allowed to help other people in the laboratory.

169. During May-June 2014, Dr. Cabi and Dr. Cakir were not allowed to handle mice, although mouse work was at the core of their research projects and involved almost 100% of their jobs.

170. After they reported Dr. Ozcan's misconduct, Dr. Cabi and Dr. Cakir were informed that BCH would remove them from inventorship on the SR01 and SR02 patents. See Exhibit H.

171. After they reported Dr. Ozcan's misconduct, the Fellows were stripped of authorship of the SR01 Manuscript unless they were willing to acknowledge the validity of data they considered fabricated and invalid. See Exhibit P.

172. On information and belief, the Fellows have been or will be stripped of authorship on the SR02 Manuscript.

173. In February 2014, Dr. Ozcan emailed Dr. Cabi and Dr. Cakir to suggest that they apply for fellowships offered by the ADA. In March 2014, Dr. Majzoub told Dr. Cabi and Dr. Cakir that they could apply for fellowships with his support. In April 2014, Dr. Cabi and Dr. Cakir emailed Dr. Majzoub stating that they wanted to apply for the ADA fellowships but now Dr. Majzoub would not permit them to do so and he allowed a different post-doctoral fellow to apply for it.

174. In November 2014, Dr. Cakir wanted to attend a scientific conference to present some of his

research findings and network with other scientists in his field. Typically, BCH covers all conference-related expenses for post-doctoral fellows who attend conferences. Two years earlier, for instance, BCH stated in writing it would pay all Dr. Cakir's expenses related to a conference. However, BCH refused to cover his expenses to the November 2014 conference and he could not afford to attend it without the institutional support to which he was entitled. Dr. Cakir lost another chance of interacting with the scientific community, and presenting his findings, which damaged his career. See Exhibit R.

175. Despite its assurances to them, and their requests to it that it do so, BCH did not honor its assurances and representations to the Fellows that it would assign another professor to work with them.

176. BCH did not honor assurances and representations made on June 19, 2014, to the Fellows that it would find other laboratories at which they could work.

177. In fact, after June 19, 2014, BCH made no effort to place the Fellows in a different laboratory.

178. After their removal from Dr. Ozcan's laboratory, the Fellows have not been able to work on their ongoing projects nor have they been able to publish manuscripts based on already completed projects.

179. After his removal from Dr. Ozcan's laboratory, and without assistance from BCH, Dr. Cabi obtained a position in the laboratory of Wesley Wong, Ph.D. ("Dr. Wong") at BCH.

180. Dr. Cabi and Dr. Wong developed a good working relationship.

181. Dr. Wong's laboratory had funding for Dr. Cabi to work there.

182. Dr. Wong indicated that he would like Dr. Cabi to work in his laboratory and head up a project related to a federal grant recently sought.

183. BCH on April 15, 2015, terminated Dr. Cabi from Dr. Wong's laboratory.

184. BCH gave no legitimate reason for its decision not to allow Dr. Cabi to work in Dr. Wong's laboratory. To the contrary, in response to the MCAD Complaints, BCH claimed under oath that it endeavored to find another principal investigator for each of the Fellows. See Exhibit Q. In reality, when Dr. Cabi found a suitable replacement principal investigator, BCH terminated him.

185. Dr. Wong did not agree with BCH's choice to prohibit Dr. Cabi from working in his laboratory.

186. Terminating Dr. Cabi from Dr. Wong's laboratory contradicts BCH's assurance that it would assist Dr. Cabi in relocating to another laboratory.

187. BCH admits in its position statement to the MCAD Complaints that it "assured [Dr. Cabi, Dr. Cakir, and Dr. Mert] that the Hospital would assist them in relocating to another lab[.]" See Exhibit Q.

188. On April 17, 2015, BCH sent counsel for Dr. Cabi and Dr. Mert a letter terminating them from all connection with it as of April 30, 2015. See Exhibit S.

189. Dr. Cakir earlier in 2015 obtained a post-doctoral fellowship position at Vanderbilt University.

190. Dr. Ozcan inappropriately contacted Dr. Cakir's principal investigator at Vanderbilt University in May 2015.

191. Pursuant to its letter of April 17, 2015, BCH has broken assurances to Dr. Cabi and Dr. Mert made in writing on June 19, 2014, in which it agreed to pay "salary and miscellaneous expenses for a

one year period[.]” See Exhibit S.

