

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

HANNAH RULLO,

Plaintiff,

v.

UNIVERSITY OF PITTSBURGH--
OF THE COMMONWEALTH SYSTEM OF
HIGHER EDUCATION,
A Commonwealth of Pennsylvania Non-Profit
Corporation,

Defendant.

CASE NO.:

JURY TRIAL DEMANDED

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, Hannah Rullo (“Plaintiff”), by and through her undersigned counsel, and brings this Complaint against Defendant University of Pittsburgh - Of the Commonwealth of Higher Education, a Pennsylvania non-profit corporation (“Defendant University”), and alleges as follows:

INTRODUCTION

1. This is an action involving claims under Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681–1688 (hereinafter, “Title IX”), arising out of sex discrimination and retaliation against a student, Plaintiff Hannah Rullo, at the Defendant University’s law school. Plaintiff reported Title IX violations of sex discrimination and harassment, including an assault and battery by a fellow student, to the Title IX office of Defendant. Thereafter, however, instead of properly handling the matter, Defendant engaged in deliberate indifference to Plaintiff’s rights, including subjecting Plaintiff to an unreasonable investigative process, a hostile and

discriminatory environment based upon Plaintiff's gender and unlawful retaliation by Defendant University in violation of Title IX.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff is a citizen of the State of Florida.

3. Defendant University, a public body corporate and an instrumentality of the Commonwealth of Pennsylvania, is an educational institution and public university of the Commonwealth of Pennsylvania.

4. Defendant University receives federal funding and financial assistance within the meaning of 20 U.S.C. § 1681(a) and is otherwise subject to Title IX.

5. This Court has subject matter jurisdiction of this matter pursuant to 28 U.S.C. §§ 1331 and 1343.

6. Venue of this action lies in this Court pursuant to 28 U.S.C. §1391, as the Defendant is a citizen of Pennsylvania and the events and omissions giving rise to this action occurred within the jurisdiction of this Court.

FACTS

7. During the times relevant hereto, Plaintiff was a full-time student at Defendant University's law school (the "law school") in the Class of 2018, beginning her studies in August 2015.

8. Beginning in or about October 2015, Plaintiff began a relationship with another law school student at Defendant University named Leonel Enrique Mendieta ("Mendieta").

9. Sometime after Plaintiff and Mendieta were dating, Mendieta started to treat Plaintiff in an abusive manner, both psychologically and physically. Mendieta is a large and physically imposing person.

10. For example, Mendieta would at times beginning in January 2016, yell and curse at Plaintiff. On another occasion when Plaintiff tried to leave a room, Mendieta cornered her against the door, telling her not to leave.

11. As time went on in 2016, Plaintiff observed Mendieta had a drinking problem and bad temper, including Mendieta yelling and shaking Plaintiff as well as Mendieta sending Plaintiff messages that he was looking for her and had punched a hole in his wall.

12. The abusive and dysfunctional relationship between Plaintiff and Mendieta continued, however, from February through August 2016, while both were full-time law students at Defendant University.

13. Throughout August 2016, Plaintiff and Mendieta would regularly end their dysfunctional relationship and start it again.

14. On or about September 1, 2016, Plaintiff was distraught over the anniversary of her deceased mother's birthday. During a lunch date with Plaintiff, Mendieta told her he was breaking off their relationship, but then took it back. On or about September 2, 2016, Mendieta took Plaintiff to dinner to apologize for his behavior at lunch the day before. Prior to going out, Mendieta consumed approximately a half-bottle of tequila and he continued drinking at dinner.

15. On the way home from the September 2, 2016 dinner, Mendieta cursed at Plaintiff and pushed her to the ground.

16. Upon return to Plaintiff's apartment on September 2, 2016, Mendieta's abuse continued. Mendieta yelled at Plaintiff and then threw her off a couch and she fell to the ground.

