

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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JOHN HARNOIS,)
Plaintiff,)
))
v.) **Civil Action No: 1:21 – cv – 10236 - IT**
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WOODS HOLE OCEAN. INST.)
))
LAELA SAYIGH,)
))
MICHAEL MOORE,)
))
ALESSANDRO BOCCONCELLI,)
Defendants.)
-----X

FIRST AMENDED COMPLAINT

(Jury Trial Demanded)

THE NATURE OF THIS ACTION

1) This case relates to case 1:19-cv-10705. The causes of action herein stem from data and information obtained just prior to and during the prosecution of case 1:19-cv-10705. To assist the Court, Plaintiff attaches Judge Stearns’ ruling¹ (Exhibit 1) on the Fed R. Civ. P. 12(b)(6) motion in that case.

2) Research of acoustics in baleen whales, Plaintiff’s research interest, is bi-coastal but still

¹ “For the reasons explained below, defendants’ Fed. R. Civ. P. 12(b)(6) motion will be denied with respect to Counts I, II, III (procedural due process claims against Cummings, Majewski, Gomes, and Helm only), IV, VII ((violation of 1st Amendment Rights and violation of Mass. Civil Rights Act) - against Cummings and Majewski only), VI ((defamation) against Cummings, Majewski, and Professor Doe only), Count VIII ((Intentional interference with third party advantageous relations against Cummings only). Defendants’ Rule 12(b)(6) motion will be allowed as to all remaining claims.” *Harnois v. Univ. of Mass.*, CIVIL ACTION No. 19-10705-RGS, at *2-3 (D. Mass. Oct. 28, 2019) relati against Cummings only), and XV (Webster only).

incestuous since most relevant researchers have conducted studies together. On the East coast of the United States, research of acoustics in baleen whales is led by research locations inter alia : Woods Hole Oceanographic Institution, Duke Marine Lab, University of Rhode Island and SMAST (UMASS Dartmouth), and Rochester University.

3) The researchers and senior scientists have the formal and informal institutional authority and responsibility for molding the sequential Ph.D. candidates into scientists and professors, or alternatively washing out the indistinguishable students for lack of academic and intellectual capability. Defendants acted within that authority when they caused Plaintiff damages, not because he was unqualified, which he was without question, but because they had a score to settle.

4) Plaintiff's dream to work in baleen whale conservation was destroyed as the result of a bogus disciplinary case founded upon the malicious defamation, libel, and slander through accusing Plaintiff of false and heinous criminal allegations that never occurred in the home of Defendant Laela Sayigh (herein as "Sayigh") and Defendant Alessandro Bocconcelli (herein as "Bocconcelli")

5) When Bocconcelli learned that Plaintiff pursued an academic interest in their field and moreover was in fact acting as a guest student at WHOI, he became enraged, and he and his wife, as narcissistic self-appointed keepers of the academic gates in their field, falsely reported to Plaintiff's colleagues and UMASS Dartmouth officials (herein as "UMASSD") that he in fact committed violent multiple crimes in their home circa December 2012 against Carter Esch, a 5 ½ year Ph.D. student in the MIT-WHOI Joint Program. Sayigh and Bocconcelli concerted with malice to interfere with Plaintiff's advantageous relationship with Defendant Michael Moore (herein as "Moore") with false defamation intending to rid Plaintiff from the academic world of marine science, specifically baleen world research.

6) Upon information and belief, Moore was convinced to join the concerted effort to rid Plaintiff from the academic world of marine science, specifically baleen whale research.

7) Sayigh, Bocconcelli, and others who they impressed upon the false allegations against Plaintiff,

such as Moore, had communications with officials at UMASS Dartmouth (herein as “UMASSD”) – not involved in admissions. During these communications, Defendants attempted to influence UMASSD to remove Plaintiff from UMASS Dartmouth and his graduate program in baleen acoustics using drones. Likewise, UMASSD told Defendants that with the information Plaintiff would likely be expelled for falsely completing his application disclosure statement. These actions alone stigmatized Plaintiff and ruined his reputation in his pursuit of chosen academic field and profession.

8) Bocconcelli and Sayigh widely spread the defamatory comments, not to promote and further common interests of safety, but instead took advantage of an opportunity to solely exact revenge with ill-will against Plaintiff.

9) Upon information and belief Defendants requested UMASSD refrain from ever informing Plaintiff that it was Defendants who informed UMASSD of the alleged crimes at the home of Bocconcelli and Sayigh.

10) When UMASSD learned in late April 2016 that Plaintiff had a criminal conviction, and that he had been accused of multiple violent crimes in Massachusetts, UMASSD commanded him to attend a Conduct Conference. He was accused of vague undefined allegations related to creating a hostile learning environment and moreover improperly disclosing his criminal history in his admissions application. Essentially he was accused of criminal fraud in completing his application.

11) Also, UMASSD stated that various students accused Plaintiff of creating a hostile learning environment. Plaintiff would later learn that UMASSD solicited these non-existent complaints from students.

12) As a direct result of such false allegations, UMASS Dartmouth instituted unwarranted punitive interim sanctions with a DO NOT TRESSPASS ORDER, a “Do Not Contact” order denying him communication with anyone associated with UMASS Dartmouth, and suspended him without cause. Plaintiff was also warned that if he or his representative approached or contacted anyone potentially related

to the investigation, then he would face worse charges of retaliation and likely expelled.

13) UMASS Dartmouth exasperated damages within two weeks, when UMASSD re-published the allegations they received from Sayigh, Bocconcelli and Moore, and accused Plaintiff of multiple crimes. UMASS Dartmouth intentionally promulgated sensitive confidential information, then re-published defamation against him with his colleagues at UMASS Dartmouth and outside research opportunities (Duke University).

14) Defendants' defamation of Plaintiff, which triggered Plaintiff's Title IX investigation, led to formal sanctions and change of Plaintiff's legal status - despite a finding of not responsible for all misconduct allegations. Plaintiff was presumed guilty from the start of these false criminal accusations, and subjected to gender-biased unfair treatment leading to an erroneous outcome of sanctions unsupported by the facts, by any school policy or by basic fairness. By way of examples, without limitation were UMASS Dartmouth's: (i) failure to provide Plaintiff with proper, adequate and timely notice of the charges against him and the potential sanctions for such charges; (ii) failure to provide Plaintiff the opportunity to be heard; (iii) deliberate refusal to honor Plaintiff's right to have an advisor at his Conduct Conference or choice of his advisor at any time; (iv) failure to conduct a fair, thorough, and impartial investigation; (v) failure to address Plaintiff's repeated reported complaints (from himself and through his attorney) detailing violations of due process, violations of school policies, and of sexual discrimination in the disciplinary process; (vi) intentional failure to adhere to UMASS Dartmouth's own policies; (vii) abuse of discretion in the issuance of an unwarranted interim sanction; (viii) failure to provide the identity of any supposed accuser(s); (ix) failure to provide any shred of evidence against Plaintiff; (x) failure to provide any opportunity to confront the accuser, question the witnesses, present witnesses, or present a defense at a hearing; (xi) failure to provide the Special Examiner's report to Plaintiff; (xii) imposing actual formal sanctions without justification after a finding of not responsible, causing Plaintiff to suffer a hostile learning environment, and summarily denying Plaintiff an appeal without ever providing a sufficient

explanation or rationale to those decisions. All these actions would not have occurred but for the defamation perpetrated by Defendants during communications with UMASSD.

15) Despite a finding of not responsible, Defendants still sanctioned Plaintiff. He received a formal warning and they directed the Dean of SMAST to implement ‘appropriate interventions.’ The illegitimate sanctions censored Plaintiff from engaging other students, warned him to restrain from contacting anyone who may have been potentially involved in the investigation, confined him to an isolated supervised workspace adjacent to the Dean’s office, and denied Plaintiff’s access to his normal routine in the graduate student work area, all which denied his benefitting from his contractual educational experience. UMASS Dartmouth amended his academic program without his consent from a Master’s Thesis Program/Fastrack to Ph.D. to Master’s Non-Thesis.

16) As a result of Defendants’ malicious defamation, Plaintiff found the UMASS Dartmouth - directed harassment on campus so hostile and toxic that he was compelled to seek a leave of absence. UMASS Dartmouth constructively expelled Plaintiff from his education program, and caused him to lose 5 years of funding in pursuit of a Ph.D. in his chosen field.

17) Regarding statutes of limitations, Plaintiff legitimately relies on the discovery rule since the facts and the identity of Defendants related to the allegations remained ‘inherently unknowable’ to Plaintiff. The specific allegations, the identities of the supposed victims, witnesses, and Defendants and the bases for causing the Title IX investigation were withheld from the Plaintiff like a firewall. Further he was repeatedly threatened of repercussions if he sought information related to the investigation, which included identity of Defendants.

18) Finally in 2019 Plaintiff called these Defendants, conducted his own investigation and obtained information in Case 1:19-cv-10705.

19) Moreover, Plaintiff was repeatedly advised by his legal Counsel, which represented him in the Title IX investigation, that he suffered no harm because he was re-instated by UMass Dartmouth, so he had

no recourse against anyone, which made the identities of and the harm caused by Defendants inherently unknowable to Plaintiff.

20) Unlike other Plaintiffs, who have been deemed defamation-proof because of the notoriety in widespread publications of national news or within multiple papers that vastly extended the degree and range of publicity received, the charges against this Plaintiff, related to Esch, were never reported in local news, except on a police blotter in 2012. Until Defendants maliciously broadcast Plaintiff's alleged criminal actions in the home of Sayigh / Bocconcelli, Plaintiffs advisors, colleagues, professors and peers were completely ignorant of Plaintiff's criminal history.

21) Plaintiff's allegations, herein instead of being mutually exclusive and refuting, rather supplement the allegations in case 1:19-cv-10705. As Plaintiff prosecuted that first case, what lingered was what truly triggered the Title IX investigation, which then dripped with male bias and discrimination against Plaintiff as a male student. During prosecution of that case he heard facts that Cummings and Majewski knew about some alleged criminal history of Plaintiff's criminal history before May 4, 2016, but during the Title IX investigation and during prosecution of case 1:19-cv-10705, UMASSD maintained a firewall protecting the identities of Defendants, then threatened Plaintiff that if he sought them out, he would be disciplined for retaliation and expelled. The new information linked the defamation of Defendants as to the triggering events that caused the Title IX investigation and its sequelae.

22) For these reasons, Plaintiff brings this action to obtain equitable relief and legal / punitive damages, from inter alia, defamation, intentional interference with contractual / advantageous relations, and aiding and abetting.

THE PARTIES

23) **Plaintiff**, John Harnois, pro se, a natural person, and private individual for all purposes herein, is a citizen of the United States, and is a resident of Rhode Island. He is a disabled veteran, who attended UMASS Dartmouth under 38 U.S.C. section 3101, which authorized him 5 years of academic funding

to pursue a Ph.D. in Oceanography.

24) Defendant **Woods Hole Oceanographic Institution** (herein as “WHOI”) receives Federal funding and is a privately endowed research university/facility in Falmouth, Massachusetts. At all times material hereto, WHOI acted by and through its agents, employees, and representatives who were acting in the course and scope of their respective agency or employment and/or in the promotion of WHOI business, mission and/or affairs.

25) Defendant **Laela Sayigh**, (herein as “Sayigh”) at all times relevant was a research specialist at the WHOI Marine Mammal Center, and a professor for the MIT/WHOI Joint Program that draws funds and resources from both universities. She was acting in her individual capacity and as an agent for WHOI. Upon information and belief Sayigh lives at 64 Nobska Rd., Falmouth, MA 02543.

26) Defendant **Michael Moore**, (herein as “Moore”) at all times relevant was the Director of the WHOI Marine Mammal Center, and a professor for the MIT/WHOI Joint Program that draws funds and resources for both universities. He was acting in his individual capacity and as an agent for WHOI. Upon information and belief Moore lives in Marion, MA.

27) Defendant **Alessandro Bocconcelli**, (herein as “Bocconcelli”) at all times relevant was a research specialist at the WHOI Marine Mammal Center. He was acting in his individual capacity and as an agent for WHOI. Upon information and belief Bocconcelli lives at 64 Nobska Rd., Falmouth, MA 02543, and is the husband of Sayigh.

28) All individual Defendants are being sued in their individual and official capacity.

JURISDICTION AND VENUE

29) This Court has diversity jurisdiction pursuant to 28 U.S.C. §1332, because Plaintiff and each Defendant are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of costs and interest.

30) This Court has personal jurisdiction over all Defendants, who conducted business within Massachusetts, and who continue to reside in Massachusetts.

31) Venue for this action properly lies in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim(s) occurred in this judicial district.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

I. Plaintiff's Efforts to Apply to UMASS Dartmouth

32) From April 2015 to his matriculation of January 20, 2016², Plaintiff fully disclosed the facts surrounding his conviction of a decade prior to Webster and his staff.

33) In April of 2015, Plaintiff took a graduate acoustics class and accepted a summer internship with Professor James Miller at (URI) related to underwater acoustics of the Block Island Wind Farm. Plaintiff was integral in coordinating the URI contingent with the assigned contractor. As the result of Plaintiff's excellent performance, Miller recommended Plaintiff contact Professor John Buck.

34) On June 1, 2015, Plaintiff requested Buck serve as his Ph.D. advisor. By July 1, 2015 Buck promised to sponsor Plaintiff's academic pursuit of a Ph.D. in Oceanography/Bioacoustics and help develop research projects for Plaintiff's Ph.D. dissertation. Buck further promised to introduce Plaintiff to specific scientists to serve on Plaintiff's graduate committee. From June 1, 2015 to May 4, 2016, Buck and Plaintiff exchanged over 150 texts, calls and emails regarding Plaintiff's Ph.D. pursuit and development of his committee, consulted weekly in Buck's office, and Buck provided Plaintiff a workspace in Buck's EE lab. Buck served officially and contractually as Plaintiff's advisor at UMASS Dartmouth.

35) At the urging of James Miller and John Buck, Plaintiff attended the 170th Meeting of the Acoustical Society of America in Jacksonville, FL from November 2 to 6, 2015, so Buck could introduce Plaintiff to Douglas Nowacek, Ph.D., Duke Nicholas School of the Environment, and Jennifer L. Miksis-Olds,

² Despite many applicants of male students with criminal history to UMASS Dartmouth, Plaintiff was the first and only applicant who was accepted, and when Cummings and Majewski learned of same, they took extraordinary action to remove Plaintiff.

Ph.D., Director, Center for Marine Science & Technology, at The Pennsylvania State University.

36) Plaintiff had emailed and spoken telephonically with both professors prior to the Acoustics conference to develop potential commonality for studies and academic joint projects. During the conference both met with Plaintiff, discussed detailed scientific corroboration and agreed to serve on Plaintiff's academic graduate committee, which constituted advantageous relations.

37) In the fall (September) of 2015, Plaintiff took three classes at UMASS Dartmouth in preparation of and to promote his application for matriculation to UMASS Dartmouth graduate school.

38) Professors from each fall class (Richard Connor, Geoffrey Cowles, Miles A. Sundermeyer) and Buck wrote Plaintiff's glowing letters of recommendation, which illustrated Plaintiff's excellent reputation in the academic community of UMASS Dartmouth.

II. Plaintiff's Performance at UMASS Dartmouth and Development of Research Interest

39) The Plaintiff developed an excellent reputation in the parochial academic community of Plaintiff's research interest, an interest which he had been developing since 2012. It consisted of bioacoustics scientists, who used drones to assess stress on baleen whales, including scientists from the Boston Aquarium, Woods Hole Oceanographic Institute (WHOI), URI, Duke Marine Lab, and Miksis-Olds' lab.

40) From December 31, 2015 to January 20, 2016, Plaintiff and Moore developed a joint whale research project with Buck that was meant to continue through the summer of 2016, which constituted an advantageous relationship between Plaintiff and Moore.