192. While BCH agreed in its letter of April 17, 2015, to pay the remaining salary owed to Dr. Cabi and Dr. Mert, it did not continue to pay for miscellaneous expenses such as their health insurance.

193. BCH also knew that Dr. Cabi and Dr. Mert are on a work visa and that terminating them prematurely and unexpectedly jeopardized their ability to remain in the United States.

VI. Spoliation of evidence and computer forensics issues

194. After the Fellows reported in March 2014 Dr. Ozcan’s misconduct to BCH, BCH confiscated all their research materials and computer files related to the projects on which they had been working.

195. BCH failed at this time to secure research materials, including laboratory notebooks and computers, in Dr. Ozcan’s possession. Dr. Cabi and Dr. Cakir voluntarily gave the research files they had in their laptops to BCH.

196. The Fellows notified BCH repeatedly in the following months about the need to safeguard materials in Dr. Ozcan’s possession. BCH ignored these requests. These notebooks and other research materials were important for manuscripts they wanted to publish concerning the projects on which they had been working, the BCH-HMS scientific misconduct inquiry, and the issue of determining inventorship as to the Patents.

197. The Fellows have not been allowed by BCH to see all of the laboratory notebooks or other materials related to the Patents, research misconduct, and manuscripts.

198. Dr. Ozcan did not allow the Fellows to see certain requested materials. See Exhibit T.

199. On information and belief, some or all of the laboratory notebooks related to the Patents, research misconduct, and manuscripts have been destroyed or discarded.

200. On August 4, 2014, BCH informed the Fellows that it had lost all the copies of the materials including the images of the hard drives it confiscated in March 2014, with no backup. Despite repeated requests, BCH has never explained to them or their counsel what happened to these materials.

201. According to one of BCH’s counsel, the materials referenced in the preceding paragraph were being stored in Mr. Cervini’s office until they went missing.

202. BCH failed to preserve confiscated research materials, or otherwise participated in the loss or destruction of them, therefore spoliating evidence as to Dr. Ozcan’s misconduct. BCH’s spoliation also helps Dr. Ozcan in false accusations against Dr. Cabi and Dr. Cakir. BCH’s spoliation prejudices the ability of the Fellows to prosecute this case.

203. On or around March 3 and 4, 2014, Dr. Ozcan deleted more than a hundred files related to both the SR01 Manuscript and the SR02 Manuscript from a shared cloud computing space. See Exhibit U.

204. On March 19, 2015, the attorney for the Fellows sent the attached litigation hold letter to the attorney for BCH but she never responded. See Exhibit V.

205. Separately, Dr. Cabi and Dr. Cakir voluntarily allowed an outside vendor (TechFusion) to make images of their personal laptops because they sometimes used their personal laptops to do research related work and BCH wanted to see these files. Dr. Cabi and Dr. Cakir authorized TechFusion to do forensic investigation of these research files.

206. BCH repeatedly tried to gain access to Dr. Cabi's and Dr. Cakir's *personal files* on these personal laptop images. The personal laptops contain, among other things, privileged communications with attorneys.

207. Dr. Cabi and Dr. Cakir to this day are willing to let BCH have access to all materials owned by it pursuant to the intellectual property policy at Exhibit M. Its intellectual property policy at Exhibit M governs what materials BCH owns.

208. Luckily for Dr. Cabi and Dr. Cakir, the outside vendor, TechFusion, did not allow BCH to access their personal information.

209. So as to pressure TechFusion to access the personal information, BCH refused to pay TechFusion for some time an outstanding invoice for work that TechFusion performed at its direction.

210. Again, TechFusion refused to permit BCH to access personal information of Dr. Cabi and Dr. Cakir.

VII. Damages

211. Dr. Ozcan, Dr. Majzoub, and BCH have eliminated for the Fellows all their work as post-doctoral fellows in Dr. Ozcan's laboratory.

