

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION**

JANE DOE,

Plaintiff

v.

BAYLOR UNIVERSITY

Defendant.

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CIVIL ACTION NO. 6:17-cv-125

JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND

Plaintiff Jane Doe ("Plaintiff") files this Original Complaint and Jury Demand complaining of Defendant Baylor University ("Baylor"). In support thereof, Plaintiff would show the Court as follows:

**I.
PARTIES**

1. Plaintiff Jane Doe¹ is an individual who, at the time of the sexual assault complained of herein, was a student-athlete attending Baylor University.

2. Defendant Baylor University is a private educational institution with its campus located in Waco, McLennan County, Texas. Defendant may be served with process through its registered agent, C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201, or wherever this Defendant and/or registered agent may be found.

¹ "Jane Doe" has been substituted for Plaintiff's name for all causes of action brought through this Complaint which would otherwise publish important privacy interests of Plaintiff. Plaintiff fears for her personal safety, as well as that of her family and friends as a result of this Complaint. Plaintiff intends to file a Motion to Proceed Under Pseudonym, requesting the Court sign an order allowing her to proceed in the above-captioned matter using a pseudonym after a civil action number is assigned to this case.

II.
JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331, which gives district courts original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), since Defendant resides or resided in this district and the events or omissions giving rise to the claim occurred in this district.

III.
GENERAL ALLEGATIONS

5. At all relevant times, Baylor University received federal funding for its academic programs and activities and was subject to the requirements of Title IX of the Education Amendments of 1972, 20 U.S.C. 1681(a) (hereinafter, “Title IX”).

6. Plaintiff was a student-athlete at Baylor from the fall of 2011 to the spring of 2013. Upon her arrival at Baylor, Plaintiff joined the women’s volleyball team.

7. In February 2012, Plaintiff was brutally gang raped by at least four and, according to some reports, as many as eight, Baylor football players. Plaintiff’s sexual assault, like countless others, occurred during what has become known as the most violent and atrocious in school history.

8. Prior to Plaintiff’s arrival at Baylor, Baylor officials permitted a campus condition rife with sexual assault and completely lacking the basic standards of support for victims as required by federal and state law. This case arises from Baylor’s deliberately indifferent response to multiple events of student-on-student sexual assault and subsequent sex-based harassment.

9. Baylor's failure to promptly and appropriately investigate and respond to the assaults allowed a condition to be created that substantially increased Plaintiff's chances of being sexually assaulted, as well as others. Moreover, Baylor's failure to promptly and appropriately investigate and respond to these assaults furthered sexual harassment and a hostile environment, effectively denying Plaintiff, and other female students, access to educational opportunities. Plaintiff brings this action to redress a hostile educational environment pursuant to Title IX.

IV.
EVOLUTION OF BAYLOR'S FOOTBALL PROGRAM

10. In September 2003, Baylor hired Ian McCaw ("McCaw") as its new athletic director after Baylor's previous athletic director resigned following an unprecedented scandal that included murder charges against a former Baylor basketball player as well as a tape-recorded plot of Baylor's ex-head basketball coach trying to cover-up major NCAA infractions with a story that the murdered player had been a drug dealer.

11. In November 2007, Baylor announced that Art Briles ("Briles") had been hired as its new head football coach. Prior to Briles' arrival at Baylor in 2008, Baylor football was comparatively one of the worst, if not the worst, team in the Big 12 Southern Conference. It finished in last place in 13 of 14 consecutive seasons. Briles was brought to Baylor specifically to fix this problem.

12. Upon being hired, Briles declared, "[w]hat we have to do is win football games. That's our mission." At the expense of many young women on campus, Baylor football soon did just that.

13. In February 2008, Briles signed his first recruiting class at Baylor. Baylor was an overnight success under Briles. Within a few short years, his recruits became one of the most

feared group of football players in the nation, dominating the Big 12 Southern Conference and becoming a national title contender.

14. The 2010 season was the football team's first winning season since 1995. The 2010 season also marked another milestone for the Baylor football team—their first bowl game appearance in 16 years.

15. The football team's success carried on into the 2011 season, when they won 10 out of 13 regular season games followed by a bowl game win. That year, Robert Griffin III also became the first Heisman Trophy winner in Baylor history.

16. As a result of this sudden success, Baylor football players themselves became larger-than-life celebrities on campus as Baylor football mania consumed the campus to a degree not seen in decades. Then-Baylor President and Chancellor Kenneth Starr, who regularly led the football team out on the field, proclaimed that Baylor was entering its "Golden Era."

17. To further this image, Baylor plastered its campus with the images of the school's new heroes—from giant posters of players, to event and game hype, to screen saver images covering student-accessible computers. Baylor was maximizing its football public relations machine and as a result, daily life for Baylor students was dominated by football.

18. In response, alumni donations were on the rise. In September 2012, a mere seven months after Plaintiff was brutally gang raped by Baylor football players, Baylor broke ground on the construction of McLane Stadium, a \$266 million state-of-the-art facility.

19. The team's success would continue for the next several seasons. Over the span of four seasons from 2011-2014, Briles' recruits would win an unprecedented 42 football games. After fifteen years of finishing at or near the bottom of their football conference standings, Baylor was quickly on top of the Big 12 Conference.

V.

THE CULTURE OF SEXUAL VIOLENCE AT BAYLOR: RECRUITING

20. In order to ensure that a last place team could recruit the players needed to win football games, Baylor's recruiting efforts used sex to sell the program. Central to their recruiting efforts, Baylor football coaching staff implemented a "Show em a good time"² policy which permitted members of the Baylor football team to engage in unrestricted behavior with no consequences. This behavior included, but was not limited to:

- a) Players arranging for women, alcohol and illegal drugs for parties when recruits were in town;
- b) Paying for and escorting underage recruits to bars and strip clubs; and
- c) Paying for off-campus football parties (which repeatedly resulted in gang rape of women by the football players).

21. Not only were Baylor's football coaching staff instrumental in actively implementing these recruiting policies and practices, they also encouraged them. Assistant Coach Kendall Briles, while recruiting one Dallas area high school athlete stated, "Do you like white women? Because we have a lot of them at Baylor and they LOVE football players."

22. Baylor football coaching staff also arranged for women to have sex with recruits on their official campus visits. On one such occasion, a Baylor football player stated that Baylor coaches sent two women from the Baylor Bruins program to his hotel room and the room of another recruit to engage in sex with the two men.