41) In February 2016, Buck vouched for Plaintiff to Miksis-Olds and Susan Parks to accept Plaintiff in a prestigious bioacoustics program scheduled for June 5-10, 2016, called SeaBASS, a biannual training program that recruited only the best international talent in bioacoustics. Students, who were accepted often leveraged attendance into additional invitations to collaboration on research projects and grants. Upon information and belief, a student from UMass Dartmouth had never been accepted into SeaBASS, a program reserved for students from WHOI, Scripps Inst. of Oceanography, Scottish Oceans Institute,

and Duke Marine Lab and similar elite academic institutions.

42) Throughout the Winter/Spring of 2016, Professor Nowacek recruited Plaintiff to apply to the Nicholas School of Marine Science at Duke, and lobbied for Plaintiff's acceptance into the 2016 summer classes and internship program at Duke Marine Lab, which constituted an advantageous relationship.

43) Leading into the Spring of 2016, Plaintiff had labored successfully to develop a solid reputation and viable graduate program with the world's leading scientists in the realm of his academic and career pursuit and maintained a 4.0 GPA in all graduate courses.

III. Representations, Agreements, Covenants and Warranties of Plaintiff and UMASSD

44) Scott Webster, Director of UMASS Dartmouth Graduate Admissions, and his office had the sole purview and responsibility for vetting and deciding, after a thorough 10-month background investigation, whether Plaintiff's criminal conviction was a threat to the UMASS Dartmouth Community. In offering Plaintiff an acceptance letter, Webster and UMASS Dartmouth formally acknowledged Plaintiff's disclosure letter as complete and truthful, and confirmed Plaintiff's criminal history as non-threatening to the UMASS Dartmouth Community.

45) Plaintiff told Scott Webster, Director of UMASS Dartmouth Graduate Admissions that he would not jeopardize his academic career and VA scholarship if the graduate admissions office could not guarantee absolute confidentiality of the disclosed conviction. Multiple times Webster made unambiguous promises that he, his staff and UMASSD staff would secure Plaintiff's confidential information in addition to restrictions under FERPA. Further, Webster offered that faculty were experienced enough and were responsible to filter all potential rumors of past criminal activity through his office.

46) Buck unambiguously promised that, as a term to Plaintiff's matriculating to UMASS Dartmouth S Mast, he would serve as Plaintiff's advisor through his dissertation completion.

47) Solely based on Webster's promise to ensure Plaintiff's confidentiality of the information in his disclosure statement, and based on Buck's promise to advise Plaintiff in his Ph.D. pursuit, Plaintiff decided to apply

his scholarship to and matriculate at UMASS Dartmouth over all other programs under consideration to his detriment. But for these assurances, Plaintiff would have chosen matriculation elsewhere.

48) From when Plaintiff enrolled in classes in September 2015, to Plaintiff's matriculation to the UMASSD SMAST thesis Master's Degree program³, a contractual relationship existed between Plaintiff and UMASSD bound by the terms of school online policies including: 1) UMASSD 2015-2016 Student Handbook (Handbook),⁴ which includes Student Conduct Policies and Procedures, (Policies)⁵; 2) FERPA policy; 3) 2015 Sexual Violence Protocol (herein as "Protocol"), and 4) any and all statements of procedure or policy on UMASSD official websites at the times relevant.

IV. False Allegations Against Plaintiff

Introduction of Plaintiff, Bocconcelli and Sayigh

49) Plaintiff, Bocconcelli and Sayigh became acquainted in the Spring/Summer of 2012, when Bocconcelli and Sayigh boarded Plaintiff's girlfriend named H. Carter Esch⁶ (herein as "Esch") in the room above the garage attached to the main home (Esch did not pay rent).

50) In the Summer of 2012, Esch repeatedly told Plaintiff of the disparaging comments of Sayigh's daughter, specifically that Bocconcelli disdained Plaintiff, and he did not want to see Plaintiff around his home or around his daughter.

51) Esch's research consisted of using passive array sonar to detect and predict the presence of North Pacific Right Whales. At UNC Wilmington, Sayigh served as Esch's undergraduate advisor and corroborated with Esch on several highly cited papers. Sayigh was pivotal in Esch's matriculation in the MIT/WHOI Joint Program. AT WHOI, Esch worked closely with her advisor Mark Baumgartner, Ph.D.

³ Plaintiff had applied to the Ph.D. program; Plaintiff, Buck and Steve Cadrin (Admissions Director of SMAST) agreed that Plaintiff would be considered on the FastTrack program for acceptance into the Ph.D. program once Plaintiff wrote a research proposal.

⁴ <https://www.umassd.edu/studentaffairs/studenthandbook/> (for 2016)

⁵ <https://www.umassd.edu/studentaffairs/departments/student-conduct-and-dispute-resolution/policies/> (for 2016)

⁶ Esch was a 5th – year MIT/WHOI Joint Program Ph.D. candidate finishing her dissertation.

and Sayigh regarding her research. For many years Bocconcelli and Sayigh treated Esch as an adopted daughter.

Esch's Psychiatric Split

52) Esch's mental instability and addictions made her an unstable and unbelievable witness.

53) On/about September 4, 2012 Mark Baumgartner (Esch's Ph.D. Advisor) met with Esch. He informed Esch that he and her committee believed her work was unremarkable, and he and they would likely not endorse her unfinished dissertation. He also informed Esch that she had only two months to complete all work. He recommended she accept a master's degree for having completed the required coursework.

54) That afternoon Esch suffered a psychotic split with delusions and hallucinations. For example, Esch believed she was pumping gas at the Bourne Rotary Gulf Station while she was in the living room of the house in Falmouth, which Plaintiff rented for her to complete her dissertation. Prior to, during and after her committals, Esch became paranoid that her WHOI advisors would learn of her diagnosis and her severe alcoholism that caused her to drink daily before 4 am, pass out, and wake at 11 am.; Esch repeatedly threatened Plaintiff, that if he informed her advisors regarding her challenges, she would file criminal charges against him.

55) From early September to early December 2012, Esch was committed to and/or attended several psychiatric hospitals including McLain Psychiatric Hospital, Cape Cod Hospital and Naukeag Addiction Treatment Facility, where she was diagnosed with grave mental illnesses inter alia with paranoid schizophrenia, drug addiction and sex addiction. During a brief hospital discharge, Esch attempted vehicular suicide while intoxicated (0.35 BAC) with psychotropics including benzodiazepines. She was again committed to McLain Psychiatric Hospital.

56) While Bocconcelli and Sayigh were home and away, Esch repeatedly planned and held multi-party sex events in the home of Bocconcelli and Sayigh. Bocconcelli and Sayigh learned of these events

between 2012 and 2016, information, which worsened the ill-will Bocconcelli held toward Plaintiff.

57) Plaintiff broke up with Esch circa mid-October 2012 when she was at McLain the second time, but he kept in communication with her to support her recovery. In mid-October Esch threatened to “send you (Plaintiff) back to prison if anyone learned of what I am experiencing.”

58) In early December Esch returned to 64 Nobska Rd (Sayigh’s home) after her multi-hospital commitments, but failed to inform Sayigh she had been psych committed.

59) One morning in early-December 2012, Esch falsely reported to Falmouth police that Plaintiff broke and entered Esch’s living space (in the garage of Sayigh and Bocconcelli) the prior evening, held her hostage while armed, held a knife to her throat, and tossed her around like a rag doll for hours.

60) The charges that Esch filed were identical to those emails and phone calls with Plaintiff in which she threatened to file criminal charges against Plaintiff, of essentially accusing him of kidnapping, assault and battery with a dangerous weapon, and armed burglary.

61) Falmouth police charged Plaintiff with multiple serious felonies⁷. Authorities conducted a thorough investigation and the Commonwealth of Massachusetts prosecuted charges against Plaintiff from December 2012 through August 2014. Eventually, Plaintiff’s attorneys provided the Commonwealth Attorney with emails from Esch to Plaintiff, which she sent to him several weeks before Plaintiff’s arrest. The emails explicitly threatened in detail how Esch would accuse Plaintiff of crimes, which were mirrored in her false accusations to Falmouth police. Among the logical inconsistencies in Esch’s accusation included: no physical evidence existed of Plaintiff’s alleged intrusion; Esch had no physical injuries or bruises to reflect “being tossed around like a rag doll”; no finger prints existed of Plaintiff; Esch did not report the false allegations until the following morning many hours after Plaintiff supposedly left, and Esch never called out to Sayigh. Sayigh would report to police, “Carter acted like nothing had ever

⁷ Plaintiff was later *indicted* on charges of kidnapping, assault and battery with a dangerous weapon, armed burglary, and violation of an abuse prevention order.

happened (the night before).”

62) Bocconcelli and/or Sayigh provided no substantive testimony to police; Sayigh and her children were home only a room away⁸ and never heard Plaintiff nor Esch nor saw him that evening. In essence they had nothing to report of Plaintiff’s presence.

63) Shortly after Esch falsely reported her allegations, she returned home to Virginia. Upon information and belief, she told none of her colleagues, advisors, and peers about matters of her allegations against Plaintiff. As proof, Plaintiff was able to successfully collaborate with her colleagues and advisors until Defendants began disseminating defamations about Plaintiff.

64) That week Sayigh learned of Esch’s multi-hospital committals and diagnoses.

65) Most notably, Bocconcelli was forced to abandon his extensively planned and costly scientific research deployment to the South Pacific / Antarctica, for which he blamed Plaintiff for ending abruptly and developed long-lasting ill-will against Plaintiff.

66) All charges against Plaintiff were eventually dropped by the Commonwealth of Massachusetts.

67) Bocconcelli and Sayigh were intimately involved in the investigation against Plaintiff by receiving regular updates; both knew of the dismissal of all charges, because factually the allegations were substantively unfounded, except for the singular event of when Esch accused Plaintiff to police. She thereafter proved an unstable and unreliable witness, who refused to testify.

68) Bocconcelli and Sayigh had every reason to believe Esch’s allegations were false, and reporting them as factually truthful was reckless based on malice.

69) Despite, accepting the fact that Esch was most likely lying, Bocconcelli wanted Plaintiff punished.

70) Also Bocconcelli and Sayigh held malice against Plaintiff, because these violent acts, which were allegedly perpetrated by Plaintiff, occurred in their home - just rooms away from their children.

71) Upon information and belief, these events affected the ability of Bocconcelli and Sayigh to rent

⁸ Bocconcelli was on travel

their garage space to other graduate students and impacted their supplemental income, giving more reason to have ill-will against Plaintiff.

72) After charges were dropped, any allegations of fact, which accused Plaintiff of the crimes alleged by Esch, were malicious and false.

Bocconcelli and Sayigh State as Fact that Plaintiff Committed Crimes in their Home

73) From December 2015 until March 2016, when Moore was scheduled to undergo kidney replacement, Plaintiff visited the WHOI Marine Mammal Center to work with Moore on a scientific project to use aerial photos to determine health of baleen whales.

74) Bocconcelli and Sayigh both worked at the WHOI Marine Mammal Center with Moore as director.

75) Bocconcelli; Sayigh; Moore; John Buck (Plaintiff's advisor); Douglas Nowacek (Duke professor who recruited Plaintiff); Jennifer L. Miksis-Olds, Ph.D., Director, Center for Marine Science & Technology at The Pennsylvania State University (Professor who agreed to join Plaintiff in corroboration), and James Miller, Ph.D, at University of Rhode Island were close personal friends and regularly corroborated on studies, and discussed their students.

76) Upon information and belief, each knew Plaintiff had advantageous professional relations with each of them. Upon information and belief Sayigh and Bocconcelli knew that Plaintiff was a student at UMASS Dartmouth studying oceanography under John Buck before Bocconcelli saw Plaintiff at the WHOI Marine Mammal Center, but said nothing concerning Plaintiff with those Plaintiff had advantageous relations.

77) During Plaintiff's last visit before Moore's intended return - post recovery, Bocconcelli and Plaintiff met eyes and nodded to each other. Bocconcelli learned of Plaintiff's projects at the WHOI Marine Mammal Center with Michael Moore.

78) Bocconcelli became enraged when he saw Plaintiff working at the WHOI Marine Mammal Center, and decided with ill-will to rid Plaintiff of the baleen research community.

79) While Moore was recovering in the months of March and April 2016, Bocconcelli and Sayigh maliciously stated as fact to Moore that Plaintiff committed the crimes in their homes as alleged by Esch, thereby accusing Plaintiff of actual crimes, when in their minds they believed no crimes were committed by Plaintiff.

80) In addition to falsely alleging that Plaintiff in fact committed the crimes in their home, Bocconcelli and Sayigh reported truthful facts, such as the police came to her home and conducted an investigation, which led to charges against Plaintiff. They reported the factual information with actual malice from ill-will knowing that the innuendo would cause people to believe that Plaintiff was a dangerous person, statements which were made with ill-will were defamatory.⁹

81) Moore, with whom Plaintiff had advantageous relations, ceased any communication with Plaintiff thereafter he learned of Plaintiff's alleged crimes against Esch.

82) Upon his return in late April, Moore had communications with Buck and UMASSD, during which Moore stated that these crimes occurred as fact as described by Bocconcelli and Sayigh.

83) In April 2016, Bocconcelli and Sayigh, who were good friends with Buck, confirmed the criminal allegations as fact, to Buck. Any truthful statement to Buck about the allegations were made with malice and ill-will.

84) Buck ceased any communication with Plaintiff thereafter. He refused to continue as Plaintiff's graduate advisor. Plaintiff matriculated to UMASS Dartmouth specifically to work with Buck.

85) In late April/early May 2016, UMASSD had communications with Bocconcelli and Sayigh, who told Cummings and Majewski that these crimes occurred as fact as alleged by Esch. Any truthful statement to UMASSD about the allegations were made with malice and ill-will. UMASSD informed them Plaintiff would undergo a Title IX investigation for fraudulently completing his application and will

⁹ *Noonan v. Staples, Inc.*, 556 F.3d 20, 30 (1st Cir. 2009)

likely be expelled.

86) Upon information and belief, Defendants required UMASSD to keep their identities from Plaintiff, to which UMASSD agreed.

87) Upon learning of the criminal allegations, UMASSD queried Webster and his staff regarding Plaintiff's application, his disclosure statement, and how Webster vetted Plaintiff's disclosure statement. UMASSD discerned that Webster fully vetted Plaintiff's disclosure statement required by UMASSD's application, and Webster informed Cummings of his and UMASSD's guarantee to secure Plaintiff's confidential information away from the staff, faculty and students at SMAST.

88) Bocconcelli nor Sayigh had a duty to report the matter related to Esch, since alleged events occurred four years prior and the Commonwealth had dropped all charges, of which Bocconcelli and Sayigh knew.

89) The locus of the alleged incident did not fall under the Clery Act's definition of "public property"¹⁰ or of other loci of crimes which must be reported. see 20 U.S.C. § 1092(f)(6)(A)(iii) ; ¹¹ see *Havlik v. Johnson Wales*, 509 F.3d 25, 31 (1st Cir. 2007).

90) If such defamatory comments were made to promote and further commonality, and they were not, Defendants would have known to contact Mr. Webster and the Graduate Office of Admissions at UMASS Dartmouth, instead of extensively spreading lies about Plaintiff to those with whom Plaintiff had advantageous relations in academic departments, for the sole purpose of exacting revenge on Plaintiff.

91) Defendants were experienced researchers and professors, who understood admissions dynamics, who knew that Plaintiff would have had to write a disclosure statement of his criminal history per

¹⁰ The location of the criminal allegations was 50 miles away from UMASS Dartmouth in the Defendants home at 646 Nobska Rd, Woods Hole, MA which is not owned or controlled or used in support of UMASS Dartmouth.