212. Dr. Cabi and Dr. Cakir should be pursuing and obtaining assistant professor positions at this time, along with commensurate salary, benefits, and laboratory access. Instead, because their publication and patent record has been so harmed, Dr. Cabi and Dr. Cakir need to redo their entire post-doctoral study so that they will have the publications, recommendation letters, and patents necessary so as to pursue these positions. Dr. Mert has lost a corresponding amount of time in his career.

213. Dr. Ozcan created a hostile work environment, limited their interaction of the Fellows with the scientific community, threatened to retaliate against them if they did not commit research misconduct, and did retaliate against them when they reported his research misconduct.

214. Dr. Cabi and Dr. Cakir felt compelled to participate in their supervisor's misuse of federal resources for his personal company and use their bank accounts for his apparent money laundering.

215. Despite its non-retaliation policy and federal law, BCH retaliated against the Fellows.

216. BCH violated or otherwise failed to follow its own policies and procedures in its treatment of the Fellows.

217. Selective treatment of the Fellows was motivated by an intention to inhibit their exercise or enjoyment of constitutional and statutory rights.

218. Even though the Fellows reported explicit research problems in Dr. Ozcan's version of the SR01 Manuscript and there is an ongoing scientific misconduct inquiry being conducted by a BCH – HMS committee concerning this very topic, BCH and Dr. Ozcan decided to publish Dr. Ozcan's version of the SR01 Manuscript. This decision circumvented the committee and its investigation as required by federal law.

219. The conduct described in the preceding paragraphs has ruined a collective fourteen years of work where the Fellows were expected to work seven days a week. The Fellows now have to start from scratch to have a remote chance of an academic career because of the large gap created by the Defendants in their curricula vitae.

220. The conduct described in the preceding paragraphs has forced on the Fellows tremendous psychological pain since the dates they joined Dr. Ozcan's laboratory and it has rendered them less productive since that time than they could have been.

221. Throughout the time they worked with him, Dr. Ozcan's continuous harassment, cursing, threats, and humiliation significantly diminished the Fellows' productivity at work.

222. Dr. Ozcan did not allow Dr. Cabi and Dr. Cakir to work on several research ideas they had developed, specifically ones related to a third patent, and after the removal of Dr. Cabi and Dr. Cakir from the laboratory Dr. Ozcan claimed that these were his ideas.

223. The conduct described in the preceding paragraphs has caused Dr. Cabi to depend on sleep medications and it has made him, and continues to make him, increasingly worried and depressed about his future career. Dr. Cabi has been very depressed that he will not be able to find an academic position, has been removed from projects on which he had worked for years, has or will be removed from inventorship on the Patents, and has been prevented from publishing his research, all because he reported the misconduct of his supervisor, Dr. Ozcan.

224. The conduct described in the preceding paragraphs has significantly damaged Dr. Cakir. Dr. Cakir has difficulty falling asleep as he constantly thinks about the conduct described in the preceding paragraphs. When he does fall asleep, he often sleeps for no more than 3-4 hours, and then wakes up in the middle of the night and starts thinking about the problems related to his career and life caused by Dr. Ozcan and the events alleged in this Complaint. Dr. Cakir has been very depressed that he will not be able to find an academic position, has been removed from projects on which he had worked for years, has or will be removed from inventorship on the Patents, and has been prevented from publishing his research, all because he reported the misconduct of his supervisor, Dr. Ozcan.

225. Because the Fellows have to start over in new postdoctoral positions, Dr. Cabi and Dr. Cakir have lost all chances of applying for prestigious grants and fellowships at this time and Dr. Mert has lost most of his chances to do so. Such grants are important criteria universities consider when weighing applications for assistant professorship positions.

226. Other individuals have noted and commented upon the harm inflicted to Dr. Mert's mental state because of the conduct described in the preceding paragraphs. Dr. Mert has had difficulty falling asleep as he constantly thinks about his situation. Dr. Mert has suffered from depression concerning his academic future, that he will not be able to find an academic position, has been removed from projects on which he had worked for years, and has been prevented from publishing his research, all because he reported the misconduct of his supervisor, Dr. Ozcan.

227. Not being able to publish the results of their research has caused irreparable harm to the careers of the Fellows.

228. The Fellows have been removed from authorship of the SR01 Manuscript and on information and belief from authorship of the SR02 Manuscript. Dr. Mert has not been allowed by Dr. Ozcan to publish the results of his dissertation research which is increasingly growing stale.

