

IN THE UNITED DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

JUDGE CARTER

12 CV 3117

Karley Leah Marquet  
Pennsylvania

Anne Elisabeth Kendzior  
Texas

v.

Robert M. Gates  
Former Secretary of Defense  
College of William and Mary  
Office of the Chancellor  
P.O. Box 8795  
Williamsburg, VA 23187-8795

John M. McHugh  
Secretary of the Army  
Office of the Secretary of the Army  
1400 Defense Pentagon  
Washington, D.C. 20301-1400

Franklin L. Hagenbeck  
Former Superintendent  
United States Military Academy  
1400 Defense Pentagon  
Washington, D.C. 20301-1400

Ray Mabus  
Secretary of the Navy  
Office of the Secretary of the Navy  
Navy Pentagon  
Washington, DC 20350-2000

Jeffrey L. Fowler  
Former Superintendent  
United States Naval Academy  
Navy Pentagon  
Washington, DC 20350-2000

CASE NUMBER  
JURY DEMAND



## COMPLAINT

1. The United States Military Academy (“West Point”) and the United States Naval Academy (“Naval Academy”) exist in order to educate the future leaders of the United States’ armed forces. Both institutions claim to be teaching young men and women to hold themselves to the highest standards of ethical conduct. Yet both institutions systemically and repeatedly ignore rampant sexual harassment. Both institutions have a history of failing to prosecute and punish those students found to have sexually assaulted and raped their fellow students. Although Defendants and other military leadership repeatedly claim they have “zero tolerance” for such misconduct, the evidence shows otherwise: they have a high tolerance for sexual predators in their ranks, and “zero tolerance” for those who report rape, sexual assault and harassment.

2. Judicial review is required because Defendants have a long-standing pattern of ignoring Congressional mandates designed to ameliorate the military forces and academies’ dismal record of accountability for rapes and sexual assaults. As but one example, during their tenures, Defendants failed to abide by Congressional requirements to create an incident-specific Sexual Assault Database. *See* Government Accountability Office Report GAO 10-405T.

## JURISDICTION AND VENUE

3. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331.

4. Venue is proper pursuant to 28 U.S.C. § 1391 *et seq.*

## PLAINTIFF KARLEY LEAH MARQUET

5. Plaintiff Karley Leah Marquet is a 20-year old who graduated from high school in 2010. Ms. Marquet had many educational opportunities as a result of her high grades and excellent athletic abilities.

6. Ms. Marquet came from a military background, and decided to go to West Point in to order to serve the United States. West Point accepted Ms. Marquet in December 2009, and she began to attend West Point boot camp in June 2010.

7. Ms. Marquet was taught to follow all directions given by upperclassmen. She shined shoes, made beds, emptied trash, and otherwise did whatever she was told to do by the upperclassmen.

8. During the second semester of her freshman year, Ms. Marquet was raped by a West Point upperclassman. Ms. Marquet stayed on campus over the Martin Luther King holiday weekend but her roommate did not.

9. Ms. Marquet had a female friend (a classmate) in her room visiting for the evening, but the classmate was required to return to her own room by TAP (curfew). Shortly after Ms. Marquet's female friend left for TAP, her roommate's boyfriend (an upperclassman) came into Ms. Marquet's room and began talking with her about his relationship with her roommate.

10. The male upperclassman stayed for quite some time, and then gave Ms. Marquet a sports drink that had alcohol in it. Peer pressure by upperclassman to consume alcohol is pervasive at West Point. Ms. Marquet drank about one-fourth of the liquid in the bottle, and soon became intoxicated. Disoriented, Ms. Marquet was convinced by the upperclassman to go to his room where he raped her.



11. Ms. Marquet told her friend about the rape. Ms. Marquet also told her sister about being raped, who advised Ms. Marquet to seek out the Sexual Assault Response Coordinator (“SARC”).

12. Ms. Marquet’s perpetrator stopped by her room several times to ensure that she was not going to report the rape.

13. After she was raped, Ms. Marquet heard West Point upperclassmen openly discuss the fact that another female cadet had reported being raped. These upperclassmen were calling the young woman who had reported the rape a “slut” and claimed she was “asking for it.” Overhearing this discussion motivated Ms. Marquet to report her rape, as she realized the West Point culture would never change unless she and other rape survivors found the courage to come forward.

14. Thus, despite the perpetrator’s intimidation and the overall West Point cultural pressure not to report the rape, Ms. Marquet reported the rape to the West Point SARC. But after reporting the rape, Ms. Marquet did not receive adequate assistance.