¹¹ (defining "public property" as "all property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk . . . and is adjacent to a facility owned or controlled by the institution" so long as "the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes").

admissions requirements, and knew that those, who they contacted, were not involved in admissions decisions.

92) Had Defendants followed proper protocol and contacted Webster, Webster would have explained his vetting of Plaintiff, and any allegations other than a conviction were not part of an admissions decision.

93) Events having occurred 4 years prior to Plaintiff's matriculation, they would have been included in the vetting of Plaintiff, and unnecessary to report. Mr. Webster would have urged Defendants to exercise discretion in keeping their information confidential.

94) If such defamatory comments were made to promote and further commonality, and they weren't, Bocconcelli would have issued a timely notification about the incident – when he learned prior that Plaintiff was undertaking an advanced degree in his profession - and would not have waited until he saw Plaintiff at WHOI.

95) Defendants did not have a reasonable belief that they had a duty to report the stale falsely alleged criminal events, which were debunked by authorities.

96) Upon information and belief Bocconcelli, Sayigh and/or Moore contacted Officials at Duke Marine Lab, Nowacek and Miksis-Olds in April 2019, accusing Plaintiff of alleged criminal behavior as described by Esch as reported to police. Any truthful statement to Nowacek and Miksis-Olds about the allegations were made with malice and ill-will, and clearly unrelated to the reporting requirements of the Clery Act.

97) Nowacek and Miksis-Olds ceased all communication with Plaintiff. By destroying Plaintiff's advantageous relations to corroborate research, Bocconcelli, Sayigh and Moore essentially exiled Plaintiff from the baleen acoustics field of study.

98) Upon information and belief, Defendants extensively and recklessly defamed Plaintiff to their peers in other facilities and universities that offered an advanced degree on both coasts in baleen whale

research and marine acoustics, inter alia Oregon University, Washington State University, Scottish Oceans University, Florida State University, Scripps Inst. of Oceanography, Rochester University etc. to extend their effort to rid Plaintiff from their field.

99) Upon information and belief, in their communications Boconcelli, Sayigh, and Moore pressured UMASSD to expel Plaintiff, and ridiculed UMASSD on how such an applicant could be accepted.

V. Implementation of Conduct Investigation

100) On Tuesday, May 3, 2016 at 5:28:10 PM, Cummings sent Plaintiff a vague email (with a subject of “meeting”) related to his disclosure statement on his admissions application¹². He was directed to meet Cummings and Majewski at the Foster Admin Bldg. Room 323, May 4th, at 3:00 pm.¹³ Cummings’s email, a de facto Notification of Alleged Violation, triggered the Handbook disciplinary contractual procedure with which UMASSD were contractually bound to follow.

101) On Wednesday, May 4, 2016, at 3 PM, Plaintiff attended the “meeting” with Majewski and Cummings. Majewski and Cummings predetermined the Plaintiff’s final guilt because of his criminal history thereby holding a sham conference as a pretense to coerce Plaintiff into withdrawing from UMASS Dartmouth.

102) Immediately upon Plaintiff’s entering Foster Administration Building, Room 323, Cummings identified herself, and demanded Plaintiff’s withdrawal from UMASSD. Cummings accused Plaintiff of his “fraudulently disclosing his criminal history in his application,” and creating a hostile learning environment. Cummings was hostile and dispositive in her judgment. Cummings did not detail the basis of

¹² Herein known as “Admissions Misconduct.”

¹³ UMASSD violated Plaintiff’s due process rights under the Fourteenth Amendment and/or rights under UMASS Dartmouth policies in part by providing inadequate notice. Cummings’ email gave Plaintiff only 21 hours’ notice, failed to notice or allege that Plaintiff violated the Code of Conduct, failed to advise Plaintiff of his right to have an attorney or advisor present at the Procedural Review, failed to advise Plaintiff of the basis for any allegation, or identity of accusers, failed to imply any matter related to sexual misconduct or issue associated with a Title IX investigation, and failed to inform Plaintiff of the seriousness of the meeting, which he was required to attend.

her allegations, but Cummings stated that she had been informed that Plaintiff had a much broader criminal history than he reported in his disclosure statement.

103) Cummings asked Plaintiff if he had been involved in any criminal actions or that he was required to report, implying Plaintiff lied on his application, specifically his disclosure statement.

104) Plaintiff denied the allegation, explaining that he fully disclosed any and all convictions to Director of Graduate Admissions as required per the graduate school admissions process, and that Webster accepted Plaintiff only after vetting him for nearly a year.

105) Plaintiff denied the possibility of any such recent criminal convictions, requested to know the specific allegations, the identities of his accusers, and when the allegations were made. Majewski and Cummings refused to offer either, except to state that they received information related to his criminal history.

106) Plaintiff admitted he had been accepted by a WHOI researcher as a guest student, had considered transferring to Duke Marine Lab under Professor Douglas Nowacek and would be taking summer classes at Duke.

107) Cummings laughed at Plaintiff's statement, "Do you think you'll get accepted anywhere else?" Cummings stated that she learned from others of Plaintiff's undisclosed criminal history, and that anyone in his field will soon know. Cummings continued, "no one in marine science will ever work with you again...people want to know how could we ever accept a criminal like you and what are we going to do about you?"

108) Cummings stated that some accusers (implying student complaints) had come forward as early as December 2015, but most were recent.¹⁴ Plaintiff asked, "People came forward with accusations of misconduct against me six months ago, and you are just now informing me of them?" Cummings confirmed the reports of 6 months past.

¹⁴ This alleged complaint in December was related to a UMASS Dartmouth graduate student, and not WHOI.

109) Given that UMASSD took no action on the 6-month old alleged student related complaint, which per Protocol demanded immediate investigation, it is plausibly inferred UMASSD, Cummings and Majewski decided to investigate Plaintiff only upon learning of the additional alleged potential criminal convictions or history that were absent from his application disclosure statement, and the investigation was unrelated to any supposed complaints vaguely referred to on May 4th. Otherwise the Title IX investigation would have begun 6 months earlier.

110) Plaintiff protested; he claimed no student had filed any complaints, that the two officials were solely taking this action because he was a male student with a criminal history, and they and others wanted him out.

111) Neither Cummings nor Majewski denied Plaintiff's accusation; as such both offered a tacit confession as to their male bias, wherein under the circumstances an innocent or unbiased person would have denied it.

112) Plaintiff was asked, "Are you refusing to leave the school voluntarily?"

113) Plaintiff said, "Yes, Absolutely." Plaintiff again denied any misconduct, requested the list and nature of the allegations and moreover the identities of his accusers, so he could defend himself.

114) Majewski and Cummings denied Plaintiff's request.

115) Prior to the meeting, Cummings prepared and signed a letter dated May 4, 2016, which she allowed Plaintiff to read.¹⁵ The letter disclosed Plaintiff's confidential educational record, falsely accused

¹⁵ It stated in relevant part: "It has come to the attention of the UMass Dartmouth administration that you have a more extensive criminal history than you disclosed prior to being admitted to the Master's program in Marine Science. In addition, members of the University community have expressed concerns about your behavior that is considered aggressive and hostile...Due to the serious nature of this matter, I am writing to inform you that, effective immediately, you are suspended from UMass Dartmouth, pending the resolution of the Title IX investigation for allegations of creating a hostile learning environment. During the period of suspension, you may not attend classes or be present on any of the UMass Dartmouth Campuses, including the two SMAST facilities, without my permission and without the escort of a Public Safety Officer...Additionally, you may not contact any UMass Dartmouth students or faculty/staff members, unless you have been instructed to do so as part of the Title IX investigation. No contact includes, but is not limited to, the following forms of communication: in person, through a third party, by phone, by text, through social media or other electronic means...Any personal belongings that you have left at the SMAST facility in Fairhaven will be packed and mailed to you at the address above."

him of a crime, issued a Do Not Trespass Notice and Do Not Contact (DNC) directive, suspended him from school, and gave him inadequate notice of any potential charges that might warrant suspension or investigation of charges that he might face.

116) Per the UMASS Dartmouth student handbook, Cummings and Majewski were contractually required to provide Plaintiff the identity of his accusers and the basis of the allegations at the Conduct Conference.

117) Based on the material of the defamations by Bocconcelli, Sayigh and Moore it was entirely reasonable and foreseeable that UMASSD would re-publish their defamatory statements. Bocconcelli, Sayigh and Moore are responsible for the reasonably foreseeable defamatory re-publication in note 15.

118) Cummings copied Emil Fioravanti, the Chief of University Police; Tesfay Meressi, the Associate Provost for Graduate Studies, and Steve Lorenz, the Dean of SMAST. Prior to promulgation of this letter, none of these individuals knew that Plaintiff had a criminal past, and thus such violated Plaintiff's confidentiality, and stigmatized Plaintiff.

119) Cummings issued Plaintiff a "NOTICE NOT TO TRESPASS¹⁶," which she required Plaintiff to sign. Cummings stressed that if Plaintiff stepped on Mass. state property then he would be criminally prosecuted.

120) Plaintiff felt intimidated and ridiculed; he inferred Cummings' coercion, that if he refused to withdraw from school, then she would ruin his ability to finish his degree at UMASSD, destroy his reputation, accuse him of a crime, deny his ability speak to anyone at UMASSD, and suspend him from school, an act that would likely destroy his ability to continue and pursue his choice of academic pursuit of an Oceanography career elsewhere.

¹⁶ In accordance with Gen Laws of the Commonwealth of Massachusetts, Chapter 266 Section 120, you "John Harnois",...are hereby notified that you are forbidden to enter any lands or buildings owned or controlled by the Commonwealth of Massachusetts...This notice shall remain in effect...until 5/4/17...Any violation of this notice is a criminal offense and will be subject you to arrest at the time of violating this order. The Trespass Notice was in effect that morning at 1020 am - prior to the meeting

121) Cummings told Plaintiff that if he agreed to withdraw from school then he would not undergo a Title IX investigation, that no one else would learn of his disclosed history, and that she could likely ensure Plaintiff received excellent letters of recommendation to seek an education elsewhere.

122) Cummings demanded Plaintiff's resignation a second time; Plaintiff refused.

123) In realizing Plaintiff would not leave UMASS Dartmouth on his own accord, Cummings stated, **"If you won't leave, I'll get your kind with a Title IX investigation."**

124) Plaintiff inferred that Cummings meant "your kind" was any male student like Plaintiff with a criminal past, and meant "get...with a Title IX investigation" related to taking whatever action necessary to rid UMASS Dartmouth of Plaintiff.

125) Cummings informed Plaintiff that if he or his representative communicated with anyone associated with UMASS Dartmouth or anyone potentially involved in the investigation would constitute a separate charge of student misconduct, and she repeated a trespass would constitute a separate criminal charge.

126) Plaintiff inquired into the confidential nature of an investigation. Majewski assured Plaintiff that no one would know of the Title IX proceeding or investigation, except the few who are vital part of the investigation. Majewski directed Plaintiff not to discuss the investigation with anyone except his advisor.

127) Per Protocol 2015 "sexual harassment" is defined in part as "*unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.*" At no time during the entire investigation are any stated or implied allegations against Plaintiff related to these descriptions of any type, and thus application of Title IX procedures based on creating a hostile environment from sexual harassment was discriminatory and capricious at its outset.

SMAST Conducted an unprecedented “All Hands Meeting” to Exile Plaintiff¹⁷

128) In direct violation of its obligations with respect to Plaintiff’s privacy and confidentiality in the Title IX process, Cummings and Majewski directed Steve Lorenz (within a few days of the Conduct Conference) to hold an unprecedented all hands meeting with compulsory attendance regarding Plaintiff. Attendees were informed that: Plaintiff had an ongoing criminal past, UMASSD had initiated a Title IX investigation against Plaintiff, he was enjoined from speaking to any student, faculty or staff associated with UMASSD, Plaintiff was issued a “Do Not Trespass” order, denying him access to UMASSD property, and was suspended pending the investigation.

129) Students, faculty and/or staff were directed to report to Cummings when/if any sightings of Plaintiff were made on UMASSD property and/or if any contact was made by Plaintiff or by his proxy.

130) Within a week of the Conduct Conference, students, faculty, and staff at SMAST knew that Plaintiff had a criminal history and believed the false criminal allegations that were spread as the result of the all hands meeting and leaks from and innuendo related to the Title IX investigation; many had read the letter promulgated by Cummings.

131) Cummings via Lorenz did not qualify her specific directive at the all-hands meeting, leaving the staff, faculty and students to conclude that they could not speak to Plaintiff. Moreover, the message, a re-publication of the defamation by Bocconcelli, Sayigh and Moore implicated that Plaintiff was dangerous and unsafe.

132) With the clearly foreseeable re-publication of the explicit defamation or innuendo by Defendants, republication by UMASSD, Defendants are responsible for the damages of the defamation from the all-hands meeting. Until March 2019 Plaintiff did not know of the meeting or of Defendants identity.

Reasonably Expected Re-publications Interfered with Plaintiff’s Outside Educational Pursuits at Duke

¹⁷ Plaintiff learned of this “all hands meeting” in March 2019. Prior to then, knowledge of this meeting was inherently unknowable since Plaintiff was forbidden to speak to UMASS Dartmouth personnel or students during the period of the investigation, and he was not informed of it until he investigated in March 2019.

133) On May 9, 2016 Plaintiff received a letter attached to an email from Tom Schultz, Ph.D., Director, Marine Conservation Molecular Facility, Director of Undergraduate Studies, Duke University Marine Lab. It read: *Dear Mr. Harnois, Thank you for your application to the Duke University Marine Lab's summer program. Unfortunately we are not able to offer you a space in our program this year. We appreciate your interest in the Duke University Marine Laboratory and we wish you all the best.*

134) As a West Point graduate with a strong transcript, as a graduate student with a 4.0, and with the strong recommendation of fully tenured Professor Douglas Nowacek, Plaintiff's application to take undergraduate open summer classes should have been a certainty.

135) Plaintiff spoke to Tom Schulz telephonically on or about May 9, 2016, seeking an explanation to his rationale. Schulz referred to Plaintiff's Title IX investigation at UMASS Dartmouth and his recent criminal behavior; he stated, "I can't allow you on the island. We have to keep our people safe. You should have informed Doug (Nowacek) you had a conviction." When Plaintiff asked him if the UMASSD staff informed him of his conviction and Title IX investigation, he stated, "What do you think? Among others elsewhere." Thereafter Douglas Nowacek refused to take Plaintiff's calls or respond to Plaintiff's electronic communications.

136) Based on the material of the defamations by Bocconcelli, Sayigh and Moore it was entirely reasonable and foreseeable that UMASSD would re-publish their defamatory statements to Duke. Bocconcelli, Sayigh and Moore are responsible for the reasonably foreseeable defamatory re-publication.

137) Upon information and belief documents and communications exist between Bocconcelli, Sayigh and Moore, Duke staff, Douglas Nowacek, and/or Tom Schulz, showing Plaintiff was discussed, allegations were propounded as to criminal conduct, and decisions were made to exile Plaintiff from Duke Marine Lab.

138) Bocconcelli, Sayigh and Moore, and UMASSD concerted to ensure Plaintiff would not be accepted to Duke Marine Program regardless of his credentials. Calls and emails were made in April and

May 2021 to discredit Plaintiff, and Plaintiff was harmed.

UMASSD Filed Bogus Criminal Complaints to Affect Investigation and Expel Plaintiff¹⁸

139) Upon information and belief, UMASS Dartmouth, WHOI and Defendants possess emails and communication that indicate that Cummings and/or Majewski developed a plan to harm Plaintiff with the unnamed professor and Bocconcelli, Sayigh, and Moore to falsely accuse Plaintiff of a crime that would engender Plaintiff's expulsion from school, engender his defamation through rumor and accusation of crimes, engender his inability to continue his academic program if he returned after reinstatement, and engender his guilt in the Title IX investigation.