Mendieta then grabbed Plaintiff's hair and pinned her down, pressing her left eye hard into the ground. Plaintiff attempted to defend herself. Plaintiff suffered injuries as a result of Mendieta's assault and battery, including contusions, cuts and other injuries to her face and body.

17. Following the assault and battery in the apartment, Plaintiff called the police and Mendieta left Plaintiff's apartment. When the police arrived and interviewed him, Mendieta told the police that Plaintiff assaulted him. Plaintiff was then arrested on September 2, 2016, by the City of Pittsburgh Police Department; however, Plaintiff's criminal charges have subsequently been dropped by the prosecuting attorney.

18. Following hospitalization and treatment for her injuries suffered on September 2, 2016, Plaintiff returned to Defendant University for classes at the law school.

19. Following the September 2, 2016 incident, Mendieta attempted to intimidate Plaintiff by staring at her during and after classes at Defendant University which made Plaintiff uncomfortable and concerned about another attack. Additionally, Mendieta had his friends on occasion gather outside of Plaintiff's classes intentionally blocking the door, and creating an intimidating and threatening environment for Plaintiff at the Defendant University.

20. On or about September 7, 2016, Plaintiff saw a counselor at My Women's Center advocacy center at the Defendant University campus. That same day, Plaintiff received a call from Defendant University's employee Dean Kevin Deasy, who also taught a class Plaintiff and Mendieta were both enrolled in, requesting that Plaintiff come to the Dean's Office.

21. When Plaintiff met with Dean Deasy the afternoon of approximately September 7, 2016, he advised Plaintiff that "Leo [Mendieta] told him everything, so there is no need to lie to him." Dean Deasy told Plaintiff she was "not a victim" and directed that she stop acting like a victim, that Plaintiff needed to take a leave of absence, and that the Defendant University's Title

IX office had been contacted and would be in touch with Plaintiff. Dean Deasy then provided Plaintiff with Title IX paperwork, but also stated that Plaintiff is “making a scene intentionally” in showing her bruises. Finally, Dean Deasy advised Plaintiff that he “would forget” that Plaintiff had any absences for the week if she stayed away from the school and “did not cause a spectacle with [her] face.” Upon information and belief, Dean Deasy was referring to the visible bruises on Plaintiff’s face when he used the word “spectacle.”

22. Also on September 7, 2016, Plaintiff spoke with Kristy Rzepecki, an employee of Defendant University’s Title IX office, and made an appointment. Plaintiff then went to the class taught by Dean Deasy but she was confronted by three (3) Defendant University police officers in front of the law school. The police officers informed Plaintiff that she was not allowed on the law school campus, or to attend class because of a Protection From Abuse (“PFA”) order Plaintiff filed in the local court involving Mendieta. Plaintiff reminded the officers that there is an education exemption contained in the PFA which allows each person to attend class. Defendant University police officers insisted, however, that Plaintiff leave the campus and did not allow her to attend class.

23. The evening of approximately September 7, 2016, Plaintiff emailed Dean Deasy about the PFA issue which prevented her from attending class and he responded by telling Plaintiff to take a week off from classes.

24. On or about September 9, 2016, Plaintiff met with Kristy Rzepecki and Katie Pope of the Defendant University’s Title IX office. During the meeting, Plaintiff told them about the abusive treatment she received from Mendieta. When asked whether she wanted to file a Title IX complaint, Plaintiff indicated she did. In response, Plaintiff was told that Mendieta refused to file one against Plaintiff. Ms. Rzepecki also told Plaintiff that suspension and

expulsion will be on the table if Plaintiff filed a Title IX complaint, that “it” changes everything, and asked Plaintiff whether the situation can be worked out another way. Plaintiff then explained to Ms. Rzepecki and Ms. Pope her fear that Mendieta would not only hurt Plaintiff, but another woman.

25. Despite the comments made by Ms. Rzepecki and Ms. Pope, Plaintiff submitted her completed Title IX complaint to Ms. Rzepecki, formally lodging her complaint against Mendieta.