VI.

**THE CULTURE OF SEXUAL VIOLENCE
AT BAYLOR: THE HOSTESS PROGRAM**

23. In conjunction with these recruiting policies, Baylor also relied heavily upon its long standing female hostess program.

² "Show em a good time" are the words used by one Baylor football player referencing what his coaches had told them to do with the recruits.

24. The “Baylor Bruin” program, like its predecessors the “Baylor Gold” and “Baylor Belles,” is a football “hostess” program with the purpose of using attractive female students to escort recruits and their families to campus events and football games on official visits to Baylor.

25. Unofficially, the Bruins are expected to make sure the recruits have a good time by socializing with the recruits, attending parties, and seeing to it that the recruits enjoy their visit to Baylor.

26. In furtherance of this policy, as stated above, some Baylor Bruins were at times used to engage in sexual acts with the recruits to help secure the recruits’ commitment to Baylor.

27. Though the Bruins had an official policy of no sexual contact with the recruits or football players, Baylor had an unofficial policy of looking the other way when there was sexual intercourse between the Bruins and the football players.

28. The hostess program, like similar programs around the country, has been criticized for its use of sexuality and the implied promise of female companionship should the recruit choose Baylor. The connection between these hostess programs and sexual violence is well documented. *See Simpson v University of Colorado*, 500 F.3rd 1170, 1173-1184 (10th Cir. 2007).

29. According to reports, many Bruins did in fact engage in sex with the players once they became Baylor football players. In essence, the implied promise of sex during the recruiting stage often became the reality. On more than one occasion, a Baylor Bruin hostess was impregnated by a member of the football team.

30. Through the use of sex with recruits and the continued lure of sex should the recruits attend Baylor, Baylor's recruiting policies and practices, along with the Baylor Bruin football hostess program, directly contributed to the creation of a culture of sexual violence that permeated Baylor and its football program, and from which Plaintiff, along with countless other women, would soon suffer.

VII.
THE CULTURE OF SEXUAL VIOLENCE
AT BAYLOR: DISCIPLINARY BLACK HOLE

31. While Briles' players were being hyped as celebrities on campus and around Waco, behind the scenes the players engaged in more than just sports. From 2009-2015, Baylor football players were responsible for numerous crimes involving violent physical assault, armed robbery, burglary, drugs, guns, and, notably, the most widespread culture of sexual violence and abuse of women ever reported in a collegiate athletic program.

32. In order to ensure that no one stood in the way of the football program's growing success, Baylor football coaches developed, enabled, and encouraged a culture within the football program in which players were "above the law."

33. Members of the Baylor football program, including Briles and Colin Shillinglaw ("Shillinglaw"), took it upon themselves to "discipline" football players. Additionally, Baylor football coaches deliberately insulated players from being implicated in any wrongdoing.

34. In several instances when football coaches were alerted to player's misconduct—whether it be rape, dating violence, physical assault, or burglary—the coaches did nothing to investigate the accusations to determine whether their players were responsible. Further, the football coaches never reported instances of player misconduct to anyone outside of the Athletics Department or made sure the players were punished.

35. The football coaches also misinformed and even pressured victims into not reporting instances of sexual assault and dating violence to anyone outside of the Athletics Department.

VIII.
THE CULTURE OF SEXUAL VIOLENCE
AT BAYLOR: HAZING AND TEAM “BONDING” RITUALS

36. Upon information and belief, prior to Plaintiff’s arrival at Baylor, members of the Baylor football team had already developed a system of hazing their freshman recruits by having them bring or invite freshman females to house parties hosted by members of the football team. At these parties, the girls would be drugged and gang raped, or in the words of the football players, “trains” would be run on the girls.

37. The gang rapes were considered a “bonding” experience for the football players.

38. Photographs and videotapes of the semi-conscious girls would be taken during the gang rapes and circulated amongst the football players. Based upon investigation, Plaintiff has confirmed that at least one, 21-second videotape of two female Baylor students being gang raped by several Baylor football players was circulated amongst football players.

39. Baylor football parties would also feature dog fighting. In at least one of the matches, a dog was seriously injured and almost died.

40. Simply put, Baylor football under Briles had run wild, in more ways than one, and Baylor was doing nothing to stop it.

IX.
THE CULTURE OF SEXUAL VIOLENCE AT BAYLOR: BAYLOR
CONTROLLED THE CONTEXT OF THE RAPE AND HARASSMENT

41. Baylor had both notice and control over the context of the sexual harassment and violence perpetrated by its football players.

42. Almost all of the football players involved in these rapes were recruited and brought to Waco to play football.

43. Upon information and belief, none of the assailants would have been in Waco but for Baylor's recruiting and scholarships to play football at Baylor.

44. Upon information and belief, the Baylor athletic department would coordinate housing for the scholarship football players which was almost entirely located in off-campus apartments.³

45. Baylor paid for the off-campus housing, which was the location of most of the sexual assaults, by use of a housing stipend credited to the athletes' accounts.

46. When necessary, the Baylor athletic department would manage the housing assignments of Baylor football players and require specific housing changes or restrictions.

X. EVOLUTION OF BAYLOR'S RAPE CULTURE

47. Under Briles, the culture of Baylor football and rape became synonymous. Sexual assault and dating violence permeated Baylor's football program dating back to at least 2007.

48. According to Pepper Hamilton LLP's ("Pepper Hamilton") investigation, a total of 17 victims reported allegations of sexual assault or domestic violence by 19 Baylor football players. At least four of these incidents of sexual assault involved gang rapes that were reported to have occurred in 2012. One of these gang rapes involved Plaintiff. However, according to more recent reports, in the span of four years—from 2011 to 2014—there were at least 52 acts of rape, including five gang rapes, by not less than 31 different football players under Briles.

49. Baylor football's rape culture resulted in student violence both on and off campus. In the course of those 52 acts of rape, the majority were the product of off-campus parties hosted

³ Baylor was known for a substantial housing shortage which required the majority of all students to live off-campus.

by Baylor football players. At least two of the gang rapes were committed by ten or more different Baylor football players at one time. As discussed above, some of the Baylor football players recorded the rapes on their phones and later distributed the recordings to other teammates. As a result of at least 52 acts of rape in five years by at least 31 football players, Baylor has dismissed exactly two of those football players from the university.

50. Pepper Hamilton's investigation also made it clear that the issue of sexual assault and dating violence was not just limited to the Baylor football program. In fact, Patty Crawford publicly reported that she handled over 416 reports of sexual harassment and dating violence during her 23 months at Baylor.