229. Dr. Cabi has been removed from Dr. Wong's laboratory.

230. As a result of the Defendants' actions and conduct, the Fellows lost their long-term jobs, their

scientific reputation, and the fruits of their scientific research. They have each suffered great emotional distress and other economic and non-economic harm.

231. Even if each of the Fellows successfully repeat their post-doctoral fellowships, the gaps on their curriculum vitae will always harm their academic reputations.

232. It is for the joint BCH – HMS committee to determine whether Dr. Ozcan, Dr. Cabi, or Dr. Cakir committed research misconduct. The outcome of those determinations is immaterial to whether Dr. Cabi, Dr. Cakir, and Dr. Mert suffered retaliation.

233. BCH has a noble mission. However, even at noble institutions, personnel sometimes act wrongly and the law, as well as justice, requires redress.

234. 42 U.S.C. § 289b(e) required the Department of Health and Human Services to establish standards for preventing and for responding to the occurrence of retaliation in research misconduct cases; it did so through the ORI. Under non-binding guidelines promulgated by the ORI and available at <https://ori.hhs.gov/content/ori-guidelines-institutions-and-whistleblowers-responding-possible-retaliation-against-whist> (according to this webpage last updated on July 25, 2011), the Fellows filed a written retaliation complaint with the responsible official at BCH within 180 days of becoming aware of adverse action against them.

235. On December 8, 2014, the attorney for the Fellows sent BCH a letter detailing alleged retaliation dating since June 19, 2014 (172 days earlier).

236. By December 16, 2015, BCH responded. BCH did not follow either of the options for resolution available to it as outlined in the ORI guidelines but the parties discussed a proposal first made by the Fellows that they attempt to mediate the case.

237. In fact, BCH initially agreed to mediate this case but then it reneged. *See* Complaint, Exhibit V.

238. The ORI guidelines also provide where the parties cannot agree on a resolution process, the whistleblower “may pursue other remedies as provided by law,” though without further guidance.

CLAIMS FOR RELIEF

COUNT I

Violation of First Amendment and 42 U.S.C. § 1983 Rights (Against BCH, Dr. Ozcan, Dr. Majzoub, Ms. Fenwick, and Ms. Garvin)

239. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 238 inclusive as though the same had been set forth fully herein.

240. Dr. Cabi, Dr. Cakir, and Dr. Mert complained about, among other things, Dr. Ozcan’s creation of a hostile workplace, his research misconduct, and his misuse of federal funds, and they suffered retaliation for this protected speech.

241. This § 1983 claim proceeds because BCH acted under color of state law. It also proceeds under *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). *Bivens* actions may be brought against private persons operating under color of federal law in the same way that §1983 claims may be brought against persons acting under color of state law. As alleged above, BCH has to act, and has acted, in a quasi-judicial investigatory and disciplinary capacity for the federal government here.

242. Ms. Fenwick and Ms. Garvin have decision-making responsibility for BCH regarding the allegations of this Count. They, and Dr. Ozcan and Dr. Majzoub, acted within the scope of their employment at BCH and under color of federal law as described above.

243. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the violations of BCH, Dr. Ozcan, Dr. Majzoub, Ms. Fenwick and Ms. Garvin, as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

244. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH, Dr. Ozcan, Dr. Majzoub, Ms. Fenwick, and Ms. Garvin in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT II

Violation of Fifth Amendment, Fourteenth Amendment and 42 U.S.C. § 1983 Rights (Against BCH, Dr. Ozcan, Dr. Majzoub, Ms. Fenwick, and Ms. Garvin)

245. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 244 inclusive as though the same had been set forth fully herein.

246. This § 1983 claim proceeds because BCH acted under color of state law, deprived Dr. Cabi, Dr. Cakir, and Dr. Mert of rights, privileges, immunities, and property interests secured by, among others, the Fifth Amendment, Fourteenth Amendment, and 42 U.S.C. § 1983. It also violated its own policies and procedures, and other federally protected rights, to treat Dr. Cabi, Dr. Cakir, and Dr. Mert selectively with intent to inhibit those rights, privileges, immunities, and property interests.