140) On May 17, 2016 UMASSD Police filed a report stating that Cummings and a professor alleged that "somehow" Plaintiff logged into his computer a few days prior, which would have constituted a violation of Plaintiff's "Do Not Trespass Notice," and other crimes. Chief Fioravanti assigned a detective to conduct an extensive and prosecutorial investigation, ordered the computer confiscated for forensic evidence and provided it to Associate Director of Enterprise Systems for expert analysis.

141) The investigation concluded that no evidence existed of Plaintiff's presence on UMASS Dartmouth or SMAST property, including but not limited to the fact that: (i) no student, faculty member nor staff saw Plaintiff enter SMAST or any UMASS Dartmouth property; (ii) building internal and/or external video surveillance failed to record his presence; (iii) Plaintiff's swipe card required to enter SMAST buildings failed to record his entrance; (iv) Plaintiff did not have the code to bypass the building's security upon entrance after hours; (v) no evidence existed of forced entering into the professor's office, and (vi) no forensic computer evidence existed as to Plaintiff's computer trespass. The investigation confirmed Plaintiff never stepped foot on UMASS Dartmouth property from May 4 to early September 2016 unless escorted by UMASS Dartmouth Police to meet Majewski and Cummings.

¹⁸ Plaintiff learned of the false allegations in March 2019 when he visited and queried UMASS Dartmouth Chief of Police, and could not have reasonably known prior since he had no reason to inquire about false allegations.

142) Within days rampant rumors among students and staff of the false alleged crimes further stigmatized Plaintiff's ability to return to any program at SMAST.

143) After the SMAST All Hands Meeting, the letter disseminated with re-publications of Defendants' defamation, and the bogus criminal allegations regarding the professor's office, Plaintiff would and in fact did become constructive pariah in his graduate program upon his return. No one spoke to him.

The Special Examiner's Closed-Door Investigation that Denied Plaintiff all Information on Investigation and Identities of Accusers

144) On May 4, 2014, and for weeks thereafter, Plaintiff and his attorney repeatedly and diligently asked University officials to inform him of the allegations and factual bases for any charges against him and moreover the identities of his accusers. UMASSD provided Plaintiff with nothing more than "members of the University community have expressed concerns about your behavior that is considered aggressive and hostile."

145) On May 9, 2016 at 3:11 PM Plaintiff emailed Majewski stating: "I am not prepared to withdraw at this time. At your earliest convenience I would appreciate receiving a copy of any allegations so I may prepare my defense."

146) On May 9, 2016 at 4:50 PM Majewski emailed Plaintiff acknowledging Plaintiff's decision not to resign and detailed Plaintiff's rights and matters regarding the Protocol process.¹⁹ Majewski's email

¹⁹ *Plaintiff's decision not to resign; that the University will begin the Title IX investigation immediately, that The Office of Diversity, Equity and Inclusion will contact Plaintiff as soon as possible to schedule an interview as part of UMass Dartmouth's investigation into allegations that he may have engaged in misconduct, in violation of the University's Policies on Equal Opportunity, Discrimination, Harassment and Sexual Violence; that a face-to-face interview will be conducted with Plaintiff; the location of the interview,; that Plaintiff has the right to have an advocate present during the investigatory interview session; that participation in this interview is voluntary; that in the event Plaintiff declined to participate in this interview, the University will proceed with its investigation and will draw whatever reasonable inferences are necessary based on the evidence produced in case Plaintiff does not participate; that Plaintiff will be asked to provide information and respond to questions asked; that Plaintiff will be permitted to ask questions of the interviewer. Majewski added: UMass Dartmouth's resolution process is confidential, and we request your discretion in minimizing the sharing of information so as to respect the sensitivity of this matter for all parties, and that Plaintiff should be advised that he was still under the University's directive to have no contact with UMass Dartmouth students, faculty, or staff members while this complaint is*

was the first notification of Plaintiff's rights in the process, but she denied Plaintiff's request to receive details of allegations upon which the investigation was based. UMASS Dartmouth 's issued DNC denied Plaintiff's choice of advisor and forced retention of private counsel.²⁰

147) On May 20, 2016 Attorney Baysan emailed Majewski announcing his retention by Plaintiff and objected to UMASS Dartmouth 's failure to provide Plaintiff any notice or basis of the charges against him.²¹

148) On May 24, 2016 Majewski emailed Attorney Baysan detailing the rights of Plaintiff in prior cover.

149) On May 25, 2016 Attorney Mehmet Baysan emailed Majewski seeking details of allegations.²²

150) In Majewski's response on May 27, 2016, she implied that the Student Conduct Procedure had not begun on May 4, 2016. Additionally, she stated that Plaintiff may have engaged in behaviors that

being investigated. As such, you should have no communication with any students, faculty or staff members in person, through a third party, or by any electronic means, including telephone, e-mail, text, social media, etc.

²⁰ William Gens Law Firm, Boston, MA.

²¹ *"Mr. Harnois attended a meeting with you on May 4 to discuss the pending allegations against him. In accordance with Titles VII and VIII of University of Massachusetts Dartmouth's (hereinafter "UMass Dartmouth") Student Conduct Policies and Procedures, a student who is facing any allegations is entitled to a conduct conference during which he is given "... the opportunity to discuss the incident, review any reports regarding the matter, and review his/her options for resolution of the complaint." It has come to our attention that during the conduct conference, Mr. Harnois was not and has not been afforded these rights and thus far he neither knows nor has a reason to know the basis of these allegations. ...Additionally, the letter of May 4, 2016 references Mr. Harnois disclosures regarding "the extent of his criminal history." Upon our review of his graduate school application questions and his responses, it is clear that Mr. Harnois was asked about... convictions and that he provided a detailed explanation of the charges that were brought against him ... for which he was convicted. Therefore, Mr. Harnois does not and cannot understand and determine the basis of these additional claims of non-disclosure that were referenced in the letter.."*

²² *"Also, please kindly share with us any and all documents that are relevant to the underlying allegations so that Mr. Harnois understands and properly prepares for the interview and for the Title IX Investigation all together. As I mentioned in my previous email, he is entitled to this information and he should have been provided with the same during the Conduct Conference under Titles VII and VIII of UMass Dartmouth's Student Conduct Policies and Procedures."*

violate any potential misconduct code whatsoever without offering specifics,²³ denying Plaintiff proper notice.

151) On June 2, 2016 Attorney Baysan emailed Majewski to offer Plaintiff's signed release and to renew his objections and concerns regarding the ever changing landscape of potential allegations facing Plaintiff.²⁴

²³ *"In response to your second request, please understand that at this point in time the University is conducting a Title IX investigation based on allegations that Mr. Harnois may have engaged in behaviors that violate the student code of conduct and/or the University's Policies on Equal Opportunity, Discrimination, Harassment and Sexual Violence (see attached). Mr. Harnois will not be provided with any additional information prior to the Investigatory Interview...Also, please understand that at this time the Office of Diversity Equity and Inclusion is conducting a fact-finding review, and no decision has been made to initiate the Student Conduct Process. Therefore, we are not at the point of a Conduct... Conference. The purpose of the Investigatory Interview with Mr. Harnois is to provide him with an opportunity to respond to the allegations, to provide us with witnesses he believes we should speak with pertaining to this matter, and or any documentation he may have to substantiate his responses."*

²⁴ *In your last email, for the first time, you mentioned that the underlying allegations for the Title IX investigation may arise out of acts that violated your institution's policy against sexual violence...this comes as a complete surprise to us as the sexual nature of these allegations has not been previously shared with us or Mr. Harnois much less mentioned in either the initial suspension letter or in any other correspondence that originated from your institution thus far. This once again underlines my concerns regarding the lack of any substantive basis for these allegations, which is in direct violation of your institution's own rules and regulation. My reading of Title VIII of the Student Conduct Policies and Procedures in conjunction with Titles VII and IX contemplates giving any student who is accused of any violation of the student code "an opportunity to discuss the incident, review and reports regarding the matter, and review her options for resolution of the complaint." Considering your face to face meeting with Mr. Harnois on May 4 and your request for his voluntary withdrawal from your institution during this meeting, I am disappointed to see that Mr. Harnois is not receiving the full benefits of these rules that are designed to offer an accused student an opportunity to make an educated decision with regards to his/her position based upon his/her review of the evidence, or at the very least, the allegations that are pending against him/her. On the contrary, your institution's position has been mainly committed to making vague and broad allegations that seem to expand in every correspondence. This is clearly evident in your latest email as it referenced the following categories under which Mr. Harnois may have violated the school's policies: Equal opportunity, discrimination, harassment and sexual violence and code of conduct violations. These chapters would encompass most if not all of the violations that may be committed by a student. This not only places Mr. Harnois in a very difficult position but also directly contradicts UMass Dartmouth's own written policies. This holds true even if we assume, for the sake of analysis, that the allegations are of sexual nature, as alleging sexual violence does not take these proceedings outside the realm of these rules and regulations. With regards to the investigatory interview referenced in your latest email: The only procedural mechanism that allows your institution to proceed with such an interview before holding a conduct conference would be under Title VII provided that the allegations are of sexual nature. Even if we assume that to be true, the student would still be afforded an opportunity to review the reports and allegations during this interview. However, on the contrary, your email describes this interview as an opportunity for Mr. Harnois to respond to the allegations, to provide the school with witnesses, and or any documentation he may have to substantiate his responses. This, then, begs the following question: How can Mr. Harnois or anyone else who is accused of violating the rules at UMass Dartmouth be expected to prepare his/her defense, find witnesses, locate documents, gather exculpatory evidence, and dispute inculpatory evidence without knowing what the allegations are? As you can understand, my client is growing impatient as he has already been penalized*

152) On June 7, 2016, Majewski emailed Plaintiff and his attorneys informing him of the general allegations of violations of Policies and Protocol.²⁵

153) In Attorney Baysan's July 13, 2016 email to Majewski, he detailed UMASS Dartmouth's violations of their own policies, and due process and again requested details of allegations and/or the investigative report.²⁶ UMASS Dartmouth did not respond with the charges or identities of accusers.

154) Upon information and belief Cummings and Majewski refused to provide the Plaintiff the identity of his accusers of recent criminal conduct, because Defendants required anonymity.

with the most serious sanction of immediate suspension from UMass Dartmouth without even being afforded an opportunity to understand the nature and the substance of these allegations.... However, I cannot advise my client to open himself to unknowns and allegations against which he cannot properly defend himself. Therefore, in light of the absence of any allegations of sexual violence in any of your or your institution's prior written or oral communications in this matter, and in review of the broad nature of your latest email, I would like to once again renew my request to have your institution afford Mr. Harnois an opportunity to review the allegations against him outlined in Title VII of the Student Conduct Policies and Procedures.

²⁵ *"Specifically, it has been alleged that **you have engaged in behavior that has created an uncomfortable learning and work environment**...I remind you that these are merely allegations at this time, and the University wishes to afford you the opportunity to respond to these allegations"*

²⁶ *With regards to your reference to bringing documents and information in support of Mr. Harnois's position to the July 15 meeting: As I have been reiterating since my first engagement in this matter, Mr. Harnois is not in a position to prepare for his defense as he has not been provided with any information regarding the underlying allegations. In my previous emails, I have diligently outlined our position and relayed to you that your office's actions have been in violation of your own school code. In case my points have been forgotten or neglected: Although you and other members of your office met with Mr. Harnois in person shortly after the notice of violation (in which you suggested that he should withdraw on his volition), during that meeting he was not provided with any information regarding these allegations. Nor was he provided with any documents, records, or any other items that would disclose to him the basis of these proceedings. This was in direct violation of Titles VII and IX of the Student Conduct Policies and Procedures. Secondly, each and every response to my requests for the disclosure of such information has been met with either vague statements or references to title headings that contain almost every possible conduct violation. This was evidenced by your reference to the section that governs harassment and sexual violence for the very first time in your June 7 email. We have always made it clear that Mr. Harnois is ready, able, and willing to cooperate with your office at his utmost for the amicable resolution of this matter. As such, we have always been in cooperation with your office and, within the boundaries of your institution's own rules and regulations, made numerous good faith attempts to learn the very basis of these allegations to properly and intelligently prepare our defense. However, thus far we have received nothing of that sort and, now, we are asked to bring documents and information that would either explain or dispute these allegations. As I mentioned in my prior emails, we have agreed to come to your office to learn about the underlying allegations for the first time. Therefore, please be advised that Mr. Harnois cannot be expected to dispute these allegations during this meeting let alone comment on them without properly hearing the facts and reviewing the documents in their support. I truly hope to accomplish these goals pursuant to your institution's own rules and regulations and not in direct violation of them.*

Investigative Interview of Plaintiff

155) On July 15, 2016 at 4 PM, Plaintiff and his Attorneys met with Cummings, Majewski and Gomes to conduct the investigative interview of Plaintiff.

156) Despite being required per UMASS Dartmouth Student Handbook to provide Plaintiff the basis of the allegations and the identities of his accusers, UMASSD refused to provide anything to Plaintiff.

157) Plaintiff requested a copy of the investigative file including witness statements, identities of his accusers, opportunity to question his accusers; and a more defined sense of the specific allegations as to when, where, how or who, all again which were denied, and about which Plaintiff voiced his objections.

158) Gomes conducted a hostile investigative interview, similar to a cross-examination, which is not and cannot legally be considered “some kind of hearing” as required under due process. Instead of seeking an explanation from Plaintiff, or allowing him to defend given the basis of an allegation, Gomes sought to confirm the credibility of complainants while hiding the facts of any allegation, their identities, and thereby pursued a prosecutorial interview inconsistent with Title IX’s intent.

159) During the interview Gomes asked Plaintiff approximately 15-20 questions, which at worst implicated innocuous behavior, and refused Plaintiff’s request to get a copy of the questions.

160) The investigator (Gomes) refused to provide Plaintiff a single example or timeframe or even month or location of a specific alleged event, but instead referred to general, undefined, and baseless allegations, which failed to offer more information for any basis for a charge of creating a hostile learning environment, for example:

- i) “Did you ever tell someone you missed your children?”
- ii) “Did you ever deny helping someone with their homework?”

161) Gomes never asked telling questions such as “Did you ever burglarize the home of Laela Sayigh in December 2012 and terrorize Carter Esch?” To which Plaintiff would have replied, “NO!”

162) Based on the vague questions asked, all which Plaintiff denied or could not answer for lack of

specificity, Plaintiff was unable to discern the true nature of the allegations, the identities of his accusers or defend and explain, which denied Plaintiff the opportunity to be heard in the process.

163) The investigator asked if Plaintiff had brought documents to support Plaintiff's testimony. Plaintiff replied that he had no idea what documents to bring because Majewski refused to provide him the factual basis of the accusations or the identity of the accusers.

164) Gomes asked Plaintiff "Why do you think someone would make these allegations?" In response, Plaintiff expressed his incredulity as to the legitimacy of the investigation, alleged he had been prosecuted solely because he was a male with a criminal history, and alleged no one stepped forward to make the allegations.

165) Neither Gomes, Majewski, nor Cummings denied Plaintiff's accusations that Plaintiff was prosecuted because he was a male student with a criminal history.

166) Plaintiff provided a list of witnesses that he wanted interviewed, including his professors at all times relevant (Geoffrey Cowles, Miles Sundermyer, and Richard Connor).

167) Having been refused his accuser's identity(ies), or basis of any allegations, Plaintiff was forced to provide shotgun communications of every email, text, and Facebook communication with all students and faculty members that might cover any circumstance or situation. On July 29, 2016, on advice of counsel, Plaintiff via Counsel provided Majewski approximately 50 pages of friendly texts, emails and Facebook messages indicating a friendly and cordial relationship with all students and faculty in his graduate program.