51. Baylor's rape culture evolved as the football team experienced growing success. The following is an overview of Baylor's sexual assault culture:

- September 2003 – Ian McCaw was hired as Baylor's new athletic director.
- September 4, 2004 – A female Baylor student was raped by a Baylor student at an off-campus residence.
- Mid-November 2005 – A female Baylor student was raped by a Baylor student in his dorm room.
- Fall of 2007 – A female Baylor student was drugged and raped by a Baylor student.
- November 28, 2007 – Briles was named Baylor's new head football coach.
- February 6, 2008 – Briles signed his first recruiting class at Baylor.
- May 2009 – A female Baylor student was gang raped by two Baylor students.
- October 2009 – Baylor football player Tevin Elliott raped a member of the Baylor equestrian team.
- November 27, 2010 – Baylor's football team played their last regular season game, marking the team's first winning season since 1995.

- December 29, 2010 – Baylor ended the 2010 season with another milestone—their first bowl game appearance in 16 years.
- January 2011 – A female Baylor student was raped by Robert Cole, a Baylor student, at a party.
- April 4, 2011 – The U.S. Department of Education, Office for Civil Rights issued its “Dear Colleague Letter” to help universities such as Baylor comply with the requirements of Title IX, to explain that the requirements of Title IX pertaining to sexual harassment also covered sexual violence, and to explain the specific Title IX requirements applicable to sexual violence.
- May 9, 2011 – Robert Cole was charged for the January 2011 sexual assault of a Baylor student. He later admitted that “he had date raped” the victim.
- September/November 2011 – Tevin Elliott sexually assaulted a female community college student.
- December 3, 2011 – Baylor’s football team finished the 2011 season, winning 10 of 13 regular season games.
- December 11, 2011 – Robert Griffin III became the first Heisman Trophy winner in Baylor history.
- December 29, 2011 – Baylor beat the Washington Huskies in the 2011 Valero Alamo Bowl.
- February 11, 2012 – Plaintiff was brutally gang raped by as many as eight Baylor football players.
- March/April 2012 – Two more female Baylor students were gang raped by Baylor football players. March 27, 2012 – Tevin Elliott raped another female Baylor student-athlete.
- April 15, 2012 – Tevin Elliott raped another female Baylor student outside of a party at a residence near the Baylor campus.
- April 30, 2012 – Tevin Elliott was arrested for two counts of sexual assault.
- May 2012 – Plaintiff was repeatedly harassed by Baylor football players.
- July 5, 2012 – Shawn Oakman transferred to Baylor and joined the football team after he was dismissed from the Penn State football team following misdemeanor assault charges arising from a March 17, 2012 incident.

- July 11, 2012 – Plaintiff's mother met with an assistant football coach at a Waco restaurant to discuss Plaintiff's sexual assault. Although Plaintiff's mother did not reveal her daughter's name, she did provide the coach with a list of the players who were involved in Plaintiff's sexual assault.
- September 15, 2012 – Baylor broke ground on the construction of McLane Stadium.
- December 1, 2012 – Baylor finished the 2012 season, winning 8 of 13 regular season games.
- December 27, 2012 – Baylor beat the UCLA Bruins in the 2012 Bridgepoint Education Holiday Bowl.
- January 2013 – Baylor football players repeatedly harassed Plaintiff after the assistant football coach spoke to two of the football players involved in Plaintiff's sexual assault.
- January 10, 2013 – Shawn Oakman allegedly physically assaulted a woman at her Waco apartment.
- January 2013 – May 2013 – Plaintiff had a class with two of the football players who sexually assaulted her.
- Early 2013 – Plaintiff attended counseling sessions at the Baylor University Counseling Center and informed the counselor of the sexual assault.
- February 11, 2013 – A Baylor football player brandished a gun at a female student-athlete. An assistant football coach was able to convince the female student-athlete not to report the incident.
- February 21, 2013 – One of the football players who would later burglarize Plaintiff's apartment began harassing her via text message.
- April 8, 2013 – Plaintiff's apartment was burglarized by two Baylor football players.
- April 10, 2013 – One of the Baylor football players who burglarized Plaintiff's apartment sent Plaintiff harassing text messages after Plaintiff reported the burglary to the police.
- April 2013 – Plaintiff met with Briles to report the burglary and the names of the players involved.

- April 2013 – Plaintiff and her parents met with Plaintiff’s head coach and another member of the volleyball coaching staff and informed them of the sexual assault and the players involved. Following the meeting, Plaintiff’s head coach reported the sexual assault to Briles and McCaw.
- April 18, 2013 – A member of the Baylor Bruins hostess program was brutally gang raped by Baylor football players, Tre’Von Armstead and Shamycheal “Myke” Chatman.
- April/May 2013 – Shamycheal “Myke” Chatman allegedly raped a student in the Baylor athletic training program.
- May 7, 2013 – Boise State announced that Sam Ukwuachu was dismissed from the team for an unspecified violation of team policy. It is widely reported that Ukwuachu was kicked off the Boise State football team for a previous incident of violence against a female Boise State student.
- May 2013 – Baylor’s Football Chaplain led a mission trip, which included 45 Baylor student-athletes and staff, to Kenya. Plaintiff attended the mission trip along with one of her assailants.
- May 2013 – Shamycheal “Myke” Chatman transferred to Sam Houston State University at the end of the spring 2013 semester.
- June 2013 – Sam Ukwuachu transferred to Baylor and joined the football team.
- Fall 2013 – December 2015 – A female Baylor student was sexually harassed and raped by another Baylor student in one of Baylor’s dorms.
- Fall 2013 – Plaintiff returned to Waco to visit a friend. During her visit, she met with Baylor’s Football Chaplain, and reported the sexual assault to him.
- October 2013 – A female Baylor student was sexually assaulted by another Baylor student.
- October 19, 2013 – It was Homecoming Weekend for Baylor. Baylor beat Iowa State 71-7. Later that evening, Sam Ukwuachu brutally raped a female Baylor soccer player.
- November 14, 2013 – Briles agreed to a new ten-year contract through 2023.
- December 7, 2013 – Baylor finished the 2013 season with a win against the Texas Longhorns.