West Point did not move the perpetrator from Ms. Marquet’s company, which resulted in her being forced to see him every day. Further, West Point did not even alter Ms. Marquet’s duties, which forced her to empty her perpetrator’s trash every day.

15. As a result of the rape and this hostile environment, Ms. Marquet began to suffer post-traumatic stress symptoms, becoming depressed and suicidal. When West Point assigned Ms. Marquet to do “walking hours” with her perpetrator as a way of punishing her for a minor infraction, Ms. Marquet resigned from West Point.

16. To date, although the investigations are continuing, Ms. Marquet’s perpetrator has not been brought to justice.

## **PLAINTIFF ANNE ELISABETH KENDZIOR**

17. Plaintiff Anne Kendzior is a 22-year old who graduated from high school in 2008. Ms. Kendzior had many educational opportunities because of her high grades and extraordinary soccer talent.

18. The Naval Academy was one of approximately thirty colleges recruiting Ms. Kendzior beginning during her junior year in high school. The Academy sent Ms. Kendzior a rare offer of admission during her junior year of high school, and hosted her and her parents on several visits.

19. The Academy personnel and the Academy soccer coach persuaded Ms. Kendzior and her parents that the Academy was substantively different than other colleges in terms of honor and integrity. Ms. Kendzior's family had a long history of military service, dating back to the Revolutionary War. Her grandfathers both served in World War II.

20. Ms. Kendzior accepted the offer during her junior year, and stopped pursuing her other college opportunities.

21. In the summer of 2008, Ms. Kendzior joined the Naval Academy and attended the summer boot camp program. Ms. Kendzior was taught to follow all directions given by upperclassmen. She shined shoes, made beds, and otherwise did whatever she was told to do by the upperclassmen.

22. In the fall of 2008, Ms. Kendzior began playing soccer and attending classes. During one of the very first weekends, Ms. Kendzior attended a party at the "lacrosse house." This party was thrown by Naval Academy male students who played lacrosse. The attendees were primarily Naval Academy students.

23. The “lacrosse house” party hosted by the Naval Academy students featured lots of alcohol, both beer and hard liquor. The party attendees engaged in various drinking games, such as beer pong and card games. Peer pressure to consume alcohol at Naval Academy events is persistent.

24. Ms. Kendzior, an underage minor, consumed alcohol provided by older Naval Academy students, and eventually went into one of the back bedrooms to sleep off the effects of the alcohol. The bedroom contained two beds against each wall, and an air mattress in the middle of the room. The beds were occupied by several other party attendees who were sleeping or unconscious; so Ms. Kendzior fell asleep on the air mattress.

25. Ms. Kendzior woke up several hours later when a Naval Academy student raped her. She woke up to find a male student on top of her, penetrating her. The Naval Academy student then rolled over and went to sleep.

26. Ms. Kendzior left the “lacrosse house” and returned to her living quarters. She confided in her roommate about being raped but did not alert her parents or anyone else at the Naval Academy.

27. Several months later, Ms. Kendzior and two male Naval Academy students she considered friends were granted Saturday “liberty,” which meant they were permitted to leave Academy grounds.

28. The Naval Academy students bought alcohol, and the three of them went to a hotel room where they consumed the alcohol. Ms. Kendzior passed out from imbibing alcohol. She awoke to find herself being raped by one of the two Naval Academy men she had viewed as a friend.



29. Ms. Kendzior returned to the Naval Academy, and told her roommates what had occurred. She did not tell her parents or the Academy authorities.

30. Ms. Kendzior's efforts to handle the after-effects of being raped twice by classmates without any assistance were unsuccessful. She began to suffer symptoms of post-traumatic stress, and sought counseling from Academy health services.

31. Ms. Kendzior revealed the rapes to her Academy counselor, but the counselor did not encourage Ms. Kendzior to report them to either civilian or military law enforcement authorities.

32. Ms. Kendzior continued to spiral downhill as a result of the rapes. She ultimately ended up becoming suicidal, and told her parents about the rapes. She also reported both rapes to the Naval Academy.

33. Although Ms. Kendzior was only one year away from completing her degree, the Naval Academy decided that Ms. Kendzior's mental health issues caused by the rapes precluded her from becoming a commissioned officer. Only the intervention of Ms. Kendzior's parents and her Congressman prevented the Academy from wrongly incarcerating her at a mental health facility.