168) Gomes failed to interview any of Plaintiff's witnesses during the investigation, and made no effort to obtain potentially exculpatory evidence, including highly relevant text messages between supposed complainants, or information about the reported and ubiquitous cheating scandals at SMAST, which Plaintiff reported and which gave any potential supposed victim(s) motive to prevaricate.

169) Plaintiff was ignorant that Defendants were involved in the background urging UMASSD to

prosecute Plaintiff under Title IX.

170) Plaintiff was informed that if he was found responsible for creating a hostile learning environment, sanctions ranged from a warning to expulsion.

Investigation Completion and Failure to Comply with Policies and Protocol

171) Per Protocol and Procedures Section IX of the UMASS Dartmouth Student Handbook, Plaintiff and the supposed accuser(s) were due facts, findings, and recommendations to their UMASS Dartmouth email account within 5 days.²⁷

172) An Administrative Review Panel never reviewed the findings.²⁸ Because there was never an Administrative Review Panel, Plaintiff never received a letter within 3 business days by the Director of Student Conduct and Dispute Resolution, and thereby Plaintiff was never offered an appeal.²⁹

173) A student at UMASS Dartmouth, who receives a sanction has the right to an appeal under certain criteria. Plaintiff was denied any appeal opportunity though he qualified for an appeal having been disciplined with multiple sanctions.

²⁷ **Student Conduct Procedures, Section IX** states: “Once the investigation is completed, the investigator will write a report of the findings including 1) a summary of the facts 2) a finding of responsible or not responsible for each alleged violation with a rationale using the More Likely Than Not standard; 3) recommendations for sanctions where applicable. The report will be completed within 5 business days of the completion of the investigation and will be sent to the accused student and in cases of violence and/or sexual misconduct, to anyone victimized in the incident.” **Protocol** states: “When the investigation is completed, the investigator will present his/her findings to the Title IX Coordinator. Upon approval of the Title IX Coordinator, the investigator will present his/her findings in writing via UMass Dartmouth email account to the reporting party, the respondent and the Coordinator of Student Conduct and Dispute Resolution. Both will be asked to submit in writing a response to the finding to the Coordinator of Student Conduct and Dispute Resolution.”

²⁸ Student Conduct Procedures, Section IX states: *The investigator’s report and any written responses will be reviewed within 5 business days by an Administrative Review Panel.*

²⁹ Student Conduct Procedures, Section IX states: *Following the review of the findings by the Administrative Review Panel, the accused student, the reporting party, and anyone victimized in this incident will be sent a decision letter within 3 business days by the Director of Student Conduct and Dispute Resolution or designee. The accused student and in case of violence and/or sexual violence, the presenting party, and anyone victimized may accept the decision or submit an appeal if they feel that they can meet grounds for appeal as outlined in the appeal process.*

VI. The University's Sanctions of Plaintiff Despite Decision of Not Responsible for Misconduct

174) Circa August 30, 2016 Majewski met with and informed Plaintiff and Attorney Baysan of the findings of the Title IX Proceeding.

175) Plaintiff was told that he was found not responsible for violating Protocol or Policies, that he was being sanctioned with a warning in writing, that similar behavior would yield immediate harsh penalties, that he was directed to remain away from his potential accusers or any student associated with the investigation, and that Steve Lorenz needed to discuss with Plaintiff the changes in his academic program as a result of the Title IX investigation.

176) Plaintiff requested, but was denied a copy of the investigative file/report and all documents used in the investigation, and identities of his accusers. Plaintiff objected to any sanctions if he was found not responsible, that the process was a sham based on his gender, that he hadn't been informed of the identities of his accusers so how could he possibly stay away from them, that his program had been damaged enough by the investigation and that if he was found not responsible then he should be able to return to his academic program without restraint of any kind.

177) Plaintiff was provided the decision of the Title IX proceeding in a signed letter by Majewski dated August 30, 2016. The relevant points of the decision included:

- a. There was insufficient information to conclude that Plaintiff engaged in behavior which violated the University's Policies on Equal Opportunity. (This conclusion is inconsistent and at odds with the only two available conclusions of "responsible" or "not responsible")
- b. Despite the conclusion, he was formally sanctioned with a warning³⁰ as though he was found

³⁰ Student Conduct Procedures, Section 13, Sanctions, states: "Warning by the student conduct process, normally in writing, is intended to make the student aware of the possible consequences of individual or group actions." Sexual Violence Protocol, Possible Outcome section states: "Warning by a student conduct entity, normally in writing, is intended to make the student aware of the possible consequences of his/her actions. This sanction may be considered with prejudice by a student conduct entity in future action only when the Warning is presented to the student in writing. This sanction shall be for any time period specified and shall remain a part of the student's record until graduation or termination of his/her association with the University, at which time the notations shall be removed."

responsible for violating University Title IX Policies and thus the Code of Conduct.

c. UMASS Dartmouth recommended ‘appropriate intervention’ with Dean Steven Lorenz and Asst. Dean Michael Marino, SMAST, to “work with Plaintiff to complete his degree program, and to ensure the interactions in the academic environment are consistent with policies and expectations of the University.”

d. Without notifying Plaintiff of persons’ identities who participated in the Title IX procedure, UMASS Dartmouth threatened Plaintiff with retaliation charges if it appeared that he was retaliatory towards anyone he believed may have been involved in the investigatory process.

178) Plaintiff was told there was no appeal rights and that the matter was considered now closed.

179) Student Code of Conduct³¹, and Student Conduct Procedure sections X and XI, bar a student from being sanctioned unless he was found responsible for having committed the misconduct.

180) Inconsistent with the binary option of responsible or not responsible per Policies, the findings here were that “there was insufficient evidence to conclude that you engaged in behavior which violated the University’s policies...” The finding was intentionally effected in violation to Protocol and Policies to engender a home remedy of punishment, and continued stigmatizing Plaintiff.

Unwarranted “Appropriate Interventions” Issued by Cummings and Majewski

181) In early September 2016 SMAST Dean Lorenz told Plaintiff that as a result of the investigation and stories within the marine science community, Plaintiff lost his thesis advisor John Buck, who refused to return Plaintiff’s calls, emails and texts; that Lorenz could act only as his administrative advisor, and that the school would need to change his matriculation to a non-thesis degree, a material legal status change from his matriculation for a masters with a research thesis / fastrack to Ph.D.

182) Plaintiff objected to any “appropriate intervention,” that he had been found innocent of any charges, and that he believed he was singled out because he a male student with a conviction. In response Lorenz nearly quoted portions of Majewski’s letter signed August 30, 2016 in violation of confidentiality

³¹ Students found responsible for unacceptable conduct will be subject to the complete range of sanctions and penalties provided in the Student Conduct Policies and Procedures

procedures defined in Policies, FERPA, and Protocol.

183) In implementing the ‘appropriate intervention,’ as directed by UMASS Dartmouth executive authority, Lorenz confined Plaintiff to a work space beside Lorentz’s office, directed him to travel directly from any classroom activity to his supervised workspace, denied Plaintiff entrance to and use of the work area and school assets at the AT&T building where Plaintiff prior had a work space and spent most of his time, and directed Plaintiff to neither engage nor speak to other students in his graduate program.

184) In directing “appropriate intervention,” Majewski and Cummings formally sanctioned Plaintiff further with loss of privilege³² and no contact³³ with students at SMAST, which per Protocol are considered serious sanctions. Plaintiff considered the sanctions and changes in his program as mandated directives of UMASS Dartmouth, and any noncompliance would lead to new charges.

185) The directives were directly related to the false criminal accusations from Defendants

VII. Consequences and Actions Subsequent to Title IX Investigation

186) Buck, Michael Moore, James Miller, all of Plaintiff’s contacts at Duke Marine Lab, and Jennifer Miksis-Olds ceased all future communications with Plaintiff during and following the investigation until Plaintiff contacted people related to this suit in March 2019.

187) Plaintiff was unable to attend and benefit from SeaBass and summer classes at Duke.

188) As a proximate result of the sham investigation and unauthorized disclosures by Cummings, Majewski, and Gomes, from the leaks of information in the Title IX investigation, and **moreover** from reasonably expected re-publications of the defamations perpetrated by Bocconcelli, Sayigh and Moore,

³² **Loss of Privilege** allows a student conduct entity to restrict the activity of the student while she is on the University campus. The student may be prohibited from participating in non-academic or extra-curricular activities and/or from visiting certain specified areas of the University campus and/or from coming into contact with specified individuals while on campus. Loss of Privilege should be related to the offense, or serve to correct the result of the offense, or compensate in some relevant way the offended party(ies).

³³ **No contact** with a specific student, faculty, staff, or community member, where all direct or indirect (via a third party on his behalf and with his/her knowledge) verbal, physical, and electronic forms of contact are prohibited.

no student attempted to nor spoke to nor had any academic or personal interactions with Plaintiff; only Professors Geoffrey Cowles, Miles Sundermyer spoke to Plaintiff outside of class.

189) In August 2016, Plaintiff's emotional distress stemming from these matters resulted in panic attacks, headaches, insomnia, grinding of teeth and excessive wear that caused two molars to crack in half requiring removal, PTSD flashbacks and symptomology from wrongfully being prosecuted, extreme depression, excessive alopecia, and his hair turned pure white.

190) Plaintiff enrolled in classes in the Fall of 2016, but he was exiled as a social outcast.

191) The nature and wording of the warning sanction was all encompassing, leaving Plaintiff a sense that any action he took or words he spoke could have been twisted and used against him. Plaintiff believed the policies and warning sanction as written would allow selective enforcement and provide UMASS Dartmouth another opportunity to attempt expelling him.

192) Given that UMASS Dartmouth attempted to expel him for innocuous general behavior, inter alia missing his children, the policies as written were grossly ambiguous, which oppressed and chilled his speech and substantially interfered with Plaintiff's educational performance, opportunity to benefit from school services, and moreover forbid Plaintiff from seeking the identities of persons, like Defendants, who triggered the investigation and destroyed Plaintiff's reputation.

193) Without interaction and communication with faculty and other students, Plaintiff could neither collaborate, seek guidance, nor benefit from his educational experience nor benefit from the educational services of his program contracted with UMASS Dartmouth or use of his VA scholarship.

194) Plaintiff withdrew from his Oceanography Policy class, because the class required classroom deliberation with other students, mostly females.

195) Plaintiff's depression became overwhelming with regard to energy depletion and the time commitment with appointments to his psychologist and psychiatrist, which made it difficult to maintain his workload. It was repeatedly recommended that Plaintiff should become hospitalized for his emotional

distress. His depression has worsened through date of filing unabated.

196) Plaintiff completed classes that semester, but because his graduate program had been constructively destroyed by capricious and malicious efforts of UMASS Dartmouth, Bocconcelli, Sayigh and Moore and because of the psychological and emotional trauma Plaintiff suffered, he requested and received a Leave of Absence based on treatment provided between May 4, 2016 through December 2016 by a licensed psychologist Ph.D. Plaintiff continues to receive treatment for psychological and emotional trauma related to Defendants' conduct in his home state of Rhode Island. He is unable to find employment.

197) Plaintiff was constructively expelled by the actions of Defendants and UMASSD see *Harnois v. Univ. of Mass.*, CIVIL ACTION No. 19-10705-RGS, at *21 (D. Mass. Oct. 28, 2019).

198) As the result of being a male, who was falsely accused of criminal behavior, he was excluded from participation in, and denied the benefits of, and subjected to discrimination during his graduate education program, any education program, or activity receiving Federal financial assistance.

199) In Plaintiff's despair he moved away from family and friends and lived in solitude for 8 months ashamed of being exiled from UMASS Dartmouth directly related to the malicious defamation.

VIII. Plaintiff's Investigation into the Facts

200) During the Title IX process, UMASSD stonewalled Plaintiff's attempts to identify his accusers and learn the basis of the allegations that were never disclosed to him. The written warning in the determination letter of September 30, 2016 and the verbal warning Plaintiff received at that meeting transparently warned Plaintiff that if he attempted to contact anyone potentially related to or involved in the investigation, then he would most likely be expelled for retaliation.

201) In September 2016, Plaintiff diligently asked his attorneys whether he could sue UMASS Dartmouth, officials and others for the manner in which UMASS Dartmouth conducted their Title IX / misconduct investigation.

202) Bill Gens, Mehmet Baysan and Gens Law were a self-described specialist legal firm in the

area of Title IX and student misconduct. Attorney Baysan and Attorney Gens adamantly advised Plaintiff that he had lost any and all opportunity to sue the school, because he had been re-instated, so he had not incurred any damages or harm, that the school would argue Plaintiff had been made whole, and that no causes of action could ensue. Plaintiff was advised, “without harm, you have no suit.”

203) Plaintiff depended on and trusted the paid legal advice that he had suffered no harm, and that no legal recourse was available to him.

204) As proof of that fact, Plaintiff continued depending on what he considered sound legal advice, so he funded his niece’s legal concerns with Gens Law Offices, and continued paying Gens Law Offices on other matters. Also Plaintiff filed a strong Avvo online attorney endorsement of Mehmet Baysan circa 2018, which illustrated Plaintiff’s continued belief in Baysan as competent counsel. Plaintiff believed Baysan when he told Plaintiff similarly to, “John there is nothing available to you now; early on we considered filing a breach of contract action, but you’ve been fully reinstated so that leaves us no options to pursue a suit of any kind.” Plaintiff, acting as a reasonably diligent person in following his attorneys’ advice, and fear of expulsion for seeking those involved in the investigation took no timely action to file a complaint similar to this one.

205) In February 2019, Plaintiff literally woke drenched in sweat from a PTSD induced nightmare. He woke with the epiphany that the UMass Dartmouth investigation was a hoax to rid him from school, solely because he had a prior conviction, and his criminal history somehow drove the investigation. In the dream, Cummings, Majewski and Gomes were working with others and police authorities to violate his probation and expel him from school, but had no legal foundation of Plaintiff’s wrongdoing.

206) At that moment and not before, Plaintiff believed he suffered harm, but of what type and by whom he was ignorant. Thereafter from that week, Plaintiff endeavored his full attention, devoting 8-12 hours a day, to seek some form of legal remedy and to identify those who harmed him.

207) From February through October 2019 (3 years after events), Plaintiff conducted an investigation seeking his accusers and researched relevant caselaw, where he learned for the first time the identity of his accusers and basis' of damages for this suit, when the statute of limitations began to run.

208) Inter alia, from March through May 2019, Plaintiff interviewed in person or telephonically with, James Miller, Sayigh, Moore, Majewski, Emil Fioravanti, etc...

209) In March 2019, Plaintiff visited James Miller, Ph.D. at his office at U.R.I. where he learned that Sayigh and Bocconcelli told him about Esch's allegations.³⁴ Also Plaintiff learned that Miller had communications with Cummings. Cummings re-published the same information to Miller; she told Miller that a Title IX investigation had started and Plaintiff would likely be expelled. When Plaintiff continued asking questions about his colleagues and friends, Miller asked Plaintiff to leave.

210) In March 2019 Plaintiff telephonically interviewed Moore. Moore confirmed that Bocconcelli told Moore about Esch's allegations, and he had conversations (re-publications of same) with officials at UMASS Dartmouth regarding what Bocconcelli told him regarding Esch. During conversations with UMASSD, Moore learned that a Title IX investigation would ensue and that Plaintiff would likely be expelled since he lied on his application. When Plaintiff told Moore he might be a Defendant, he unilaterally terminated the call.

211) In March 2019 Plaintiff telephonically interviewed Sayigh; Bocconcelli was on a research cruise. Sayigh confirmed she had communications with UMASSD, that during same she informed UMASSD of the criminal allegations related to Esch, that UMASSD informed her that Plaintiff would be facing a Title IX / misconduct investigation and would likely face expulsion, that Plaintiff should not have matriculated and an admissions error would be corrected.