- January 1, 2014 – Baylor played the UCF Knights at the 2014 Tostitos Fiesta Bowl, but lost 52-42.
- January 2014 – Tevin Elliott was sentenced to twenty years in prison for raping a female Baylor student. During Elliott's trial, four other victims testified that they had also been raped by Elliott.
- March 2014 – A female Baylor student was physically assaulted by Devin Chafin, a Baylor football player.
- April 5, 2014 – A female Baylor student was again physically assaulted by Baylor football player, Devin Chafin.
- April 7, 2014 – A female Baylor student-athlete was raped by another Baylor student.
- April 29, 2014 – The U.S. Department of Education Office for Civil Rights sent out a second Dear Colleague Letter (FAQs) with specific guidance on University compliance with Title IX and sexual harassment/violence.
- Late April 2014 – A female Baylor student was physically assaulted by Baylor football player, Devin Chafin, for a third time.
- April 26, 2014 – A female Baylor student was sexually assaulted by a Baylor football player.
- June 25, 2014 – Sam Ukwuachu was indicted on two counts of sexual assault against a female Baylor student athlete.
- August 31, 2014 – Baylor opened its \$266 million, state-of-the-art McLane Stadium with a 45-0 victory over SMU.
- October 1, 2014 – Campus SaVE Act, a reauthorization of the Clery Act for University compliance regarding sexual violence, stalking, dating and domestic violence.
- November 18, 2014 – Patty Crawford became Baylor's first full-time Title IX coordinator.
- November 2014 – A female Baylor student was sexually assaulted by another Baylor student.
- December 6, 2014 – Baylor finished the 2014 season, completing its run for back-to-back 11-2 seasons and Big 12 championships.

- January 1, 2015 – Baylor played the Michigan State Spartans in the 2014 Goodyear Cotton Bowl, but lost 42-41.
- February 4, 2015 – Patty Crawford informed certain Baylor administrators of three gang rape allegations against Baylor football players which occurred during the spring 2012 semester as well as an alleged January 2013 incident of dating violence. During the meeting, Crawford asked McCaw if he knew anything about gang rapes by football players. McCaw said no, failing to disclose the allegations regarding Plaintiff's sexual assault that had been brought to his attention in 2013. McCaw then inquired if a football player who had information about sexual assaults could receive immunity under Title IX. Crawford said no.
- February 28, 2015 – A female Baylor student was drugged, abducted and raped at a party at "The Rugby House," an off-campus house.
- March 2015 – A female Baylor student was sexually assaulted by another Baylor student.
- Early June 2015 – Baylor defensive coordinator Phil Bennett announced at a luncheon for the Baylor Sports Network that Ukwuachu was finally going to take the field in the upcoming season. At that time, Ukwuachu was due to stand trial in Waco for sexual assault in just a few weeks.
- August 19, 2015 – Former Baylor defensive end Sam Ukwuachu was found guilty of sexually assaulting a former Baylor soccer player. During Ukwuachu's 2015 criminal trial, it was disclosed that Baylor officials had conducted an internal investigation into the assault complaint and cleared him of any wrongdoing.
- August 26, 2015 – Ian McCaw admitted that he was aware of Plaintiff's sexual assault in spring 2013.
- August 29, 2015 – Waco police responded to a South Waco home, where a member of the Baylor men's tennis team was named as the lone suspect in a sexual assault case.
- September 2, 2015 – Baylor University's Board of Regents announced that they had retained Pepper Hamilton LLP to conduct a thorough and independent external investigation into the university's handling of cases of alleged sexual violence.
- September 11, 2015 – Former Baylor Bruin and Baylor graduate reported that she had been gang raped by Myke Chatman (former Baylor football player) and Tre'Von Armstead (current Baylor football player at that time).

- September 12, 2015 – Tre’Von Armstead was held out of the second game of the Baylor football team’s season for an unspecified reason.
- September 18, 2015 – Tre’Von Armstead was kicked off the Baylor football team for what the team described as an “unspecified violation of team rules.”
- September 30, 2015 – A no-contact order was issued by Baylor’s Title IX office for Baylor offensive lineman Rami Hammad after he was accused of sexually assaulting a student in his apartment earlier in the month.
- Late October 2015 – Rami Hammad’s judicial affairs trial occurred. Hammad continued to start for the football team during the semester, playing 13 games for the Baylor football team that fall.
- December 6, 2015 – Baylor finished the 2015 season winning 10 of 13 regular season games.
- December 29, 2015 – Baylor beat the North Carolina Tar Heels in the 2015 Russell Athletic Bowl game.
- February 2016 – A female Baylor student was sexually assaulted by another Baylor student.
- February 21, 2016 – Former president of Phi Delta Theta fraternity at Baylor allegedly forced himself on a woman outside of a fraternity party at a house near the Baylor campus.
- March 2, 2016 – Former president of Phi Delta Theta fraternity was arrested for the February 21, 2016 sexual assault.
- April 13, 2016 – Shawn Oakman was arrested by the Waco Police Department on sexual assault charges in connection with an April 3, 2016 allegation of sexual assault.
- May 2016 – Three current football players were named in rape allegations from Baylor female students to the Title IX Office and to Baylor campus police.
- May 11, 2016 – Former president of Phi Delta Theta fraternity was indicted on four counts of sexual assault in connection with an alleged incident that occurred at a fraternity party in February.
- May 13, 2016 – Baylor’s Board of Regents advised in a press release that they had received a “comprehensive briefing from Pepper Hamilton LLP.” However,

Baylor officials declined to publicly release the results of Pepper Hamilton's investigation.

- May 30, 2016 – Baylor Athletic Director, Ian McCaw, resigned.
- June 8, 2016 – Baylor announced that football players Jeremy Faulk and B.J. Autry left the football team. Autry voluntarily withdrew while Faulk was released. Baylor officials gave no reason as to why these individuals were no longer enrolled. According to reports, Faulk was questioned about an alleged sexual assault that may have occurred in April on the Baylor campus when he was on the football team.
- July 7, 2016 – Baylor football player Rami Hammad was questioned by Baylor campus police after a Baylor professor called 911 to report that Hammad had waited for his ex-girlfriend before the professor's class that day, then continued to attempt to contact her.
- July 20, 2016 – Shawn Oakman was indicted for second-degree felony assault in connection with allegations that he sexually assaulted a Baylor graduate student on April 3, 2016.
- August 1, 2016 – Baylor football player Rami Hammad was arrested by Baylor campus police on charges of felony stalking after his former girlfriend reported several instances in which he allegedly tracked her down, harassed her and twice physically assaulted her, including once at Baylor's athletic facilities on campus.
- October 4, 2016 – Patty Crawford resigned from Baylor University.
- October 5, 2016 – Baylor football player Rami Hammad was arrested on a criminal trespass charge on the Baylor campus.
- October 19, 2016 – The U.S. Department of Education's Office for Civil Rights confirmed that it had launched a Title IX investigation of Baylor University in response to a complaint from former Title IX Coordinator Patty Crawford.
- November 1, 2016 – Baylor publicly disclosed that since 2011, a total of 17 victims reported allegations of sexual assault or domestic violence by 19 football players. Four of these involved alleged gang rapes that were reported to have occurred in 2012.
- December 3, 2016 – Baylor finished the 2016 season winning 7 of 13 regular season games.