34. Ms. Kendzior was forced to leave the Academy without being permitted to graduate.

35. Both the perpetrators were permitted to graduate and become Naval officers. To date, although the investigations are continuing, neither perpetrator has been brought to justice.

### **DEFENDANTS**

36. Defendant Robert M. Gates is the former Secretary of the United States Department of Defense. Defendant Gates served as Secretary from December 18, 2006 to June

30, 2011. His business address is College of William and Mary, Office of the Chancellor, P.O. Box 8795, Williamsburg, VA 23187-8795. Defendant Gates' acts and omissions that led to this lawsuit occurred in this district.

37. Defendant John McHugh is the current Secretary of the Army. He began his service on September 21, 2009. His business address is Office of the Secretary of the Army, Pentagon, Washington, DC 20350-2000. Defendant McHugh's acts and omissions that led to this lawsuit occurred in this district.

38. Lt. Gen. Franklin L. Hagenbeck is retired Army officer who served as the 57<sup>th</sup> Superintendent of the United States Military Academy (commonly known as and hereinafter referred to as "West Point.") Lt. Gen. Hagenbeck's acts and omissions that led to this lawsuit occurred in this district.

39. Defendant Ray Mabus is the current Secretary of the Navy. He began his service on June 18, 2009. His business address is Office of the Secretary of the Navy, Pentagon, Washington, DC 20350-2000.

40. Vice Admiral Jeffrey L. Fowler is a retired Naval officer who served as the 60<sup>th</sup> Superintendent of the United States Naval Academy from June 2007 to August 2010.

#### **ADDITIONAL FACTUAL ALLEGATIONS**

41. Plaintiff Marquet opted to attend West Point, a four-year coeducational federal service academy located in West Point, New York.

42. The United States Army pays for the education and training of West Point students (called "Cadets") in exchange for the students committing to serve in the Army upon graduation. Approximately, 1,300 students enter West Point each year, and approximately 1,000 graduate. Most graduates are commissioned as second lieutenants in the Army. Cadets are



required to adhere to the Cadet Honor Code, which states that "a cadet will not lie, cheat, steal, or tolerate those who do."

43. Plaintiff Kendzior, heavily recruited by various colleges to play soccer, elected to attend the United States Naval Academy.

44. The Naval Academy is a four-year coeducational federal service academy located in Annapolis, Maryland, United States. Plaintiff Kendzior and the other candidates for admission were nominated by a Member of Congress.

45. The United States Navy pays for the education and training of Naval Academy students (referred to as Midshipmen) in exchange for the students committing to serve in the Navy upon graduation. Approximately, 1,300 students enter the Academy each summer, and approximately 1,000 graduate. Naval Academy graduates are usually commissioned as Ensigns in the Navy or Second lieutenants in the Marine Corps.

46. The Naval Academy claims that students are required to adhere to the Academy's Honor Concept, which states: "Midshipmen are persons of integrity: We stand for that which is right. We tell the truth and ensure that the full truth is known. We do not lie. We embrace fairness in all actions. We ensure that work submitted as their own is their own, and that assistance received from any source is authorized and properly documented. We do not cheat. We respect the property of others and ensure that others are able to benefit from the use of their own property. We do not steal."

47. Rape and sexual assaults are widespread at the military academies, which are the training grounds for the military leaders. Yet under Defendants' leadership, the academies failed to implement Department of Defense's own recommendations on steps that need to be taken. *See* December 2011 *Annual Report on Sexual Harassment and Violence at the Military*

*Service Academies* at 6. According to the report, there were 65 reports of sexual assault in the academies in fiscal year 2010, up from 41 reports in year 2009. Even more alarmingly, the report admits that sexual assaults are dramatically underreported with the reported number representing less than ten percent of the actual unwanted sexual contacts. *2009 Annual Report on Sexual Assaults in the Military*.