26. Furthermore, at the September 9, 2016 meeting, Plaintiff informed Ms. Rzepecki and Ms. Pope about the incident on September 7 with the University police, and was told they would contact Dean Deasy. Plaintiff also advised them that Mendieta would not return Plaintiff’s text books that were left in his apartment. The Title IX office officials then advised Plaintiff that they intended to contact Mendieta about returning Plaintiff’s books, saying the University police would pick them up.

27. Soon after the meeting with the Title IX office, Plaintiff received an email from Dean Deasy in which he apologized for a “police mix-up” and told Plaintiff he would not count Plaintiff’s absences.

28. Ms. Rzepecki thereafter informed Plaintiff that Mendieta would not return Plaintiff’s textbooks or other possessions without a court order. Plaintiff was therefore unable to do any of her law school reading.

29. Plaintiff felt unsafe on Defendant University’s campus because she was subjected to intimidation and threatening behavior by Mendieta and his friends. For example, on September 13, 2016, the doorway to Plaintiff’s class was blocked by Mendieta and his friends.

Additionally, during a class with Mendieta, he turned around and stared at Plaintiff for a substantial part of the class. Plaintiff found this behavior frightening.

30. On September 14, 2016, during a class, Plaintiff observed Mendieta's friend pass around a printout of a mugshot of Plaintiff from the City of Pittsburgh Police Department. Plaintiff felt humiliated by this incident.

31. Also on September 14, 2016, during class Dean Deasy placed a project sign-up sheet in front of Mendieta's desk, requiring Plaintiff to come very close to Mendieta to sign-up. This made Plaintiff scared and sick. Classmates then informed Plaintiff that Mendieta was glaring at her while she was standing in line for the sign up. When another female student was in line for the project, Mendieta made an inappropriate comment to her stating "Do you always bend down like that, or is it just for me?" Mendieta and his friends laughed, while Dean Deasy was standing within hearing range of the comment and did nothing.

32. Plaintiff reported these incidents and other incidents to Ms. Rzepecki in Defendant University's Title IX office because of her safety concerns regarding continued interaction with Mendieta and his associates and supporters. Ms. Rzepecki accused Plaintiff of lying about the mugshot incident, claiming it was too difficult to get someone's mugshot.

33. On multiple occasions in September 2016, Ms. Rzepecki told Plaintiff to stop using social media because Mendieta did not like it and told Plaintiff to stop posting quotes supportive of feminism. Ms. Rzepecki's comments gave Plaintiff the impression that Ms. Rzepecki, on behalf of Defendant University, was trying to protect Mendieta.

34. On or about September 21, 2016, Plaintiff met with her law school professors throughout the day to explain her situation with Mendieta, as she was suffering severe anxiety which was interfering with her studies.

35. Because of Plaintiff's emotional status, she contacted Dean Deasy requesting a meeting to discuss the possibility of taking a leave of absence. Dean Deasy agreed to a meeting which was scheduled for the next morning. However, as soon as the meeting was confirmed with Dean Deasy, Plaintiff received an email from the federal student loan servicing organization essentially notifying her that Defendant University had changed her student status from a full-time student to a leave of absence. This status change impacted the date on which Plaintiff would be required to begin payment on her student loans. The email also listed Plaintiff's graduation year as 2019, instead of 2018.

36. On or about September 22, 2016, Plaintiff met with Dean Deasy to discuss a leave of absence. Plaintiff had a faculty advocate, Professor Teeter, present with her. Dean Deasy stated again to Plaintiff that she was not a victim. Dean Deasy told Professor Teeter that he saw Plaintiff's bruises and Mendieta's small bruise, but that it was not his job to compare bruises. Furthermore, Dean Deasy stated during the meeting that the Title IX office had already made their decision, and that Plaintiff was "guilty."