- December 11, 2016 – Baylor Board of Regents voted unanimously against another investigation into Baylor’s sexual assault scandal.
- December 12, 2016 – Baylor Board of Regents Reaffirms Full Confidence in Pepper Hamilton Investigation.
- December 22, 2016 – The Wall Street Journal reported that then-Baylor President Ken Starr granted a reprieve for Tevin Elliot in 2011 when the athlete was accused of academic misconduct.
- December 27, 2016 – Baylor beat the Boise State Broncos in the 2016 Motel 6 Cactus Bowl.
- January 19, 2017 – Former Baylor Title IX staffer Gabrielle Lyons told ESPN that she faced discrimination and intimidation while investigating sexual assault cases involving football players.
- January 27, 2017 – A Baylor graduate filed a Title IX lawsuit against the school, alleging a culture of sexual violence that included 52 rapes in four years. The woman said she was raped by former football players Tre’Von Armstead and Myke Chatman. The suit alleges coaching staff members, including Kendal Briles, encouraged a culture of sexual violence by arranging for women to have sex with recruits on official campus visits.

52. Suffice it to say, by the time Plaintiff was gang raped in February 11, 2012, the culture of sexual violence and the risk to female students was well known to Baylor.

53. Both prior to and after Plaintiff’s sexual assault, Baylor received countless reports of sexual assault and dating violence. Incredibly, Baylor reported to the Department of Education zero incidents of sexual assault from 2008-2011.

54. Baylor Title IX investigator, Gabrielle Lyons, who came to Baylor in 2015 around the time that several 2012-2013 gang rapes were being investigated, left several months later due to the amount of the violence. Ms. Lyons recently stated in the press, “[t]he violence is what took me back. I was just appalled at the level of violence taking place so rampantly at the institution.” Ms. Lyons stated that nearly a third of the cases in her office were from the football program, which made up less than one percent of Baylor’s enrollment. Ms. Lyons left Baylor after being

advised by the Baylor Police Department that she was not safe to do her job and would do well to look over her shoulder when walking to her car.

55. The Baylor Board of Regents has also acknowledged the culture of sexual violence. One member of the Baylor Board of Regents recently stated, “There was a cultural issue there that was putting winning football games above everything else, including our values.” “We did not have a caring community when it came to these women who reported that they were assaulted. And that is not OK.”

56. Similarly, another Baylor Regent recently stated, “Football’s a big, obviously, a big deal in Texas, it’s a big deal at Baylor. And we did have a lot of success. And Art, in one sense, had us where we’ve never been before. We were winning, and things were awesome. I think our main problem was: it’s hard to mess up awesome. Nobody wanted to mess it up.”

57. Michelle Davis, a former member of the Baylor Advisory Board on Sexual Assault, told ESPN in early 2016 that Baylor officials have known at least for a few years of a much larger problem with sexual assaults and athletes.

58. According to one Baylor regent, Pepper Hamilton’s investigation also showed that some players took part in a horrifying and painful string of sexual assaults over the course of several years.

59. The Baylor Findings also confirmed that a myriad of sexually hostile Baylor policies existed prior to the gang rape of Plaintiff. Specifically, the Baylor Findings looked at policies in place between 2012 and 2015.

XI.
THE CULTURE OF SEXUAL VIOLENCE
AT BAYLOR: THE BAYLOR POLICIES

60. **Policy of No or Little Discipline for Football Players.** The football program routinely and deliberately failed to discipline players implicated in reports of sexual assaults and dating violence. This policy was well documented in the Baylor Findings and was consistent with Plaintiff's own interactions with the football program. As the Baylor Findings state, "The choices made by football staff and athletics leadership, in some instances, posed a risk to campus safety and the integrity of the University."

61. **Policy of Interference with Female Students' Access to Help.** The Baylor Findings state, "In addition, some football coaches and staff took improper steps in response to disclosures of sexual assault or dating violence that precluded the University from fulfilling its legal obligations. Football staff conducted their own untrained internal inquiries, which improperly discredited complainants and denied them the right to a fair, impartial and informed investigation, interim measures or processes promised to them under University policy. In some cases, internal steps gave the illusion of responsiveness to complainants but failed to provide a meaningful institutional response under Title IX."

62. **Policy of Enacting a Separate System of Discipline for the Football Team.** The Baylor Findings conclude that the football program created a separate system of discipline which ignored football player misconduct and fueled the perception that the football players were untouchable:

"The football program also operates an internal system of discipline, separate from University processes, which is fundamentally inconsistent with the mindset required for effective Title IX implementation, and has resulted in a lack of parity vis-à-vis the broader student population. This informal system of discipline involves multiple coaches and administrators, relies heavily upon individual judgment in lieu of clear standards for discipline, and has resulted in conduct

being ignored or players being dismissed from the team based on an informal and subjective process. The ad hoc internal system of discipline lacks protocols for consistency with University policy and is wholly undocumented. The football program's separate system of internal discipline reinforces the perception that rules applicable to other students are not applicable to football players, improperly insulates football players from appropriate disciplinary consequences, and puts students, the program, and the institution at risk of future misconduct. It is also inconsistent with institutional reporting obligations."

63. **Policy of Not Reporting Allegations of Sexual Violence and Dating Violence.**

The Athletic Department also had a policy of not reporting instances of sexual and dating violence to anyone outside of athletics, when it should have reported to appropriate administrators outside of athletics. Again, this policy was documented in the Baylor Findings, which state the consequence of this policy as follows: "As a result, no action was taken to support complainants, fairly and impartially evaluate the conduct under Title IX, address identified cultural concerns within the football program, or protect campus safety once aware of a potential pattern of sexual violence by multiple football players." The Baylor Findings additionally state:

"Further, because reports were not shared outside of athletics, the University missed critical opportunities to impose appropriate disciplinary action that would have removed offenders from campus and possibly precluded future acts of sexual violence against Baylor students. In some instances, the football program dismissed players for unspecified team violations and assisted them in transferring to other schools. As a result, some football coaches and staff abdicated responsibilities under Title IX and Clery; to student welfare; to the health and safety of complainants; and to Baylor's institutional values."