247. This § 1983 claim also proceeds under *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). *Bivens* actions may be brought against private persons operating under color of federal law in the same way that §1983 claims may be brought against persons acting under color of state law. As alleged above, BCH has to act, and has acted, in a quasi-judicial investigatory and disciplinary capacity for the federal government here. As to certain issues, for instance pursuant to 42 C.F.R. 93, the Plaintiffs otherwise lack a statutory cause of action or an available statutory cause of action does not provide monetary compensation.

248. Ms. Fenwick and Ms. Garvin have decision-making responsibility for BCH regarding the allegations of this Count. They, and Dr. Ozcan and Dr. Majzoub, acted within the scope of their employment at BCH and under color of federal law as described above.

249. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the violations of BCH, Dr. Ozcan, Dr. Majzoub, Ms. Fenwick, and Ms. Garvin, as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

250. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH, Dr. Ozcan, Ms. Fenwick, Ms. Garvin, and Dr. Majzoub in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT III

Violation of M.G.L. c. 12, §§ 11H and 11I (Against BCH, Dr. Ozcan, Dr. Majzoub, Ms. Fenwick, and Ms. Garvin)

251. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 250 inclusive as though the same had been set forth fully herein.

252. BCH, Dr. Ozcan, and Dr. Majzoub interfered by threats, intimidation or coercion, or attempted to interfere by threats, intimidation or coercion, with the exercise or enjoyment by Dr. Cabi, Dr. Cakir, and Dr. Mert of rights secured by the Constitution or laws of the United States, including the First, Fifth, and Fourteenth Amendments, 42 C.F.R. 93, and of comparable rights secured by the Constitution or laws of Massachusetts.

253. These threats, intimidation, or coercion include, but are not limited to, use of authorship of an article as leverage, steps taken by BCH to prevent Dr. Cabi from working in other laboratories, repeated attempts by BCH to gain access to personal files on personal laptops, Dr. Ozcan's contact with Dr. Cakir's new principal investigator, Dr. Majzoub's refusal to allow Dr. Cabi and Dr. Cakir to apply for fellowships, and other allegations in this Complaint.

254. Ms. Fenwick and Ms. Garvin have decision-making responsibility for BCH regarding the allegations of this Count and responsibility for its actions as to interference, or attempts to interfere, by threats, intimidation or coercion, with the exercise or enjoyment by Dr. Cabi, Dr. Cakir, and Dr. Mert of rights secured by the Constitution or laws of the United States and of comparable rights secured by the Constitution or laws of Massachusetts..

255. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the violations of BCH, Dr. Ozcan, Dr. Majzoub, Ms. Fenwick, and Ms. Garvin as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

256. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH, Dr. Ozcan, Ms. Fenwick, Ms. Garvin, and Dr. Majzoub in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT IV

Hostile Work Environment in Violation of Title VII (Against BCH)

257. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 256 inclusive as though the same had been set forth fully herein.

258. In violation of Title VII of the Civil Rights Act of 1964, Dr. Cabi, Dr. Cakir, and Dr. Mert were subjected to sex-based and race-based discrimination, racial and sexual slurs, insults including but not limited to those about their ethnicity, jokes, racially offensive and sexually violent threats, and other unwanted and unwelcome conduct that was sufficiently severe or pervasive to alter the conditions of their employment and create an abusive or hostile work environment such that they perceived the working environment to be abusive or hostile and so would a reasonable person in their circumstances.

259. BCH was negligent in supervising Dr. Ozcan, reviewing Dr. Ozcan's activities, investigating when it knew or should have known about Dr. Ozcan's misconduct, taking necessary measures as to complaints made about Dr. Ozcan by his laboratory members, and failing to act adequately when it knew or should have known about Dr. Ozcan's misconduct.

260. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the violations of Children's Hospital, including but not limited to emotional distress, as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

261. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT V
Violation of M.G.L. c. 151B (Against BCH and Dr. Ozcan)

262. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 260 inclusive as though the same had been set forth fully herein.

263. In violation of M.G.L. c. 151B, Dr. Cabi, Dr. Cakir, and Dr. Mert were subjected to sex-based and race-based discrimination, racial and sexual slurs, insults including but not limited to those about their ethnicity, jokes, racially offensive and sexually violent threats, and other unwanted and unwelcome conduct that was sufficiently severe or pervasive to alter the conditions of their employment and create an abusive or hostile work environment where they perceived the working environment to be abusive or hostile and so would a reasonable person in their circumstances.