37. Dean Deasy further stated to Plaintiff that he knew Mendieta and that he felt Mendieta would never "do this," i.e., the assault and battery, to Plaintiff and that Plaintiff was the one arrested.

38. On or about September 26, 2016, Plaintiff was informed by Ms. Rzepecki of the Title IX office that Plaintiff did not file a Title IX complaint with Defendant University. Plaintiff corrected her, stating that she did file a complaint on September 9, 2016. Ms. Rzepecki then directed Plaintiff to fill out a new complaint form, which Plaintiff did and filed via email to Ms. Pope that same day. In the communication, Plaintiff stated that she was upset that although

she had been contacted repeatedly, provided information and met numerous times with the Title IX office, no investigation was taking place.

39. On or about September 29, 2016, the same day Plaintiff was supposed to pick up a list of alternatives to having class with Mendieta from Dean Deasy, Plaintiff was called into a meeting with Ms. Pope, Dean Burkhoff and Dean Deasy. Plaintiff was provided Defendant University's proposed options for her student status, including a leave of absence as the first option. Dean Deasy stated that the best option for Plaintiff would be a leave of absence.

40. On October 3, 2016, Plaintiff contacted Dean Deasy notifying him that she was being forced to take a leave of absence due to Defendant University's actions and inactions in response to her Title IX complaint. Dean Deasy simply confirmed that he had received Plaintiff's email and would officially file the form.

41. On October 6, 2016, Plaintiff advised Ms. Rzepecki that a classmate who was Mendieta's friend was circulating an old photograph of Plaintiff in a somewhat revealing Halloween costume with the caption "Med School > Law School." Ms. Rzepecki informed Plaintiff that she was aware of the picture, having heard about it from other witnesses and that the alleged perpetrator denied having the picture. Ms. Rzepecki then told Plaintiff that there was not much else she could do. Ms. Rzepecki further stated to Plaintiff: "Why do you girls dress up like that? What do you expect?" Ms. Rzepecki then laughed at Plaintiff.

42. Additionally, Ms. Rzepecki made copies of the photographs of Plaintiff's injuries taken at the hospital on September 3, 2016, but the copies made by Ms. Rzepecki were in black and white, and not color because of "budget restraints." The Plaintiff's injuries were not particularly visible in the black and white copies so Ms. Rzepecki wrote notes on the copies identifying Plaintiff's injuries.

43. Plaintiff ceased attending classes as of October 3, 2016, due to the leave of absence prompted and accepted by Defendant University.

44. On or about October 14, 2016, Defendant University informed Plaintiff that Mendieta filed a Title IX complaint against Plaintiff with the Defendant University's Title IX office.

45. On or about November 8, 2016, a meeting was held between Plaintiff and the Title IX office. Ms. Rzepecki accused Plaintiff of lying about allegations of intimidation by Mendieta. Ms. Rzepecki also rolled her eyes and audibly sighed during the meeting with Plaintiff.

46. From September 2016 through January 2017, Plaintiff cooperated with Defendant University's Title IX office by providing extensive information and documentation of her complaint of gender discrimination related to the attack by Mendieta and the discriminatory treatment at the law school, including providing interviews, court records, medical records and other evidence.

47. Despite Plaintiff providing extensive information and documentation of her complaints of gender discrimination related to the attack by Mendieta and the discriminatory treatment at the law school, Defendant University's Title IX office and a Review Board concluded that Plaintiff had violated the Student Code of Conduct related to Dating Violence. Plaintiff was disciplined by Defendant University effective April 21, 2017, with: (1) suspension from the Defendant University with no eligibility for re-enrollment until the 2017-18 fall semester; (2) the requirement that prior to returning to the Defendant University Plaintiff attend a mandatory Title IX training workshop; (3) upon return to Defendant University Plaintiff would be placed on Disciplinary Probation throughout her entire time as a student; (4) if Plaintiff was

found responsible for another Title IX incident, she would face additional sanctions up to and including dismissal; and (5) the September 16, 2016 no contact order with Mendieta would remain in place.