48. As evidenced by the December 2011 *Annual Report on Sexual Harassment and Violence at the Military Service Academies*, Defendants failed to prosecute cadets and midshipmen who raped their classmates. *Defendants court-martialed only one of the many sexual predators involved in the 65 rapes. See Report at 16.*

49. The vast majority of the sexual predators graduate from the military academies without any serious consequences, and go on to join and lead the military services. It is thus no surprise that rapes and sexual assaults are widespread in the military, as shown by the chart below (based on the Department of Defense' estimates of under reporting):

2006	14,735
2007	13,440
2008	14,540
2009	16,150
2010	15,790

50. Defendants were well aware that alcohol and drugs were frequently involved in rapes and sexual assaults, as in Plaintiffs' rapes. The December 2011 *Annual Report on Sexual*

*Harassment and Violence at the Military Service Academies* admits that this use of intoxicants as weapons used to facilitate rape and sexual assault is rising, not falling. *See Report* at 28: “Alcohol and/or drug involvement in unwanted sexual contact increased to 51 percent in 2010 from 38 percent in 2008 according to the 2010 SAGR Survey.” Yet Defendants failed to take any effective action to prevent students from being victimized by their predatory classmates.

51. Defendants are personally responsible for failing to take any effective steps during their tenure to prevent rapes and sexual assaults at the Naval Academy and West Point. Defendants’ lack of leadership hindered progress on reducing rape and sexual assault. As reported by the Government Accountability Office (“GAO”), efforts to reduce rape and sexual assault are ineffective because they receive “limited support from commanders.” *See* GAO February 24, 2010, Testimony, GAO-10-405-T at page 2.<sup>1</sup>

52. Despite voluminous evidence of widespread use of alcohol and drugs to accomplish rape and sexual assault, none of the Defendants took systemic and effective steps to eliminate the use of alcohol and drugs by West Point cadets or Naval Academy midshipmen.

53. None of the Defendants took any effective steps to ensure that those who engaged in sexual predation at the academies were prosecuted and incarcerated for their crimes.

54. Defendants’ actions are ensuring that the military continues to struggle with rape and sexual assault because Defendants allowed known rapists to serve as officers and be promoted to leadership positions.

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<sup>1</sup> This situation is not new. Defendants have been on notice for many years that sexual harassment was commonplace in the Navy and Marine Corps. In 1991, the Navy conducted a service-wide survey that revealed 44% of female enlisted and 33% of female officers reported having been sexually harassed during the preceding year. *See Sexual Harassment in the Active-Duty Navy; Findings from the 1991 Navy-wide Survey*, NPRDC-TR-94-2 (December 1993). That same year, 83 women and 7 men were sexually assaulted, despite the long-standing “zero tolerance” policy, by Navy personnel at the Tailhook convention. *See* April 23, 1993 DOD Inspector General Report.



55. When these rapists become military officers, they are overseeing armed forces riddled with those known to have engaged in criminal behavior. Certain Defendants supported granting “moral waivers” to permit those with criminal convictions – including felonies – to serve in the Army and Navy, and Marine Corps. The following chart shows the number of persons with criminal convictions, including felony convictions, recruited into the Army, Marine Corps and Navy service between 2003 and 2006 (shown both in absolute numbers and percentage of enlistments):

**ARMY**

	2003	2004	2005	2006
TOTAL	4,918	4,529	5,506	8,129
PERCENTAGE OF TOTAL FORCE	7.1	6.3	8.5	11.7

**MARINE CORPS**

	2003	2004	2005	2006
TOTAL	19,195	18,669	20,426	20,750
PERCENTAGE OF TOTAL FORCE	49.6	50.7	52.5	54.3

**NAVY**

	2003	2004	2005	2006
TOTAL	4,207	3,846	3,467	3,502
PERCENTAGE OF TOTAL FORCE	10.4	9.8	9.2	9.7

See Boucai, Michael, *Balancing Your Strengths Against Your Felonies: Considerations for Military Recruitment of Ex-offenders*, 61 U. MIAMI L. REV. 997, 1000-01 (2007), Table 3 (based on data obtained via the Freedom of Information Act).

56. Each Defendant knew that his service was violating the Constitutional rights of Plaintiffs Marquet and Kendzior and other academy students. Each Defendant knew that alcohol and drugs were being used to accomplish rapes and sexual assaults. Each Defendant knew that the academies' culture dissuaded rape victims from reporting the crimes.

57. Each Defendant presided over a dysfunctional system that permits all but a small handful of Academy rapists to evade any form of incarceration. The statistics are staggering, with only one perpetrator being court-martialed during a year in which 65 students were raped.

58. Each Defendant knew that he had the power and the responsibility to reduce rape and sexual assault in the military academies. Each Defendant knew that his leadership made a difference to the priorities and focus of his Academy. See GAO Report No. 10-405-T, which explains leadership from the top is required to reduce rape and sexual assault.