64. **Policy of Diverting Cases Away from Student Conduct or Criminal**

Processes. The Baylor Findings state, "Football coaches and staff took affirmative steps to maintain internal control over discipline of players and to actively divert cases from the student conduct or criminal processes. In some cases, football coaches and staff had inappropriate involvement in disciplinary and criminal matters or engaged in improper conduct that reinforced

an overall perception that football was above the rules, and that there was no culture of accountability for misconduct.” This policy of diversion undermined discipline and added to the culture that football players could be sexually violent with impunity.

65. **Policy of Not Educating Staff/Students.** Baylor failed to train students and staff about Title IX. Women on campus had no idea what resources were available to them and were unaware of Title IX or how Baylor’s Title IX office could help. The Baylor Findings concluded:

“Baylor failed to provide training and education to students; failed to identify and train responsible employees under Title IX; failed to provide clear information about reporting options and resources on campus; failed to have a centralized process for ensuring that all reports reached the Title IX Coordinator.”

66. **Policy of Accepting Football Players with Histories of Violence Toward Women.** The Baylor Findings demonstrates that the football program had a policy of accepting high-risk transfers from other football programs without conducting due diligence:

“Baylor did not consistently conduct due diligence with respect to potential transfers. In at least one identified instance, the process reflected a failure to conduct appropriate due diligence and assessment of risk regarding past criminal or student conduct and an affirmative decision not to seek additional information about an athlete’s prior criminal or student conduct records. Baylor did not adhere to a consistent protocol regarding transfers and importantly, Baylor did not consistently follow previously implemented processes regarding criminal background checks, request for records of any prior college disciplinary actions, and character reference screening forms.”

67. **Policy of “Show ‘em a good time” in Recruiting.** In addition to the aforementioned policies which are supported in the Baylor Findings, Baylor also had a “show ‘em a good time” recruiting policy, which included making Baylor Bruins available for sex with recruits, taking recruits to strip clubs, recruiting based on implied promises of sex with Baylor women who “love football players,” and using alcohol and drugs in the recruiting process.

68. With knowledge and notice of the inordinate number of assaults, Baylor deliberately failed to address the risk, as found by the Baylor Findings, which explain, “Once

aware of a potential pattern of sexual violence, the University failed to take prompt and effective action to protect campus safety and protect future victims from harm. Further, Baylor failed to consider patterns, trends or climate-related concerns that would enable the University to take prompt and responsive action to individual and community concerns. Baylor failed to identify, eliminate, prevent or address a potential hostile environment in individual cases, and took insufficient steps with respect to both individual complainants and broader community remedies.”

69. As Baylor continued to fail to address acts of sexual violence, the football players became increasingly emboldened, knowing that they could break the law, code of conduct, and general standards of human decency with no repercussions. This attitude, in turn, fueled the widespread violence within the program and spurred on the football players to gang rape Plaintiff and others.

70. The Baylor Findings concluded that “Baylor failed to maintain effective oversight and supervision of the Athletics Department as it related to the effective implementation of Title IX. Leadership challenges and communications issues hindered enforcement of rules and policies, and created a cultural perception that football was above the rules.”

71. The Baylor Findings demonstrated (a) that the Baylor Athletic Department and football program had policies that led to the sexual assaults of Plaintiff, and (b) that Baylor was deliberately indifferent to a known and substantial risk of sexual harassment and assault within the football program.

72. On the date of Plaintiff’s rape, Baylor was well aware of the risk its recruiting practices and football culture posed to its female students.

73. In at least five instances over the same time period of 2011-2014, the rape or physical abuse of female students by the football team was reported directly to football coaches and athletic department personnel who took no action.

XII.
PLAINTIFF IS VIOLENTLY GANG RAPED
BY AS MANY AS EIGHT BAYLOR FOOTBALL PLAYERS

74. On the night of February 11, 2012, Plaintiff along with several of her friends went to a house party at the Outpost Apartment Complex, an off-campus apartment complex located near the Baylor campus. On information and belief, the Outpost is a common residence for Baylor football players.

75. Baylor football players lived in the apartment and hosted the party that night. Several other Baylor football players also attended the party.

76. Plaintiff consumed a few drinks over the course of the night. At one point, Plaintiff became very intoxicated and was unable to remember certain parts of the night. Upon information and belief, Plaintiff had been drugged by football players. This is consistent with allegations made by other victims and witnesses.

77. During the party, Plaintiff's friend saw one football player trying to pull Plaintiff into a bathroom several times. Plaintiff recalls that another Baylor football player kept grabbing at her throughout the night, and that she repeatedly told him "no." The day before, Plaintiff had repeatedly declined the football player's requests to "hook up" with him.

78. At some point after Plaintiff's friends left the party, Plaintiff remembers one football player picking her up, putting her in his vehicle, and taking her somewhere. It was there that at least four Baylor football players brutally gang raped Plaintiff.⁴ Plaintiff remembers lying

⁴ On at least two occasions following the sexual assault, Plaintiff was informed that as many as eight Baylor football players gang raped Plaintiff.

on her back, unable to move and staring at glow-in-the-dark stars on the ceiling as the football players took turns raping her. Following the gang rape, Plaintiff remembers hearing the players yell “Grab her phone! Delete my numbers and texts!”

79. The following morning, Plaintiff woke up at her friend’s apartment. Plaintiff felt confused, hurt and embarrassed and broke down in tears after realizing that she had been brutally raped. Plaintiff checked her cell phone and noticed that she had numerous missed calls and text messages from one of her friends who lived in the Outpost Apartment complex. The friend told Plaintiff that he had seen Baylor football players carry a girl into one of the player’s apartments in the Outpost Apartment complex. The friend believed that this girl was Plaintiff. Plaintiff also noticed that phone numbers belonging to two of the football players involved in the gang rape had been deleted from her phone.