264. BCH and Dr. Ozcan interfered with the exercise by Dr. Cabi, Dr. Cakir, and Dr. Mert of their enjoyment of rights granted or protected by M.G.L. c. 151B

265. BCH and Dr. Ozcan discharged, expelled or otherwise discriminated against the Fellows because they opposed and complained about practices forbidden under M.G.L. 151B.

266. BCH and Dr. Ozcan violated M.G.L. c. 151B by retaliating against Dr. Cabi, Dr. Cakir, and Dr. Mert for opposing practices that violated M.G.L. c. 151B and for reporting them.

267. BCH was negligent in supervising Dr. Ozcan, reviewing Dr. Ozcan's activities, investigating when it knew or should have known about Dr. Ozcan's misconduct, taking necessary measures as to complaints made about Dr. Ozcan by his laboratory members, and failing to act adequately when it knew or should have known about Dr. Ozcan's misconduct.

268. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the violations of BCH and Dr. Ozcan, including but not limited to emotional distress, as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

269. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH and Dr. Ozcan in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT VI
Retaliation (Against BCH, Dr. Ozcan, and Dr. Majzoub)

270. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 267 inclusive as though the same had been set forth fully herein.

271. Dr. Cabi, Dr. Cakir, and Dr. Mert engaged in activity protected under federal and Massachusetts law and BCH, Dr. Ozcan, and Dr. Majzoub each subjected them to adverse employment actions because of this activity.

272. BCH, Dr. Ozcan, and Dr. Majzoub retaliated against Dr. Cabi, Dr. Cakir, and Dr. Mert in violation of, without limitation, the First Amendment, 42 U.S.C. § 1981, 42 U.S.C. § 1983, 42 U.S.C. 2000e-3(a), 42 U.S.C. § 289b(e), 42 CFR 93 (which does not create a cause of action but does prohibit retaliation in making research misconduct reports and which relates to the Plaintiffs' 42 U.S.C. § 1983 claim), M.G.L. c. 149 § 185, and M.G.L. c. 151B.

273. 42 U.S.C. § 2000e-3(a) and M.G.L. c. 151B, §§ 4(4) and 4(4A) each create a cause of action separate from the underlying hostile work environment claims: retaliation for making a charge regardless of its ultimate outcome.

274. M.G.L. 149 § 185(b)(1) prohibits, in relevant part, retaliatory action against an employee who discloses to a supervisor "an activity, policy or practice of the employer . . . that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or which the employee reasonably believes poses a risk to public health, safety or the environment" and § 185(d) provides Dr. Cabi, Dr. Cakir, and Dr. Mert with a cause of action in which "[a]ll remedies available in common law tort actions shall be available" to them. While working in Dr. Ozcan's laboratory, the Fellows conducted research on the biology of obesity and diabetes and drug development against those conditions and their report of Dr. Ozcan's research misconduct directly connects with a risk to public health. They also allege above BCH's quasi-public status triggering application of this statute.

275. 42 U.S.C. § 1981 prohibits not only racial discrimination but also retaliation against those who oppose it. Dr. Cabi, Dr. Cakir, and Dr. Mert allege that they opposed discrimination based on race and that they suffered retaliation for doing so.

276. Pursuant to 42 U.S.C. § 289b(e) and ¶ 238 above, Dr. Cabi, Dr. Cakir, and Dr. Mert seek to pursue other remedies as provided by law through this lawsuit.

277. Dr. Cabi, Dr. Cakir, and Dr. Mert allege in this Complaint that they engaged in protected activity in reporting Dr. Ozcan's misconduct regarding his research and his creation of a hostile work environment and they suffered retaliation linked to their report. But for making that report, the alleged retaliatory acts would not have happened.