59. Each Defendant knew that Plaintiffs and other students were being sexually harassed yet not raising complaints. Each Defendant knew that midshipmen and cadets who raped their fellow students were not being expelled from the military service academies. Thus, each Defendant was well aware that his personal failure to take action was resulting in Constitutional deprivations of life, liberty, due process, equal protection and the right to free speech. Despite having the knowledge of ongoing Constitutional violations, and despite having the personal power to stop those Constitutional deprivations, each Defendant failed to take any effective action. Instead, each Defendant permitted or continues to permit a culture to persist at

the academies in which victims of rape and sexual assault are openly labeled “sluts” and are accused of having “asked for it” when they seek justice.

60. Each Defendant repeatedly permitted or permits military command to interfere with the impartiality of criminal investigations.

61. Each Defendant repeatedly permitted or permits military command to rely on the Article 15 (nonjudicial punishment) process for allegations involving rapes, sexual assaults, and sexual harassment.

62. Each Defendant repeatedly permitted or permits the military command to charge those alleged to have raped or sexually assaulted a co-worker under UCMJ Article 134 (Adultery) rather than under Article 120 (Rape).

63. Each Defendant repeatedly ensured or ensures that the military, not the civilian authorities, investigated and prosecuted charges of rape and sexual assault. Each Defendant knows that the military judicial system prosecutes less than eight percent of those alleged to have engaged in rape or sexual assault, as compared to the civilian system, which prosecutes forty percent of those alleged to be such perpetrators.

64. Each Defendant permitted or permits the vast majority of those academy students found to have raped or assaulted someone to avoid incarceration and expulsion from the academies.

65. Each Defendant has ignored statutory mandates. As explained in the February 24, 2010 Statement by Co-Chairs Brigadier General Dunbar and Dr. Iasiello, Defense Task Force on Sexual Assault in the Military Services before the House Committee on Oversight and Government Reform, Subcommittee on National Security and Foreign Affairs, the Task Force found “DOD’s procedures for collecting and documenting data about military sexual assault



incidents to be lacking in accuracy, reliability, and validity. As one example, the most recent DOD report to Congress combined offender and victim data.” The Task Force also found that “SAPR training was generally perceived as yet another mandatory training requirement to fulfill as opposed to a problem to understand and address.”

66. Each Defendant failed to report conviction rates of rape, which is critical data needed by Congress to assess whether reforms are being implemented. *See* February 24, 2010, Statement for the Record by the Honorable Louise M. Slaughter (D-N.Y.), submitted to the Committee on Oversight and Government Reform, Subcommittee on National Security and Foreign Affairs, for Hearing: *Sexual Assault in the Military Part IV: Are We Making Progress?* Instead, Defendants muddied the data by including all convictions, such as those for adultery. This hides from public scrutiny the fact that rape convictions almost never occur in the military judicial system.

67. Each Defendant permitted the destruction of evidence gathered during forensic examinations. *2009 Annual Report on Sexual Assaults in the Military* at 5.

68. Each Defendant repeatedly cites a policy of “zero tolerance” for rape and sexual assault. Yet this is the very same “zero tolerance” policy in effect during the 1991 Tailhook scandal and the ensuing years in which the rates of sexual harassment and assault climbed, not fell. Defendants each know with certainty that the “zero tolerance” policy is a sham, a public relations charade.

69. Each Defendant repeatedly ignored Congressional mandates and deadlines. In 2009, Congress expressly directed that the Department of Defense establish a centralized case-level Defense Sexual Assault Incident Database by January 2010. *See* National Defense Authorization Act for fiscal year 2009. When the Government Accountability Office conducted

a review after the January 2010 deadline had passed, Defendants would not even commit to when the system would be implemented because “it does not have a reliable acquisition and implementation schedule.” See GAO testimony released on February 24, 2010, GAO-10-405 T.

70. Defendant Fowler violated Plaintiff Kendzior’s Constitutional rights by tolerating and condoning multiple honor code violations. Indeed, the Department of Defense forced Defendant Fowler to resign in August 2010 as a result of his flawed leadership.

71. Defendant Hagenback violated Plaintiff Marquet’s Constitutional rights by failing to implement directives on reducing rape and sexual assault. According to the 2011 Report, West Point failed to comply with the Department of Defense directives intended to reduce rape and sexual assault, including, but not limited to, DOD Directives 6495.01 (Nov. 7, 2008), 6495.02 (Nov. 13, 2008), 1350.2 (Nov. 21, 2003) and 1020.02 (Feb. 5, 2009). See *2011 Report at 24*.