212) Circa early April 2019, Plaintiff interviewed Majewski at her UMASS Dartmouth office. She

³⁴ Essentially Sayigh, Bocconcelli and Cummings accused Plaintiff of kidnapping, assault and battery with a dangerous weapon, armed burglary, and violation of an abuse prevention order.

reluctantly confirmed that Cummings communicated with Duke Marine Lab shortly after May 4, 2016, that UMASSD communicated with staff at WHOI and learned of additional criminal allegations, and that UMASSD received outside pressure to conduct a thorough investigation with the goal of restricting Plaintiff's research in marine science.

213) Circa March/April 2019, Plaintiff interviewed Emil Fioravanti, UMASS Dartmouth chief of police. Plaintiff had recently received documents from his office in response to a FOIA request. One heavily redacted document was a police report, which described a thorough investigation into inter alia criminal allegations of trespass, burglary, and violation of Do Not Trespass Order against Plaintiff. Fioravanti refused to investigate anyone regarding extortion or filing of false police report because UMASSD were his friends. Fioravanti implied that he felt others were involved in the filing of the criminal complaint³⁵ and that he had no evidence in support other than allegations.

214) In March 2019, Plaintiff researched substantive and procedural law regarding Title IX and student misconduct. In March 2019 Plaintiff joined Title IX For All Database,³⁶ which maintains a database with over 600 Federal and state cases related to Title IX. Plaintiff read a multitude of cases and pleadings; the database introduced Plaintiff to various attorneys and advocates of students similar to Plaintiff.

215) In early April, 2019, Plaintiff interviewed multiple nationally known Title IX attorneys including Andrew Miltenberg, Deborah, David Duncan, Patricia Hamill, and Deborah Gordon, and inquired their interest in the case. Each said Plaintiff had a strong case to pursue.

216) But for Plaintiff's research, interviews and his own investigation, which was triggered by his epiphany, he never would have known he had incurred harm, or who was responsible for those damages or that his Counsel had provided him negligent legal advice in stating Plaintiff had suffered no harm.

217) By late March Plaintiff developed a sense that he had suffered harm for which he could seek legal

³⁵ Plaintiff inferred Fioravanti meant from outside personnel.

³⁶ <https://titleixforall.knack.com/databases#title-ix-legal-database/lawsuits-spreadsheet/>

remedy, the likely causes of action, and Defendants.

218) Prior to the research, filing, prosecution and discovery for case 1:19-cv-10705-RGS, Plaintiff contends the identities, liability and damages from Defendants herein were inherently unknowable and Plaintiff's reasonably diligent inquiries into potential suits for damages were explicitly rejected by Plaintiff's counsel. UMASSD refused to provide Plaintiff and his attorneys the identities of Plaintiff's accusers, the basis of allegations that triggered the investigation and the Conduct Conference of May 4, 2016, the investigative report as required, and basic required information for Plaintiff during the UMass Dartmouth investigation of him.

219) In April 2019 Plaintiff filed a federal civil suit (Case No. 1:19-cv-10705-RGS) against UMASSD and various university officials; he settled the Case on November 12, 2020.

220) In September 2019, University Defendants in case 1:19-cv-10705-RGS filed a redacted version of the Title IX investigative report against Plaintiff. It tended to confirm that the defamation of Defendants triggered and continued causing the Title IX investigation of Plaintiff.

221) During late in the prosecution of and during final settlement negotiations, Plaintiff ascertained that UMASSD was told before the May 4th meeting - from outside sources - of the criminal allegations against Plaintiff upon which the misconduct investigation was founded.

222) In November / December 2019, Plaintiff repeatedly executed a FOIA request to UMass Dartmouth seeking documents related to Plaintiff's TIX investigation and the identities of his accusers. He was denied. Plaintiff appealed the denial from UMass Dartmouth to the Secretary of State. He was denied because of the outstanding civil claim regarding the documents.

223) On December 2, 2020, Plaintiff filed suit against Gens Law Offices for malpractice, specifically for misleading Plaintiff into believing there were no causes of action against UMass Dartmouth because supposedly Plaintiff had "suffered no damages." See 1:20-cv-12154-NMG. Parties settled March 1, 2020 with a non-disclosure agreement.

224) The accrual of claims in this suit is tied to the Plaintiff's knowledge that he was harmed, that another harmed him, and the identity of the person(s) who defamed him or caused him harm.

225) Plaintiff's 3-year statute of limitations regarding defamation, tortious interference, etc... in this case began to accrue no earlier than March 2019. Plaintiff filed this suit on February 11, 2021 within the 3-year deadline after its claims began to accrue.

CAUSES OF ACTION

COUNT I - Defamation (Libel and Slander)

Defendants Moore, Bocconcelli and Savigh (in their Individual and Official Capacities)

226) Plaintiff hereby incorporates and adopts each and every foregoing allegations as set forth herein.

227) To set out a claim for defamation, a plaintiff must allege facts sufficient to infer that "the defendant was at fault for the publication of a false statement regarding the plaintiff, capable of damaging the plaintiff's reputation in the community, which either caused economic loss or is actionable without proof of economic loss." *Harnois v. Univ. of Mass.*, CIVIL ACTION No. 19-10705-RGS, at *24-25 (D. Mass. Oct. 28, 2019).

228) The test is whether, in the circumstances, the writing discredits the plaintiff in the minds of any considerable and respectable class of the community. A publication is defamatory when it tends to injure one's reputation in the community and to expose him to hatred, ridicule, and contempt, an imputation of crime or of bad character or an injury in one's office or business not being essential. *Brauer v. Globe Newspaper Co.*, 351 Mass. 53, 55-56 (1966); *Harnois v. Univ. of Mass.*, CIVIL ACTION No. 19-10705-RGS, at *25 (D. Mass. Oct. 28, 2019).

229) "If a defamation plaintiff is a private individual, he must merely show that the defendant made the statement with negligence. *Stone v. Essex County Newspapers, Inc.*, 330 N.E.2d 161, 168 n. 6 (Mass. 1975)." *Lluberes v. Uncommon Productions, LLC*, 740 F. Supp. 2d 207, 214-15 (D. Mass. 2010).

230) Judge Stearns ruled on a similar set of facts, “The alleged facts state a claim of defamation against Cummings, Majewski, and Professor Doe in their individual capacities,” *Harnois v. Univ. of Mass.*, CIVIL ACTION No. 19-10705-RGS, at *27 (D. Mass. Oct. 28, 2019). The defamations were related to the letter of May 4, defamatory comments to Duke officials, and false criminal allegations of trespass into a UMASS Dartmouth professor’s office. Judge Stearns’ ruling did not mention defamation related to WHOI officials whatsoever.

231) In addition to liability of Defendants’ own defamation of Plaintiff, Defendants’ defamation can be attributed to Defendants (in their Individual and Official Capacities) under the principle of foreseeable re-publication.

232) Upon information and belief Sayigh and Bocconcelli knew that Plaintiff was a student at UMASS Dartmouth studying oceanography under John Buck before Bocconcelli saw Plaintiff at the WHOI Marine Mammal Center, but said nothing concerning Plaintiff with those Plaintiff had advantageous relations.

233) Bocconcelli became enraged when he saw Plaintiff working at the WHOI Marine Mammal Center, and decided with ill-will to rid Plaintiff of the baleen research community.

234) From February 2016 through April 2016 Defendants Bocconcelli and Sayigh (in their Individual and Official Capacities) made false statements to Moore about Plaintiff, falsely accusing as fact that Plaintiff committed heinous crimes, as alleged by Esch, that did not occur in their homes circa December 2012, which is defamation per se.

235) The false and defamatory statements injured Plaintiff’s excellent reputation with Moore, and caused Moore to cease all communications with Plaintiff. The defamation was solely to advance a personal vendetta with a motive of malice against Plaintiff and not to promote any common purpose.

236) From March 2016 through July 2016 Defendants Bocconcelli, Sayigh, and Moore (in their Individual and Official Capacities) made false statements to UMASSD, Buck, Nowacek, Schultz, and others

about Plaintiff falsely accusing him of committing heinous crimes that did not occur in the homes of Sayigh circa December 2012, which is defamation per se.

237) Defendants foresaw or even expected that UMASSD, Cummings and Majewski and others would re-publish the defamation initiated by Defendants because of the explosive subject matter of the defamation, who initiated the defamation, the nature of their relationships, and Defendants pressured UMASSD to investigate Plaintiff's acceptance.

238) Defendants published the false and defamatory material with "actual malice" --that is, with knowledge that it was false or with reckless disregard of whether it was false or not, and acted with a "high degree of awareness of [its] probable falsity" or, in other words, "entertained serious doubts as to the truth of the publication."

239) In addition to malice prior described, Defendants Bocconcelli and Sayigh held ill-will against Plaintiff for inter alia interfering with their profession. Bocconcelli was on deployment to Antarctica during the alleged criminal acts of December 2012; he was forced to truncate his extensively planned and coordinated scientific exploration; also their ill-will and malice was evidenced as extensively and intentionally publishing false information as the basis to exile Plaintiff from 'their industry,' but such consideration was governed solely by their ill-will of Plaintiff, and not for the substantial basis of common concern.

240) Following Plaintiff's Conduct Conference of May 4, 2021 and Cummings' communication with Moore, Bocconcelli and Sayigh, Cummings contacted staff at Duke Marine Lab, including, Tom Schultz and verbally advised them to reject Plaintiff's application, that Plaintiff was a threat to school safety under a Title IX investigation, that he had an extensive criminal history and lied on his application to UMASS Dartmouth, and he would likely be expelled from UMASS Dartmouth. Much of Cummings' defamation was just a re-publication directly from the defamation of Defendants Moore, Bocconcelli and Sayigh.

241) Upon information and belief, Moore, Bocconcelli and Sayigh contacted Nowacek and members of the Duke Marine Lab and published false information about Plaintiff similar to Cummings re-publication, and falsely accused Plaintiff of heinous crimes as alleged by Esch. The publication and re-publication of the false information caused Plaintiff to lose his opportunity to attend Duke for any subject matter at the marine lab; Nowacek refused to communicate with Plaintiff ever again.

242) On May 4, 2016, Cummings and Majewski promulgated the above written letter (note 15) concerning Plaintiff, and therewith published false information accusing Plaintiff of fraudulently signing his application, the basis for which came from the defamation disseminated by Moore, Bocconcelli and Sayigh to Cummings, Majewski and UMASSD.

243) Cummings knew the information was false; should have known the information was false; should have taken reasonable steps to verify the veracity, and had no justifiable reason nor legitimate educational purpose to believe that Plaintiff had failed to fully disclose his history as required in his application, which Plaintiff signed as true and accurate, that if he intentionally withheld information with deceitful intent, he would be liable for perjury.

244) Cummings published the letter in part because of the encouragement bestowed by Moore, Bocconcelli and Sayigh to Cummings to investigate Plaintiff's application and restrain his pursuit for a Ph.D. in marine science.

245) The defamatory innuendo in the letter "of further criminal actions" is taken directly from the accusations against Plaintiff by Defendants Moore, Bocconcelli, and Sayigh to Cummings, Majewski and UMASSD. Hence the false innuendo acts as a re-publication of innuendo holding Defendants Moore, Bocconcelli and Sayigh liable.

246) Cummings constructively and factually accused Plaintiff of violating Mass Gen Law Chapter 268, Section 1, perjury, by alleging he falsified and signed his school application under which Plaintiff swore under penalty of perjury. Additionally her letter indicates that Plaintiff was involved in behavior

incompatible with the proper conduct of his business, trade or profession, which is also slander per se. Additionally Cummings accused Plaintiff of committing a host of unidentified crimes left to the imagination of the audience, thereby accusing him of a vast array of crimes, which is defamatory per se. Most of these allegations come directly as reasonably expected re-publications of the defamations of Defendants Moore, Bocconcelli and Sayigh to Cummings, Majewski and UMASSD.

247) Persons who read the promulgated subject letter understood the allegations thereon meant that Plaintiff committed perjury on his application.

248) Upon information and belief, Defendants disseminated the defamation to a vast group of people within and outside of Plaintiff's research interest including researchers at Scripps Inst. of Oceanography, Scottish Oceans Institute, Washington University, Oregon University and the New England Aquarium. Considering the large number of potential recipients, a jury could find that Defendants published the e-mail recklessly, excessively, and thus with malice and ill-will.

249) For example, Plaintiff attempted to contact Ari Friendlander, Ph.D., a Facebook friend, and Professor at the University of Oregon – across the country. Plaintiff received no response despite his many attempts. Upon belief, Defendants defamed Plaintiff to anyone in the field of Plaintiff's research interest, including Ari Friendlander, Ph.D.

250) Additionally to those people who Defendants spread the subject defamation against Plaintiff, Defendants foresaw or reasonably expected each to pass forward the defamations, such as UMASSD did.

251) Upon information and belief Defendants Moore, Bocconcelli and Sayigh concerted with unnamed professor and/or Cummings to develop a common plan, a purpose of which the extended criminal background and damaged reputation of Plaintiff via such defamation. The group committed the overt act by knowingly filing false criminal allegations, related to Unnamed Professor's office and computer, against Plaintiff with actual malice. News of the filing of the false criminal allegations spread throughout SMAST, which in part caused Plaintiff to be shunned upon his return after his reinstatement. The illegal

objective and intent of Defendants was to harm Plaintiff and rid him from the marine science community.

252) Upon information and belief, communications and documents exist between Defendants Moore, Bocconcelli and Sayigh and UMASSD detailing the concerted effort to accuse Plaintiff of a false crime.

253) Cummings', Unnamed Professor, and Majewski's verbal and written statements and filing of false criminal allegations were defamatory in that they "may reasonably be read as discrediting Plaintiff in the minds of any considerable and respectable class of the community."

254) Plaintiff had an excellent reputation in his academic community as evidenced by the number of elite institutions and professors, who collaborated, recruited or vouched for Plaintiff.

255) That such accusations were false and defamatory per se which requires no proof of economic loss.

256) Cummings directed SMAST Dean to hold an unprecedented all-hands meeting of SMAST staff, students, and faculty, where SMAST Dean re-published the false criminal allegations related to Esch as initially published by Defendants Moore, Bocconcelli and Sayigh.

257) Defendants had no legitimate purpose to cause Plaintiff to lose his advantageous relationships or destroy Plaintiff's good reputation at WHOI, Duke, SMAST and UMASS Dartmouth in general.

258) Bocconcelli and Sayigh have ill-will toward Plaintiff. Their spite toward Plaintiff is illustrated in their baseless and sua sponte falsely reporting actions, which they knew to be false and urging UMASSD to investigate Plaintiff's application to UMASS Dartmouth, and by participating in false criminal accusations.

259) Defendants' actions caused Plaintiff immediate outrage and severe emotional distress.

260) **BUT FOR** the direct and proximate cause of the Defendants' foregoing defamation, Plaintiff would not have sustained the following harm and damages, including but not limited to:

- a) Termination of advantageous professional relationships with Moore; UMass Dartmouth; Woods Hole Oceanographic Institute; Douglas Nowacek, Ph.D.; Duke Marine Lab; Jennifer L. Miksis-Olds, Ph.D.; Center for Marine Science & Technology at The Pennsylvania State University;

James Miller, Ph.D.; U.R.I. and others. None ever communicated again with Plaintiff regarding marine science.