48. At all times relevant herein, no one from Defendant University's administration or Title IX office ever sufficiently or adequately investigated Plaintiff's complaints of gender discrimination related to Mendieta's abusive and intimidating behavior toward her and her treatment at the law school following her Title IX complaint.

49. At all times relevant herein, Defendant University knew that it had duties to investigate, accommodate and protect students such as Plaintiff who had complained of gender discrimination related to the attack by Mendieta and the discriminatory treatment at the law school and to investigate and sanction those responsible in a manner that addressed the discrimination and prevented its recurrence.

50. This action is timely filed and all conditions precedent, if any, to the maintenance of this suit and Plaintiff's claims have occurred, been performed or otherwise waived.

COUNT I
Title IX-20 U.S.C. § 1681 *et seq.*
Clearly Unreasonable Response

51. Plaintiff incorporates by reference herein and realleges the allegations in Paragraphs 1 through 50 above as though set forth fully herein.

52. Defendant University had actual knowledge of the gender discrimination perpetrated against Plaintiff at the hands of Mendieta, the discriminatory treatment of Plaintiff by Mendieta and his associates and supporters at the law school as well as the treatment Plaintiff was subject to by Dean Deasy and Ms. Rzepecki during the course of Plaintiff's reporting of gender discrimination at Defendant University.

53. Defendant University's responses to the Plaintiff's complaints of discriminatory treatment were clearly unreasonable in light of the known circumstances.

54. The gender discrimination, consisting of Mendieta's assault and battery upon Plaintiff, the risks to Plaintiff's safety, the loss of her ability to continue attending Defendant University's law school, and the retaliatory treatment of Plaintiff at the law school following the assault and battery by Mendieta's associates and supporters, which included Dean Deasy and Ms. Rzepecki based upon their actions and inactions, and the discipline leveled against Plaintiff by Defendant University was so severe, pervasive, and objectively offensive that it barred Plaintiff's access to educational opportunities and benefits.

55. Plaintiff was subjected to gender discrimination because of Defendant University's deliberate indifference to known acts of gender discrimination against Plaintiff, including the decision to not address Plaintiff's complaints while she attempted to attend classes at the law school following the assault and battery complaint; Defendant University's deliberate decision not to provide Plaintiff with safety measures and accommodations so that she could safely pursue her studies; Defendant University's deliberate decision not to take seriously Plaintiff's complaints about the treatment by Mendieta, treatment by Mendieta's associates and supporters, and treatment by Dean Deasy and Ms. Rzepecki; Defendant University's deliberate decisions not to comply with its own policies, Title IX and sexual harassment, as well as the legal requirements of Title IX; Defendant University's deliberate coordination with Mendieta; and Defendant University's deliberate decisions to do nothing to eliminate the risk of harm posed by Mendieta and Mendieta's associates and supporters, prevent its recurrence and address its effects.

56. If Defendant University had not been deliberately indifferent to Plaintiff's allegations of gender discrimination and retaliation, and instead complied with its own policies and federal law by promptly and properly investigating Plaintiff's claims while protecting Plaintiff's safety, Plaintiff would have been able to remain at the law school progressing toward her law degree. Instead, Plaintiff was forced to leave the law school by Defendant University's actions and omissions.

57. As a result of Defendant University's deliberate indifference and wrongful acts, Plaintiff has suffered, and continues to suffer, loss of educational opportunities and benefits, injuries, damages and losses, including, but not limited to, emotional distress, fear, anxiety and trauma; lost future earnings and earning capacity; and damage to and delays in her pursuit of graduate education.

COUNT TWO
Title IX-20 U.S.C. § 1681 *et seq.*
Hostile Education Environment, Sex Discrimination

58. Plaintiff incorporates by reference herein and realleges the allegations in Paragraphs 1 through 50 above as though set forth fully herein.