72. Defendant Gates violated Plaintiffs’ Constitutional rights by interfering and impeding Congressional oversight. In July 2008, the Congressional House Oversight Committee on National Security and Foreign Affairs subpoenaed Dr. Kaye Whitley to testify on July 31, 2008, about her office’s efforts to eradicate sexual assault. Defendant Gates and his subordinates directed Dr. Whitley to ignore the subpoena, which she did. As stated by the Chair of the Committee at the subsequent hearing, “But what kind of a message does her and the Department’s unwillingness until now to allow testimony send to our men and women in uniform? Do they take Dr. Whitley’s office seriously? Is she being muzzled, or is the Department hiding something?” See *Hearing on Sexual Assault in the Military – Part II, Subcommittee on National Security and Foreign Affairs, Serial No. 110-188* (September 10, 2008).



73. Further, as reported on by the Washington Post on November 26, 2010, Defendant Gates ignored the competitive procurement process for contracting, and instead selected an inexperienced and small firm known as US2 to receive the \$250 million contract designed to implement the Army's obligations to prevent sexual assault and harassment. Prior to being selected without any competition for the sexual assault work, US2 had only three employees and several small contracts for janitorial work.

74. Defendant Gates further impeded Congressional oversight by failing to meet the statutorily-mandated deadline of January 2010 for implementing the database prescribed by the National Defense Authorization Act for Fiscal Year 2009. The Department was required to develop a database that would centralize all reports of rapes and sexual assaults. To date, the database still does not exist. There is no legal justification for Defendants Gates' and Panetta's failure to abide by the law.

#### **COUNT ONE: SUBSTANTIVE DUE PROCESS**

75. The preceding paragraphs are hereby incorporated in full by reference.

76. Plaintiffs possess a right to bodily integrity under the Fifth Amendment.

77. Defendants condoned a culture which allowed sexual harassment, sexual assault and rape.

78. Defendants' actions and failures to act violated Plaintiffs' substantive due process rights.

#### **COUNT TWO: PROCEDURAL DUE PROCESS**

79. The preceding paragraphs are hereby incorporated in full by reference.

80. Defendants failed to implement military and federal regulations regarding sexual harassment, rape and sexual assault. Instead, Plaintiffs were denied justice, unfairly terminated



and otherwise mistreated merely because they were victims of sexual assault, rape or sexual harassment.

81. Plaintiffs were deprived of a procedural due process right that is encompassed within the Fifth Amendment's protection of life, liberty and property.

82. Defendants' failure to implement military and federal regulations regarding sexual harassment, rape and sexual assault violated Plaintiffs' procedural due process rights.

### **COUNT THREE: EQUAL PROTECTION**

83. The preceding paragraphs are hereby incorporated in full by reference.

84. Plaintiffs have a right to be free from rape, sexual assault and sexual harassment under the Fifth Amendment.

85. Defendants subjected Plaintiffs to a pattern of sexual harassment, rape and sexual assault, failed to protect servicewomen and servicemen from rape, sexual assault, and sexual harassment; failed to conduct proper investigations and prosecute offenders; retaliated against servicemembers who reported being raped, harassed or sexually assaulted; discriminated on the basis of gender; and encouraged a culture of sexism and misogyny.

86. Defendants violated Plaintiffs' right to equal protection under the Fifth Amendment.

### **COUNT FOUR: FREEDOM OF SPEECH**

87. The preceding paragraphs are hereby incorporated in full by reference.

88. Plaintiffs possess a right under the First Amendment to report sexual assault, sexual harassment and rapes without suffering retaliation, including adverse employment actions

89. Defendants harmed Plaintiffs by retaliating against them when they exercised their First Amendment rights to speak about being raped, sexually assaulted or sexually harassed.

#### **COUNT FIVE: RIGHT TO JURY**

90. The preceding paragraphs are hereby incorporated in full by reference.

91. Plaintiffs possess a right under the Seventh Amendment to have a jury decide the fate of their perpetrators.


92. Defendants impermissibly interfered with and extinguished this right.

#### **JURY DEMAND**

93. Plaintiffs request a jury trial.

#### **PRAYER FOR RELIEF**

Defendants repeatedly and systemically violated Plaintiffs' Constitutional rights. Plaintiffs seek redress for their injuries, including compensatory damages, awarding of academic credit, punitive damages, attorney's fees and costs, and such other relief as the Court and Jury deem just and proper.

  
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