- b) Plaintiff was denied the opportunity to attend SeaBASS.
- c) Plaintiff was forced to undergo a tortured and baseless disciplinary process, which discriminated against him, denied him due process, violated his Title IX rights and left him targeted as a pariah and dangerous person.
- d) Plaintiff was forced to sign a “DO NOT TRESPASS NOTICE” denying him access to all of Massachusetts state property under penalty of criminal arrest.
- e) Plaintiff faced harsh sanctions despite a finding of NOT RESPONSIBLE for any misconduct.
- f) Attorney’s fees of \$20,000 to defend himself against bogus allegations.
- g) Plaintiff was denied the opportunity to attend an internship and classes at Duke Marine Lab.
- h) Plaintiff was constructively expelled from his graduate program and lost use of the scholarship that funded his 5-year endeavor to obtain a Ph.D. in Oceanography valued in excess of \$300,000.
- i) Plaintiff’s property (valued at \$2500) was unlawfully seized at SMAST AT&T building inasmuch as he was denied an opportunity to retrieve his property on May 4th and the property was never returned to him.
- j) UMASS Dartmouth issued Plaintiff an interim suspension from UMASS Dartmouth from May 4th to August 30th.
- k) UMASS Dartmouth issued Plaintiff a “DO NOT CONTACT” directive on May 4th, denying him communication with all persons associated with UMASS Dartmouth.
- l) UMASS Dartmouth repeatedly and intentionally violated Plaintiff’s confidentiality of his educational and disciplinary records protected under FERPA, Policy and Protocol, in an attempted smear campaign, causing him to suffer a hostile learning environment, and causing him to receive treatment as a pariah precluding any opportunity for research collaboration.

- m) Plaintiff was defamed to outside Universities, which destroyed his ability to corroborate with scientists at those locations.
- n) UMASS Dartmouth sanctioned Plaintiff and instituted “appropriate intervention” with SMAST staff, which denied Plaintiff benefit from his educational contract with UMASS Dartmouth , even though Plaintiff was found not responsible for the alleged misconduct.
- o) Plaintiff lost his graduate advisor – John Buck.
- p) Plaintiff’s academic program was downgraded to a non-thesis Master’s.
- q) Severe emotional distress with physical impact including panic attacks, headaches, insomnia, grinding of teeth and excessive wear that caused two molars to crack in half requiring removal, insomnia, weight loss, loss of appetite, PTSD flashbacks and symptomology from wrongfully being prosecuted, extreme depression, excessive alopecia, and his hair turned pure white.

261) As a direct and proximate cause of the above conduct, Plaintiff sustained damages including, without limitation, Plaintiff’s academic and career prospects, earning potential, and reputation have been severely harmed. He has sustained significant damages, including but not limited to, damages to physical well-being, emotional and psychological damages, damages to reputation, past and future economic losses, loss of educational and professional opportunities, loss of future career prospects, and other direct and consequential damages .Plaintiff is entitled to damages in the amount to be determined at trial plus pre-judgment interest, attorneys fees, expenses, costs and disbursements. Plaintiff further seeks punitive damages against Defendants in their official and individual capacities.

**COUNT II - Intentional Interference with Contractual Relations with UMASS Dartmouth
Defendants Moore, Bocconcelli and Savigh (in their Individual and Official Capacities)**

262) Plaintiff incorporates the allegations contained in the foregoing paragraphs as though fully set forth herein in their entirety without duplication.

263) At all times relevant herein Plaintiff developed and maintained an educational contract with

UMASS Dartmouth.

264) UMASS Dartmouth 's obligations are explicitly set forth in its contract with Plaintiff per the student handbook, and are further informed by Massachusetts case law infusing every contract with a "reasonable expectations" requirement and mandating that college and university disciplinary proceedings cannot be "arbitrary or capricious."

265) Defendants Moore, Bocconcelli, Sayigh, and WHOI knew Plaintiff had a contract with UMASS Dartmouth. Plaintiff specifically told Moore during his introduction, and Moore told Bocconcelli and Sayigh in circa February 2016.

266) Defendants Moore, Bocconcelli, Sayigh, and WHOI endeavored through defamation and pressure to convince UMASSD and University of Dartmouth to terminate their contract with Plaintiff or make it more difficult for Plaintiff to perform on his contract to obtain Ph.D. in Marine Science.

I. UMASS Dartmouth Committed Numerous Material Breaches of Its Contract

Material Breaches Related to Protocol (Sexual Misconduct Policy)

267) 1st per Protocol officials can issue interim "restriction of communication with named individuals." In Plaintiff's case UMASS Dartmouth and Cummings restricted Plaintiff's communication with every single person associated with UMASS Dartmouth during his interim restriction.

268) 2nd per Protocol, "Upon approval of the Title IX Coordinator, the investigator will present his/her findings in writing via UMass Dartmouth email account to the reporting party, the respondent and the Coordinator of Student Conduct and Dispute Resolution. Both will be asked to submit in writing a response to the finding to the Coordinator of Student Conduct and Dispute Resolution." In Plaintiff's case, Gomes failed to present his findings via Plaintiff's email account or whatsoever, or to anyone else's email account. Plaintiff was never afforded the opportunity to submit a written response to the Coordinator of Student Conduct and Dispute Resolution.

269) 3rd per Protocol, “The finding and written responses from the reporting party and respondent will be reviewed by an administrative review panel of two faculty/staff. The administrative review panel will make a decision whether to support to the finding of the investigation and if so, to determine appropriate sanctions.” In Plaintiff’s case neither finding nor responses were reviewed by an administrative panel. Nor did a panel decide whether to support to the finding nor determine sanctions.

270) 4th per Protocol, “The administrative review panel will present their decision in writing to the reporting party and respondent via UMass Dartmouth email account. The decision letter will include information about submitting an appeal.” In Plaintiff’s case, Plaintiff did not receive their decision in writing, nor receive information about submitting an appeal. UMass Dartmouth violated its own procedures requiring a 2-member panel to review the Special Investigator’s findings and recommend to the final decision maker whether to accept or reject the findings. Instead UMass Dartmouth allowed the final decision maker to be the sole reviewer of the Special Examiner’s findings, thereby eliminating a layer of independent oversight that might have prevented Plaintiff from suffering sanctions despite being found not responsible of misconduct.

271) 5th per Protocol, “Both the reporting party and respondent may submit a letter of appeal within 5 business days of receiving the administrative review panel’s decision to the Associate Vice Chancellor for Student Affairs.” In Plaintiff’s case, Majewski foreclosed his right to appeal.

272) 6th per Protocol, “All complaints of sexual violence will be investigated promptly, thoroughly and impartially by a trained Title IX Investigator.” In Plaintiff’s case the investigation was infected with bias, partiality and with a forgone conclusion from the moment Cummings demanded Plaintiff’s withdrawal on May 4th. Per Protocol, “Equitable rights will be provided to both the reporting party and respondent throughout the investigation process.” In Plaintiff’s case Plaintiff’s rights were repeatedly sacrificed in favor of victim’s rights.

273) 7th per Protocol, “Both the respondent and reporting party have a right to an advisor of their choice”

throughout the process.” In Plaintiff’s case he was issued a DNC and denied his choice of advisor.

274) 8th per Protocol, “The respondent may request an assessment of interim restrictions with the Associate Vice Chancellor of Student Affairs or designee.” Plaintiff was denied any opportunity to request an assessment.

275) 9th per Protocol states reasonable efforts will be made to maintain the confidentiality of parties involved in sexual assault investigations. In Plaintiff’s case, UMASS Dartmouth repeatedly and intentionally violated Plaintiff’s privacy with the SMAST all-hands meeting and in ensuring “appropriate intervention.”

II. Material Breaches Related to Policies (Standard Student Misconduct Policy)

276) 10th in conducting a witch hunt with a sua sponte investigation, UMASS Dartmouth violated express and implied covenants that UMASS Dartmouth would not seek to reverse Plaintiff’s matriculation with a baseless investigation.

277) 11th per Policies, section VII, The Notification of Alleged Violation “shall include a request that the student attend a Conduct Conference, to be held no sooner than three (3) consecutive business days following date of the original notice.” In Plaintiff’s case he was afforded 21 hours’ notice following the delivery confirmation to attend a Conduct Conference.

278) 12th Policies state: “At the Conduct Conference, the student has the opportunity to discuss the incident, review any reports regarding the matter, and review her options for resolution of the complaint.” In Plaintiff’s case, on May 4th, his requests to review any reports were refused and he has never seen any documents related to his case except for the final finding report.

279) 13th under Policies, section IX, “The investigator will make all reasonable attempts to gather all relevant information...The accused student and the reporting party may submit questions to the investigator to be asked of others who may be interviewed. In Plaintiff’s case Gomes neither interviewed Plaintiff’s witnesses nor allowed nor offered Plaintiff the opportunity to submit questions to others

280) 14th Policies section V states: “A student, party to a matter of student conduct, may elect to be accompanied at all formal proceedings by an advisor of his choice. The advisor must be a member of the faculty, staff or student body of the University except that legal counsel may accompany a student, at the student’s discretion, when a criminal charge arising from the matter is pending or is considered likely.” In Plaintiff’s case, he was denied his choice of advisor of John Buck or any person associated with UMASS; at no time was there ever concern that this matter could possibly become criminal in nature.

281) 15th Per policies, section XII³⁷, UMASS Dartmouth subjected Plaintiff to “emergency suspension immediately upon conclusion of the Conduct Conference on May 4th, even though by Plaintiff’s demonstrable conduct, there was not the slightest indication that Plaintiff was a danger to the student body of UMASS Dartmouth community, or intended to be disruptive in any form, especially given the specific innocuous nature of the questions posed to Plaintiff in his investigative interview.

282) 16th Because there was never an Administrative Review Panel, Plaintiff never received a letter within 3 business days by the Director of Student Conduct and Dispute Resolution, and thereby Plaintiff was never offered the opportunity to appeal,³⁸ regardless of the decision which included the explicit and implicit sanctions of the decision.

283) 17th Plaintiff requested a copy of the investigative file or report and all documents used in the investigation³⁹. Majewski denied same, and Plaintiff repeatedly has been denied a copy of the student

³⁷ Handbook section XII states: *In cases of discipline arising from extraordinary or emergency conditions, the Chancellor or his/her designee may invoke the action of interim suspension of a student... who act, or refuse to act, if the result of said conduct is to interfere with the rights of others and is non-peaceful or is disruptive or said conduct constitutes a clear and present danger to the health, safety, or property of others.*

³⁸ Student Conduct Procedures, Section IX states: *Following the review of the findings by the Administrative Review Panel, the accused student, the reporting party, and anyone victimized in this incident will be sent a decision letter within 3 business days by the Director of Student Conduct and Dispute Resolution or designee. The accused student and in case of violence and/or sexual violence, the presenting party, and anyone victimized may accept the decision or submit an appeal if they feel that they can meet grounds for appeal as outlined in the appeal process.*

³⁹ **Student Conduct Records** section explicitly states: *“The Office of Student Affairs shall maintain the following records pertaining to each disciplinary case: The original complaint; All documents, correspondence, forms, statements, etc., pertaining to the matter, and a record of the decision including any finding, sanction, and any action recommended or taken. All case records and materials pertaining to a student conduct proceeding shall be kept secure away from public view.*

conduct records related to the Title IX and misconduct investigation of him.

284) 18th, Policies guarantees the confidentiality of student disciplinary records; in Plaintiff's case Majewski and Cummings disseminated the information maliciously.

285) 19th, Plaintiff was given a sanction inter alia of a warning and "Appropriate Intervention" despite being found not responsible. "Appropriate intervention" increased sanctions of loss of privileges and of no contact with nearly everyone at SMAST. In sanctioning Plaintiff after a finding him not responsible, UMASS Dartmouth violated its Student Code of Conduct⁴⁰, sections X and XI, which state a student can only be sanctioned if he was found responsible for having committed the allegations against him.

286) 20th, UMASS Dartmouth FERPA policy strictly prohibits unauthorized release or sharing of student educational records. The policy states that university officials with an education purpose can access records, but once they have the information, they cannot share that information with a third party who did not (if they had authority to access), or worse could not access the information themselves. Cummings and Majeski violated Plaintiff's right of confidentiality when they promulgated the letter of May 4th and August 30th and verbally discussed his academic records with unauthorized personnel.

287) 21st, Plaintiff matriculated in the Master's Thesis Program fastrack to Ph.D., but after the Title IX proceeding UMASS Dartmouth SMAST Dean amended his offering to a Master's Non-thesis degree without Plaintiff's consent.

288) 22nd and moreover, UMASS Dartmouth terminated or expelled Plaintiff in the form of a constructive expulsion without reason or justification.

289) But for the intentional interference by Defendants, with the intent to harm Plaintiff, UMASS Dartmouth would not have materially breached its contract with Plaintiff by failing to comply with its

Except where confidentiality is further restricted by law, access to such case records or materials shall be limited to the accused student, and Administrative Officers of the University having direct involvement with the case."

⁴⁰ "Students found responsible for unacceptable conduct will be subject to the complete range of sanctions and penalties provided in the Student Conduct Policies and Procedures." There is no provision to sanction students found not responsible.

obligations, standards, policies, and procedures set forth in the policies and procedures noted above in the course of the Special Examiner's Process against Plaintiff, and by subjecting him to a blatantly arbitrary and capricious disciplinary proceeding. In fact but for the intentional interference by Defendants, UMASSD likely would not have conducted any investigation.

290) As a direct result of Defendants' actions, Plaintiff suffered damages per paragraph 260 / 261.

COUNT III

Intentional Interference with Contractual Relations with Veterans Affairs

Defendants Moore, Bocconcelli and Savigh (in their Individual and Official Capacities)

291) Plaintiff repeats and re-alleges each and every allegation hereinabove as if fully set forth herein;

292) Plaintiff had a valid contract with Veterans Affairs. Plaintiff was contracted with the VA to complete the Ph.D. program satisfactorily within 5 years, to comply with school procedures, and maintain a B minus average.

293) Plaintiff applied his vocational rehabilitation contractual scholarship with U.S. Department of Veterans Affairs (VA) under 38 USC Ch. 31 - which fully funded tuition, books, stipend, medical insurance and other expenses for five years in pursuit of Ph.D. in Oceanography – at UMASS Dartmouth.

294) Plaintiff had maintained a 4.0 GPA in his studies.

295) Plaintiff informed all his advisors (Moore, Nowacek, Buck, Moore, Miksis-Olds), professors, UMASS Dartmouth admissions staff, and students that he attended UMASS Dartmouth with a VA scholarship. Defendants knew Plaintiff was fully funded under a contract per 38 USC Ch. 31, which provided Plaintiff a fully-funded 5 year scholarship, worth over \$300,000.

296) Based on the foregoing, Defendants with intentional improper motive or means, actual malice and with personal animus, knowingly induced Plaintiff's inability to perform the contract or caused his performance to be more expensive or burdensome, while engendering a hostile learning environment in which he could not endure. In Defendants' actions to defame Plaintiff, they likewise knew such actions

would rid Plaintiff from UMASS Dartmouth and the marine science academic community and intentionally caused him harm, which by itself makes plausible that Defendants intentionally caused Plaintiff to default on his contract with the UMASS Dartmouth, and caused UMASSD to constructively expel Plaintiff, which thereby breached Plaintiff's contract with Veterans Affairs.

297) As the direct result of Defendants improper and malicious actions, Plaintiff was constructively expelled, was compelled to receive a leave of absence, and lose the benefit of his contract with UMASS Dartmouth for a graduate education in marine science.

298) As a direct, proximate, and foreseeable consequences of Defendants' actions, Plaintiff sustained harm and damages similar to those listed in ¶ 260/261. Plaintiff is entitled to recover damages in an amount to be determined at trial, plus prejudgment interest and attorneys' fees and costs. Plaintiff further seeks punitive damages against Defendants.

COUNT IV

Intentional Interference with 3rd Party Advantageous Relations with Moore

Defendants Bocconcelli and Sayigh (in their Individual and Official Capacities)

299) The foregoing allegations are incorporated herein by reference.