278. In the year prior to reporting Dr. Ozcan's misconduct, Dr. Cabi and Dr. Cakir had received raises; Dr. Mert received a promotion; Dr. Ozcan praised Dr. Cabi as "the smartest scientist I have met in life"; and, on March 4, 2014, the day they made a report about Dr. Ozcan's misconduct, Dr. Majzoub

had told Dr. Cabi and Dr. Cakir it was time for them to be promoted. After they made the report, and directly linked to it, BCH removed Dr. Cabi and Dr. Cakir from patent inventorship, all three Fellows from article authorship, and terminated employment, in addition to other retaliation they suffered.

279. BCH permitted or otherwise did fail to prevent Dr. Ozcan from retaliating against Dr. Cabi, Dr. Cakir, and Dr. Mert.

280. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the violations of BCH, Dr. Ozcan, and Dr. Majzoub, including but not limited to emotional distress, as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

281. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH, Dr. Ozcan, and Dr. Majzoub in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT VII

Conspiracy (Against All Defendants)

282. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 281 inclusive as though the same had been set forth fully herein.

283. Defendants are parties to conspiracy, including but not limited to a conspiracy in violation of 42 U.S.C. § 1985.

284. It is not believed at this time that ERX participated in a conspiracy in violation of 42 U.S.C. § 1985.

285. Each of the Defendants has, to varying degrees, participated in planning and carrying out the objectives of the conspiracy and all are liable for the concerted actions of their co-conspirators.

286. BCH owns the intellectual property involved here pursuant to its policy attached at Exhibit M. Dr. Ozcan hopes to market the results of this intellectual property through his company, ERX. Dr. Majzoub, who did not contribute to the SR01 patent, became listed as an inventor entitling him to royalties pursuant to the policy at Exhibit M. Dr. Ozcan's research misconduct benefits those who seek to profit from it, including himself, ERX, Dr. Majzoub, and BCH.

287. Dr. Majzoub used his position to discredit Dr. Cabi and Dr. Cakir and assist Dr. Ozcan in making false misconduct charges against them.

288. BCH not only removed Dr. Cabi and Dr. Cakir from the relevant patents (thus also removing them from the revenue schedule contemplated by Exhibit M), it used the Fellows' need to publish in the pursuit of jobs and grants as leverage to try to quash their challenge as to the validity of Dr. Ozcan's data.

289. BCH, Dr. Ozcan, and Dr. Majzoub have interfered with the separate BCH – HMS research misconduct inquiry.

290. If successful, development of the intellectual property at issue – anti-obesity medication – stands to generate a tremendous amount of revenue for ERX, Dr. Ozcan, Dr. Majzoub, and BCH. Actions by the Fellows, including their report of research misconduct, threaten that profit stream and the Defendants acted accordingly and in conjunction with each other for each other's benefit.

291. A separate licensing agreement would need to encompass ERX if it is to market the drug or drugs at issue. As Dr. Cabi and Dr. Cakir claim inventorship in the SR01 and SR02 patents, as well as an undisputed third patent, they should have been involved in any such discussion but instead they have been cut out.

292. BCH has acknowledged that Dr. Ozcan had Dr. Cabi and Dr. Cakir participate in unexplained financial transactions for his benefit and use BCH facilities and resources to perform work for ERX.

293. Dr. Ozcan has retaliated against the Fellows on behalf of his company, ERX.

294. The objects of the conspiracy have including depriving the Fellows of their protected rights, privileges, immunities, and property; intimidating and retaliating against them because of the complaints they made about Dr. Ozcan's misconduct; and benefiting BCH, Dr. Ozcan, Dr. Majzoub, and ERX.

295. The conspiracy has included spoliation of evidence.

296. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the conspiracy as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

297. WHEREFORE, Plaintiffs hereby demand judgment by this Court against Defendants in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT VIII Breach of Contract (Against BCH)

298. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 297 inclusive as though the same had been set forth fully herein.

299. BCH entered into agreements with the Fellows regarding the terms and conditions of their employment, including a research misconduct policy that included non-retaliation for whistleblowers.

300. BCH entered into agreements with the Fellows regarding finding them new laboratories at which to work.

301. BCH entered into agreements with Dr. Cabi and Dr. Mert to employ them until June 19, 2015, and pay miscellaneous expenses.

302. BCH breached its agreements, including but not limited to the agreements with Dr. Cabi and Mert regarding their employment.

303. BCH breached its agreements, including but not limited to the agreements with Dr. Cabi, Dr. Cakir, and Dr. Mert regarding the terms and conditions of their employment, including a research misconduct policy that included non-retaliation for whistleblowers.