80. Following the sexual assault, Plaintiff was repeatedly subjected to verbal abuse and public humiliation by Baylor football players. Baylor football players sent several text messages to Plaintiff in which they attempted to paint a completely different picture of what had happened that night. One football player told Plaintiff that it was consensual and that she “wanted it.” That same football player also taunted Plaintiff with claims that a Baylor football player had taken nude photographs of Plaintiff and other Baylor football players during the gang rape.

81. The football players also perpetuated rumors about Plaintiff throughout the Baylor campus about “riding train” on Plaintiff, a reference to the night they took turns raping her as she laid there barely conscious.

XIII.

BAYLOR SUBJECTS PLAINTIFF TO A CONTINUING HOSTILE ENVIRONMENT

82. Following the February 2012 sexual assault, Plaintiff continued to feel the sexually hostile effects of Baylor's policies for the remainder of her time at Baylor, which ended in May 2013.

83. At the end of the spring 2012 semester, Plaintiff told her mother about the sexual assault. In July 2012, Plaintiff's mother called an assistant football coach. The assistant football coach returned Plaintiff's mother's phone call and agreed to meet her at McAlister's Deli in Waco. During the meeting, Plaintiff's mother told the assistant football coach that her daughter had been raped by several Baylor football players. Although Plaintiff's mother did not reveal her daughter's name, she did provide the assistant football coach with a list of the players who were involved in Plaintiff's sexual assault. Plaintiff's mother asked the assistant football coach what, if anything, Baylor could do about the assault. Not surprisingly, Plaintiff's mother never heard from the assistant football coach again.

84. Recently, several Baylor Board of Regents' members have acknowledged that Plaintiff's mother met with the assistant football coach and informed him of the sexual assault.⁵

The Regents' members also acknowledged that the assistant football coach spoke to two of the football players involved in the gang rape.⁶ The football players reportedly admitted to "fooling around" with Plaintiff, likening the atrocious gang rape to "a little bit of playtime."⁷ The assistant football coach reportedly spoke to other Baylor football coaches who engaged in victim-blaming.⁸ Despite taking no further action to determine the veracity of the gang rape

⁵ See Cause No. DC-17-01225; *Colin Shillinglaw vs. Baylor University, et al.*; In the 116th Judicial District Court of Dallas County, Texas, Defendants Cary Gray, Ron Murff, and David Harper's Original Answer (hereinafter, "Shillinglaw Answer") at pp. 21-22.

⁶ See *id.*

⁷ See *id.*

⁸ See *id.*

allegations, the assistant football coach concluded that the accusations were in a “gray area” and there was no definitive evidence of sexual assault.⁹

85. After the assistant football coach spoke to two of the players involved in the gang rape, Baylor football players retaliated against Plaintiff. Specifically, the football players created numerous fake telephone numbers and harassed both Plaintiff and her family members via text message. The football players also harassed Plaintiff verbally when they saw her both on and off campus. This harassment continued until Plaintiff withdrew from Baylor following the spring 2013 semester.

86. Additionally, Plaintiff was forced to face her assailants around campus, in the classroom and even during volleyball practice and training sessions, as the Baylor football team and women’s volleyball team shared training facilities.

87. The result of Baylor’s continued sexually hostile and discriminatory policies combined with Plaintiff being required to attend classes with two of her rapists, created a highly hostile educational environment for Plaintiff on a daily basis.

88. During the spring of 2013, Plaintiff had a class with two of the Baylor football players involved in the gang rape. The emotional distress that Plaintiff was forced to endure as a result of attending class with two of the assailants was excruciating to say the least. Plaintiff had to put her earphones in and listen to music just to make it through the class each week.

89. In late February 2013, a Baylor football player, who would later burglarize Plaintiff’s apartment, also began harassing Plaintiff via text message. The football player told Plaintiff that he never came on to her because she was “easy” and “like coach said we [Baylor football players] don’t want easy.”

⁹ See *id.*

90. During the early part of spring 2013, Plaintiff attended a few counseling sessions at the Baylor University Counseling Center. Plaintiff informed her counselor of the sexual assault, including the names of the players who assaulted her. In an apparent effort to dissuade plaintiff from reporting the assault, the counselor cited statistics about the number of women who decide not to report sexual assaults. The counselor did not mention Title IX, Plaintiff's rights or options for reporting the sexual assault, or any accommodations, whether academic or otherwise, which could be made for Plaintiff.

91. In April 2013, Plaintiff's apartment was burglarized by Baylor football players. The football players stole money and a necklace, and threw Plaintiff's clothing and belongings all over her room. Plaintiff reported the burglary to the Waco Police Department, but no charges were pressed on the pretext that the Waco Police Department made the players return Plaintiff's belongings.

92. Following the burglary, Plaintiff was terrified of what the football players would do next, citing concerns that the players were carrying guns at the time of the break-in.

93. In fact, it would not be the first time a Baylor football player had brandished a gun at a female student-athlete. Earlier that semester, in February 2013, an assistant coach notified Briles that a football player had brandished a gun at a female student-athlete. Pepper Hamilton reportedly uncovered the following text messages between the assistant coach and Briles:

- Briles: "what a fool – she reporting to authorities."
- Assistant coach: "She's acting traumatized...Trying to talk her clam now...Doesn't seem to want to report though."
- Briles: "U gonna talk to [the player]."
- Assistant coach: "Yes sir, just did. Caught him on the way to class...Squeezed him pretty good."

This incident, like countless others involving Baylor football players, was handled internally within the Baylor football program, and never reported to Judicial Affairs.

94. After reporting the burglary to the Waco Police Department, Plaintiff received threatening and harassing text messages from several Baylor football players, including one of the players who burglarized her apartment. The football players later tried to justify the burglary by spreading false rumors that Plaintiff had stolen their dog. Earlier that year, Plaintiff had taken the player's dog to the vet and paid for urgent medical treatment after the dog was injured in a dog fight orchestrated by Baylor football players.

95. Approximately one week after the burglary, Plaintiff met with Briles. During the meeting, Plaintiff told Briles that two of his football players had burglarized her apartment and provided him with their names. Briles was short with Plaintiff and hurried the meeting along. Upon information and belief, the football players were never disciplined for their burglarizing Plaintiff's apartment.

96. Following the burglary, Plaintiff continued to be threatened and harassed by Baylor football players.

97. In late April 2013, Plaintiff and her parents met with her head coach and another member of the volleyball coaching staff. During the meeting, Plaintiff recounted in painstaking detail the night she was gang raped by Baylor football players and even provided the names of the players who were involved.