300) Under Massachusetts law, to prevail on a claim of tortious interference with advantageous relations, a Plaintiff must establish that: (1) he had advantageous relations with a third party; (2) defendant knowingly induced the third party to break the advantageous relations; (3) defendant's interference, in addition to being intentional, was improper in motive or means; and (4) Plaintiff was harmed by defendant's actions.

301) Defendant Moore, from circa December 2015 through January/February 2016, made clear and unambiguous promises that he would serve as Plaintiff's sponsor as a WHOI guest student.

302) In December 2015, Moore promised Plaintiff that he would select Plaintiff as Moore's student for 2015/2016, that Moore hadn't selected a student because of funding concerns, that Plaintiff besides

being academically proficient was moreover intriguing as a student because Plaintiff had his own source of funding through Veterans Affairs, that Moore would provide Plaintiff a workspace/desk at the WHOI Marine Mammal Center, that Moore would have Plaintiff's photo published as Moore's guest student, and that Moore promised to continue providing him guidance, corroboration and direction in completing studies and helping him publish papers for his Ph.D. in pursuing his research interest.

303) In January 2016, Moore gave Plaintiff thousands of photos of right and humpback whales, which were taken from above and at an angle by a drone. Moore tasked Plaintiff to identify location and identity of the humpback whales' by comparing flukes in the photos with those on file. Also Moore tasked Plaintiff with calculating the body mass of right whales in photos, then identify its locations to analyze relative health indexes based on location. Moore agreed to co-publish a paper based on Plaintiff's findings. Usually three published papers are used as the chapters of a Ph.D.

304) In January Moore agreed to and made coordination with Plaintiff to conduct similar drone research with Plaintiff on the seal population and health status in and around Chatham, MA.

305) Without question Plaintiff had an advantageous relationship with Defendant Moore.

306) The advantageous relations between a Ph.D. candidate and advisors are often considered a potential employment relationship since Ph.D. candidates receive stipends and grants under the academic advisor. Additionally the pursuit of a Ph.D. under leading scientists has a likelihood of well-paid employment as a consultant or professor.

307) Defendants Bocconcelli and Sayigh knew of the advantageous relationship which Plaintiff had with Moore, and Plaintiff's continued expectancy for advantageous relationships that would engender his research and career growth.

308) In their personal and official capacity Defendants Bocconcelli and Sayigh, acted with actual malice, spiteful, malignant purpose or personal animus, and knowingly induced Plaintiff's advantageous relationships with Moore to end with defamatory communications directly and reasonable foreseeable to

end any relationship between Plaintiff and Moore.

309) Among other specific examples, Defendants Bocconcelli and Sayigh displayed actual malice by the following:

- i. Defendants concerted and individually contacted Moore outside of and unrelated to any matriculation at WHOI⁴¹, and maliciously defamed Plaintiff spreading false allegations that Plaintiff committed heinous crimes in the home of Sayigh.
- ii. Defendants encouraged Moore to end his relationship with Plaintiff as a guest student.
- iii. Bocconcelli and Sayigh extensively disseminated their false criminal allegations of Plaintiff.

310) Based on the foregoing, and in their official and individual capacity, Bocconcelli and Sayigh, with intentional improper motive or means, knowingly induced Plaintiff's advantageous relationship with Moore to end.

311) Any conditional privilege of Bocconcelli and Sayigh to provide this information was lost because disclosure resulted from an expressly malicious motive, was recklessly disseminated, or involved a reckless disregard for the truth or falsity of the information.

312) After Defendants Bocconcelli and Sayigh falsely accused Plaintiff of crimes, Moore ceased all communication with Plaintiff. Moore refused to respond to Plaintiff's attempts at communication in writing, texts and calls.

313) As a direct and proximate cause of the above conduct, Plaintiff sustained harm and damages similar to those listed in ¶¶ 260 / 261. Plaintiff seeks award of compensatory money damages, punitive damages, costs of the litigation and reasonable attorneys' fees.

COUNT V

Intentional Interference with 3rd Party Advantageous Relations

Defendants Moore, Bocconcelli and Sayigh (in their Individual and Official Capacities)

314) The foregoing allegations are incorporated herein by reference.

315) Under Massachusetts law, to prevail on a claim of tortious interference with advantageous relations,

⁴¹ Plaintiff as a guest student was not officially enrolled in WHOI

a Plaintiff must establish that: (1) he had advantageous relations with a third party; (2) defendant knowingly induced the third party to break the advantageous relations; (3) defendant's interference, in addition to being intentional, was improper in motive or means; and (4) Plaintiff was harmed by defendant's actions.

316) Plaintiff had advantageous relations with advisors and scientists with whom he had developed relationships of a definite type and agreements to corroborate on scientific research and potentially join as a Ph.D. candidate including with: Nowacek, John Buck, Miksis-Olds,; and James Miller.

317) The advantageous relations between a Ph.D. candidate and advisors are often considered a potential employment relationship since Ph.D. candidates receive stipends and grants under the academic advisor. Additionally the pursuit of a Ph.D. under leading scientists has a likelihood of well-paid employment as a consultant or professor.

318) Defendants Moore, Bocconcelli and Sayigh knew of the advantageous relationships which Plaintiff had with various scientists and Universities and the past, present and future corroborations, and Plaintiff's continued expectancy for advantageous relationships that would engender his research and career growth.

319) In their personal and official capacity Defendants Moore, Bocconcelli and Sayigh, acted with actual malice, spiteful, malignant purpose or personal animus, and knowingly induced Plaintiff's advantageous relationships to end with communications directly and with reasonable foreseeability and encouragement for Cummings and Majeski to re-publish the defamation perpetrated by Defendants Moore, Bocconcelli and Sayigh.

320) Among other specific examples, Defendants displayed actual malice by the following:

- i. Defendants concerted and individually extensively contacted persons and institutions with UMASS Dartmouth, URI, and WHOI, Duke outside of and unrelated to Plaintiff's matriculation at UMASS, and maliciously defamed Plaintiff widely spreading false allegations that Plaintiff committed heinous crimes in the home of Sayigh.
- ii. Defendants encouraged UMASSD to institute and maintain two disciplinary proceedings

with knowledge that neither had merit nor probable cause in an effort to coerce Plaintiff to withdraw from school because he was a male with a conviction and alleged continued criminal activity.

iii. Defendants knew that the allegations were false and recklessly disseminated as to the truth of the allegations

321) Based on the foregoing, and in their official and individual capacity, Defendants Moore, Bocconcelli and Sayigh, with intentional improper motive or means (defamation), knowingly induced Plaintiff's advantageous relationships to end by extensively spreading defamatory criminal allegations against him with malice.

322) After Defendants Moore, Bocconcelli and Sayigh falsely accused Plaintiff of crimes, **NO ONE** with whom Plaintiff maintained advantageous relations communicated with Plaintiff. Plaintiff was blacklisted. Each institution and person refused to respond to Plaintiff's attempts at communication in writing, texts and calls.

323) As a direct and proximate cause of the above conduct, Plaintiff sustained harm and damages similar to those listed in ¶¶ 260 / 261. Plaintiff seeks award of compensatory money damages, punitive damages, costs of the litigation and reasonable attorneys' fees.

COUNT VI – Promissory Estoppel

Defendant Moore (Official and Individual Capacity)

324) Defendant Moore made a clear and unambiguous promise that Plaintiff would be his student as a guest student at WHOI, and would serve as Plaintiff's sponsor and continue providing him guidance, corroboration and direction in completing his degree and pursuing his research interest.

325) Moore made a promise which he individually should reasonably expect to induce action or forbearance of a definite and substantial character on the part of Plaintiff.

326) Moore's promises individually and jointly did induce such action or forbearance, in that Plaintiff sacrificed other options for conducting scientific studies with other researchers.

327) Moore breached his promise when he abruptly terminated all communication with Plaintiff and

ceased any action in assisting Plaintiff pursue his career or conduct scientific corroboration or further Plaintiff's status as a guest student with certain status and opportunities. As a proximate result Plaintiff can no further a career in oceanography using drones to assess baleen whale distress.

328) Upon information and belief, Moore intentionally concealed that he would breach his unambiguous promises if pressed on matters unrelated to academic performance, or ability to perform his role as Moore's student.

329) Justice can of only be applied with the value of the promise since it is impossible to enforce the promise in this case.

330) As a direct, proximate, and foreseeable consequence of Moore's failure to honor his promises, Plaintiff sustained harm and damages. Plaintiff is entitled to recover damages in an amount to be determined at trial, plus prejudgment interest and attorneys' fees and costs.

COUNT VII – Aiding and Abetting

Defendants Moore, Bocconcelli and Savigh (in their Individual and Official Capacities)

331) Plaintiff incorporates by reference each and every allegation in the preceding paragraphs.

332) Aiding-abetting includes the following elements: (1) the party whom the defendant aids must perform a wrongful act that causes an injury; (2) the defendant must be generally aware of his role as part of an overall illegal or tortious activity at the time that he provides the assistance; (3) the defendant must knowingly and substantially assist the principal violation.

333) Suggestive words may also be enough to create joint liability when they plant the seeds of action and are spoken. Advice or encouragement to act operates as a moral support to a tortfeasor and if the act encouraged is known to be tortious it has the same effect upon the liability of the adviser as participation.

334) Principals (Defendants in 1:19-cv-10705) together and each planned, created, and maintained a witch hunt investigation that defamed Plaintiff, violated his Mass. Civil Rights, violated his Federal Civil

Rights under Title IX, the Fourteenth, Fifth, and First Amendments to the U.S. Constitution, and caused Plaintiff's constructive expulsion from UMASS Dartmouth and the field of study of baleen whales in total.

335) The purposefully misleading and malicious information published by Defendants denied Plaintiff to continued use of his scholarship and/or pursue his academic pursuit of choice at his school of choice.

336) Defendants in their individual and official capacities, representing WHOI, participated in a "community of unlawful purpose" and shared the intent of the principals to force Plaintiff into withdrawing from his academic pursuit.

337) Defendants were generally aware of their roles as part of an overall illegal or tortious activity in harassing Plaintiff at the time that each provided the assistance and encouragement.

338) Defendants with ill-will urged and pressured Principals to conduct a thorough investigation with the goal of expelling Plaintiff and with a foundation of accusing Plaintiff of alleged crimes as evidence.

339) Defendants knew that the conduct of principals constituted a breach of duty to Plaintiff and willingly gave substantial assistance or encouragement to the principals so to conduct himself or themselves.

340) Defendants disseminated and endorsed the defamation to others, which falsely accused Plaintiff of criminally assaulting Esch in the home of Sayigh and Bocconcelli.

341) Without such support and endorsement, Principals would not have initiated nor continued publishing the humiliating information or continued pursuing the baseless Title IX investigation.

342) Defendants' group action that created a free-for-all, was both dangerous and ultimately injurious; thus, even a minimally-involved participant can be found liable.

343) In aiding-abetting, the extent of liability is that a person who assists a tortious act may be liable for other reasonably foreseeable acts done in connection with it, and is liable for damages caused by the main perpetrator(s), which in this case are the damages shown in case 1:19-cv-10705.

344) As a direct, proximate, and foreseeable consequence of Defendants' actions, Plaintiff sustained

harm and damages similar to those listed in ¶¶ 260 / 261. Plaintiff is entitled to recover damages in an amount to be determined at trial, plus prejudgment interest and attorneys' fees and costs.

COUNT VII - Civil Conspiracy

Defendants Moore, Bocconcelli and Sayigh (in their Individual and Official Capacities)

345) Plaintiff repeats and re-alleges each and every allegation hereinabove as if fully set forth herein.

346) Elements of civil conspiracy include: (1) an agreement between two or more persons; (2) to participate in an unlawful act, or a lawful act in an unlawful manner; (3) an injury caused by an unlawful overt act performed by one of the parties to the agreement; (4) which overt act was done pursuant to and in furtherance of the common scheme.

347) An agreement between conspirators must generally be inferred from circumstantial evidence revealing a common intent. Proof of a tacit, as opposed to explicit, understanding is sufficient to show agreement. " In most cases the court will have to infer a conspiracy from indirect evidence, it must initially look to see if the alleged joint tortfeasors are pursuing the same goal--although performing different functions--and are in contact with one another. Once the conspiracy had been established, all parties to it would be liable for injuries from acts pursuant to and in furtherance of the common design, even if the parties had not actively participated or benefited by the particular acts resulting in injury.

348) Defendants developed a common concerted action or plan to harm Plaintiff by committing a tortious act where participants knew of the plan and its purpose, and took affirmative steps to encourage the achievement of the result.

349) Circa March 2016 Bocconcelli informed Sayigh that Plaintiff was working at the WHOI Marine mammal Center with Michael Moore as Plaintiff's advisor as a guest student.

350) Upon information and belief, Bocconcelli and Sayigh possess or control records and communications that will show they agreed they could not allow Plaintiff to enter the field of marine science, and should exact retribution for what he allegedly did or for the sequelae resulting from what he allegedly

did, thereby they became a combination of 2 persons pursuant to an agreement to injure Plaintiff as a form of retaliation.

351) Both agreed to falsely accuse Plaintiff of the criminal activity that in fact never happened, and which they knew would exile Plaintiff from all advisors and programs in the field of marine science specifically baleen whale research, and thereby harm Plaintiff's future and financial potential.

352) Upon defaming Plaintiff to Moore, Moore agreed that Plaintiff should not be allowed to enter the field of marine science, and joined the improper concerted plan to defame Plaintiff and deny him any opportunity to pursue his academic field of choice.

353) Defendants together and individually had two-way communications with UMASSD, and others during which Defendants defamed Plaintiff to Miller, Nowacek, Buck, and UMASSD fully expecting the defamations to be re-published.

354) Each defamation was an overt act, which was done pursuant to and in furtherance of the common scheme to rid Plaintiff from the field of marine science. Hence all three are responsible for the actions and consequences of the others in harming Plaintiff and/or for the resulting foreseeable damages that Plaintiff suffered resulting from the Title IX investigation.

355) Upon information and belief Bocconcelli, Moore and Sayigh were the initial trio, who concerted to defame Plaintiff and triggered the bogus misconduct proceedings against Plaintiff; Moore acquiesced to pressures and recommendations of Bocconcelli and Sayigh; the Unnamed Professor/Cummings and Majewski was added to the joined minds - and with animus agreed to file bogus criminal charges related to trespass at UMASS Dartmouth that were fully debunked.

356) As a result of the civil conspiracy, Defendants are jointly and severally liable for damages Plaintiff incurred from the Title IX and misconduct investigation.

357) Plaintiff's academic and career prospects, earning potential, and reputation have been severely harmed. He has sustained significant damages, including but not limited to, damages to physical well-

being, emotional and psychological damages, damages to reputation, past and future economic losses, loss of educational and professional opportunities, loss of future career prospects, and other direct and consequential damages.

358) As a direct, proximate, and foreseeable consequences of Defendants' actions, Plaintiff sustained harm and damages similar to those listed in ¶¶ 260 / 261. Plaintiff is entitled to recover damages in an amount to be determined at trial, plus prejudgment interest and attorneys' fees and costs. Plaintiff further seeks punitive damages against Bocconcelli, Sayigh and Moore.

JURY DEMAND

Plaintiff herein demands a trial by jury of all triable issues in the present matter.

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, Plaintiff demands judgment against Defendants, jointly and severally, individually and in official capacities as follows: Plaintiff requests that this Court enter judgment against Defendants jointly and severally on all counts of this complaint as described above in each count. Plaintiff further requests that this Court: (A) Retain jurisdiction of this matter for the purpose of enforcing this Court's order; (B) Award to Plaintiff compensatory and other damages in an amount to be determined at trial; (C) Award reasonable costs and expenses, including attorney's fees (D) Grant Plaintiff such other and further relief as this Court deems equitable and just.

Date: April 28, 2021

Respectfully Submitted: John Harnois, Pro Se

By: /s/ John Harnois

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