304. BCH breached its agreements, including but not limited to the agreements with Dr. Cabi, Dr. Cakir, and Dr. Mert regarding finding them new laboratories at which to work.

305. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the breaches by BCH as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

306. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

COUNT IX
Misrepresentation (Against BCH)

307. Dr. Cabi, Dr. Cakir, and Dr. Mert re-allege and incorporate their allegations contained in paragraphs 1 through 306 inclusive as though the same had been set forth fully herein.

308. BCH made false representations to Dr. Cabi, Dr. Cakir, and Dr. Mert and it did so negligently or intentionally.

309. BCH made false representations to Dr. Cabi, Dr. Cakir, and Dr. Mert to induce them to rely on them.

310. Dr. Cabi, Dr. Cakir, and Dr. Mert believed BCH's false representations and relied on them.

311. Dr. Cabi, Dr. Cakir, and Dr. Mert have suffered damages directly and proximately caused by the misrepresentations of BCH as well as attorney's fees and court costs and they seek recovery with interest thereon as available at law.

312. WHEREFORE, Plaintiffs hereby demand judgment by this Court against BCH in an amount which is adequate to compensate them for their damages together with interest, costs, and attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court:

1. Award appropriate compensatory damages, including multiple, consequential, and punitive damages, in an amount determined at trial, exclusive of interest;
2. Order appropriate declaratory relief regarding the unconstitutional and unlawful acts and practices of Defendants;

3. Order appropriate equitable relief against Defendants as allowed by 42 U.S.C. § 1983, including the enjoining and permanent restraining of violations, and direction to Defendants to take such affirmative action as is necessary to ensure that the effects of the unconstitutional and unlawful practices are eliminated and do not continue to affect Plaintiffs', or others', employment opportunities;
4. Order retraction of the SR01 Manuscript, and a stay of submission or publication of the SR02 Manuscript, pending the outcome of the investigation of BCH – Harvard Medical School research misconduct committee, including as to correcting authorship;
5. Award attorney's fees, costs, and disbursements of this action pursuant to 42 U.S.C. § 1988, M.G.L. c. 12 §11I, M.G.L. c. 151B, Title VII, and M.G.L. c. 149 § 185, and as otherwise provided by law; and,
6. Order such other further relief, including orders and award, as the Court may deem just and proper.

JURY DEMAND

Plaintiffs request a jury trial.

Respectfully submitted,
SERKAN CABI, Ph.D., ISIN CAKIR, Ph.D.,
and SAFAK MERT, Ph.D.
By their attorneys,

/s/ Christian G. Samito
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Boston, MA 02109
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www.samitolaw.com

Date: August 17, 2015

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon attorneys of record by ECF on August 17, 2015.

/s/ Christian G. Samito
Christian G. Samito
BBO# 639825

VERIFICATION

I am a Plaintiff in this matter. I have personal knowledge of the above-alleged facts set out in this First Amended Complaint and I verify that the factual statements contained therein are true and correct to the best of my knowledge and understanding.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 15, 2015.

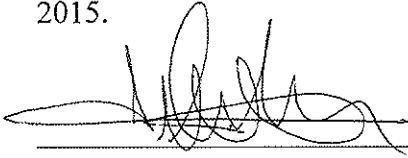
A handwritten signature in black ink, appearing to read 'Serkan Cabl', is written over a horizontal line.

Serkan Cabl, Ph.D.

VERIFICATION

I am a Plaintiff in this matter. I have personal knowledge of the above-alleged facts set out in this First Amended Complaint and I verify that the factual statements contained therein are true and correct to the best of my knowledge and understanding.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 15, 2015.

A handwritten signature in black ink, appearing to read 'Isin Cakir', is written over a horizontal line.

Isin Cakir, Ph.D.

VERIFICATION

I am a Plaintiff in this matter. I have personal knowledge of the above-alleged facts set out in this First Amended Complaint and I verify that the factual statements contained therein are true and correct to the best of my knowledge and understanding.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 15, 2015.

A handwritten signature in black ink, appearing to be 'Safak Mert', written over a horizontal line.

Safak Mert, Ph.D.