59. Title IX provides, in relevant part, that “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

60. Plaintiff's gender is protected by Title IX.

61. Plaintiff was subjected to sexual harassment, sex discrimination and retaliation that were so severe, pervasive and objectively offensive that she was denied access to educational opportunities and benefits at Defendant University.

62. Defendant University was deliberately indifferent to Plaintiff's known sexual harassment and the sexually hostile education environment in which she suffered as a result of its failure to institute any accommodations for Plaintiff's safety, including, but not limited to: (i) excluding her assailant from Plaintiff's classes; (ii) providing an escort for Plaintiff; (iii) requiring that Mendieta not come within a certain distance of Plaintiff; (iv) counseling the associates and supporters of Mendieta regarding the treatment of Plaintiff; (v) properly investigating Plaintiff's complaints of Title IX violations; and (vi) providing a viable alternative for Plaintiff to attend classes at the law school.

63. As a result of Defendant University's acts of deliberate indifference, Plaintiff was forced to leave the law school and lost her educational opportunities at the Defendant University.

64. As a result of Defendant University's acts of deliberate indifference, Plaintiff was disciplined by Defendant University for reporting the assault and sexual harassment as well as sex discrimination, forcing Plaintiff from the law school and imposing substantial conditions on her return.

65. As a result of Defendant University's acts of deliberate indifference, Plaintiff was rendered incapable of pursuing her educational opportunities.

66. As a result of Defendant University's failure to maintain an environment for students free from unlawful sex discrimination in all aspects of the educational experience, Plaintiff has suffered, and continues to suffer, loss of educational opportunities and benefits, injuries, damages and losses, including, but not limited to, emotional distress, fear, anxiety and trauma; lost future earnings and earning capacity; and damage to and delays in her pursuit of graduate education.

COUNT THREE
Title IX-20 U.S.C. § 1681 *et seq.*
Retaliation

67. Plaintiff incorporates by reference herein and realleges the allegations in Paragraphs 1 through 50 above as though set forth fully herein.

68. Plaintiff engaged in actions protected by Title IX when she complained about and/or objected to Defendant University regarding unlawful discrimination in her treatment by Mendieta, including his assault and battery upon her.

69. Plaintiff further engaged in actions protected by Title IX when she complained and/or objected to Defendant University's agents about Mendieta's treatment of Plaintiff at the law school following the assault and battery, the treatment of Plaintiff by Mendieta's associates and supporters, as well as the treatment of Plaintiff by Dean Deasy and Ms. Rzepecki.

70. Because of Plaintiff's protected actions, Defendant University retaliated against Plaintiff by, among other things, treating her in a hostile manner, unfairly applying Defendant's policies to her as compared to Mendieta and disciplining her.

71. As a result of Defendant University's unlawful retaliation against Plaintiff in violation of Title IX, Plaintiff has suffered, and continues to suffer, loss of educational opportunities and benefits, injuries, damages and losses, including, but not limited to, emotional distress, fear, anxiety and trauma; lost future earnings and earning capacity; and damage to and delays in her pursuit of graduate education.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Hannah Rullo respectfully requests that this Honorable Court grant the following relief:

- (a) Enter judgment on behalf of Plaintiff and against Defendant University of Pittsburgh - Of the Commonwealth of Higher Education on all Counts herein;
- (b) Award Plaintiff injunctive relief to be determined at trial requiring Defendant University of Pittsburgh - Of the Commonwealth of Higher Education to comply with Title IX;
- (c) Award Plaintiff compensatory damages against Defendant University of Pittsburgh - Of the Commonwealth of Higher Education in an amount to be determined in a jury trial;
- (d) Award Plaintiff reasonable attorneys' fees, court costs, expenses, pre-judgment interest, and post-judgment interest; and
- (e) Grant such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

A jury trial is demanded by Plaintiff as to all matters triable to a jury.

Dated: October 24, 2017

Respectfully submitted,

s/Christian Bagin
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