98. Following the meeting with Plaintiff and her parents, Plaintiff's head coach spoke to Briles and informed him of the sexual assault. Plaintiff's head coach also gave Briles a list of the players who were involved. Briles reportedly looked at the list of players' names and said, "those are some bad dudes...why was she around those guys?"¹⁰

¹⁰ See Shillinglaw Answer at p. 21.

99. Plaintiff's head coach claims that he also spoke to McCaw, Baylor's Athletic Director at the time, and informed him of the sexual assault (a fact that McCaw later admitted, despite initially denying that he had prior knowledge of Plaintiff's sexual assault). McCaw reportedly told Plaintiff's head coach that it was up to Plaintiff to take action and that if she failed to press charges, there was nothing else Baylor could do. That information was not provided to Plaintiff or her parents.

100. Contrary to statements made by those with knowledge of Plaintiff's sexual assault, neither Plaintiff nor her parents ever indicated that they did not want to report the assault to Judicial Affairs or the police. Instead, Plaintiff and her parents were told that it was too late for criminal charges and they begged Plaintiff's head coach and the assistant volleyball coach to tell them what, if anything, Baylor could do about the sexual assault.

101. In May 2013, Plaintiff went on a mission trip to Africa led by Baylor's Football Chaplain. Two football players, including one of the football players who sexually assaulted Plaintiff, also went on the mission trip. During the trip, one football player told Plaintiff that he had heard that up to eight football players had gang raped Plaintiff. After this revelation, Plaintiff, who was already emotionally shattered, finally reached her breaking point.

102. Following the mission trip in Africa, Plaintiff ultimately decided that she had no choice but to withdraw from Baylor.

103. In the fall of 2013, Plaintiff returned to Waco to visit a friend. During her visit, she confided in Baylor's Football Chaplain. She told the Football Chaplain about the sexual assault and provided him with the names of the players involved. Plaintiff would later learn that the Football Chaplain, like many others before him, failed to report the sexual assault to anyone outside of the Baylor football program.

104. Subsequently, on February 4, 2015, Patty Crawford (“Crawford”), Baylor’s first-ever Title IX coordinator, informed certain Baylor officials, including McCaw and Baylor’s then-Associate General Counsel/current General Counsel, Chris Holmes, of three incidents where female Baylor students were gang raped by football players.

105. McCaw denied having prior knowledge of Plaintiff’s sexual assault, despite having been informed him of the assault in April 2013. McCaw then inquired if a football player who had information about the gang rapes could receive immunity under Title IX—to which Crawford responded “no.”

106. Subsequently, in August 2015, McCaw admitted that he had in fact known about Plaintiff’s sexual assault in 2013, but that he did not report it to Judicial Affairs, citing a lack of Title IX training as an excuse.

107. At the same time, Baylor officials enlisted current and former members of the Baylor athletic department to contact Plaintiff in an attempt to prevent her from speaking to reporters about her case and clear Baylor officials of any wrongdoing in connection with Plaintiff’s sexual assault.

108. After the coaches spoke to Plaintiff, Baylor officials were relieved that Plaintiff would not talk to the media about her sexual assault.

109. On November 11, 2016, Baylor independently confirmed, for the first time, that no one, including McCaw, Briles, Plaintiff’s head coach or the other member of the volleyball coaching staff present during the April 2013 meeting with Plaintiff and her parents, reported the sexual assault to Judicial Affairs or anyone outside of the Athletics Department:

Statement to Dallas Morning News regarding sexual assault not reported to Judicial Affairs

Tweet

NOVEMBER 10, 2016

In response to multiple questions about a former Baylor coach who claims to have talked to Judicial Affairs in 2013 about an allegation that one of his student-athletes had been sexually assaulted at a party by several football players, Baylor responded as follows:

To place the news accounts in context, here are the facts about the underlying report of sexual assault: In April 2013, a female student-athlete reported to her head coach that she had been sexually assaulted by two Baylor football players approximately one year earlier. The student-athlete provided her head coach with the names of the involved football players. The head coach immediately reported the assault, including the names of the reported players, to the then Athletic Director, to the head football coach, and to the sports administrator for the female student-athlete's team. According to Baylor's investigation, neither the head coach, the Athletic Director, the sports administrator or the football coach disclosed the reported sexual assault to Baylor's Judicial Affairs or to anyone else outside of the Athletics Department.

Under Title IX and Clery, a University must have campus policies and procedures for the reporting and investigation of reported sexual assaults. This is in addition to any criminal law enforcement action a victim may seek. Many university employees have reporting responsibilities and if they learn of a reported sexual assault, they must share the report with the designated official on campus. In 2013, Athletic Department coaches and staff should have reported the incident to one of three places: the University's Title IX Coordinator (then the VP of Human Resources), Judicial Affairs, or the Baylor University Police Department, all of whom would have been in a position to assist the victim and take responsive action. While a victim may choose where or how to report a sexual assault, once informed of the report, athletics personnel may not exercise discretion to not report.

In this case, the University can find no information that would support a conclusion that the student-athlete's head coach - or any other Athletics Department personnel -

reported the incident to Judicial Affairs in 2013 or at any time since. Baylor University reviewed all of the evidence and found:

- Over the course of the past year, the student-athlete's head coach, his sports administrator, the head football coach, and the Athletic Director have each independently confirmed to the University - in some instances, on multiple occasions - that they did not report this sexual assault allegation to Judicial Affairs in 2013.
- An independent review of Judicial Affairs records and interviews with employees confirm that the alleged sexual assault was not reported to Judicial Affairs in 2013 by any member of the Athletics Department or any other individual.
- In early 2015, Baylor's Title IX Office first learned of the sexual assault allegation in connection with three other reports of sexual assault involving multiple football players. At the time, the Athletic Director was asked if he had any prior knowledge of an alleged gang rape within the football program. He denied having any knowledge of the alleged incident. Later in 2015, for the first time, the Athletic Director acknowledged that the student-athlete's head coach told him about this report in 2013. The Athletic Director explained that he did not take any action, including reporting the alleged sexual assault to Judicial Affairs, because he thought the victim did not want to report the incident.
- In a voluntary statement on June 2, 2016 and a sworn affidavit on June 24, 2016, the victim's head coach again detailed his actions after learning of the gang rape allegation. His account was consistent with the account he provided to Baylor in the spring of 2016. In neither of the statements, nor in his interview, did the head coach state that he reported the alleged assault to Judicial Affairs. To the contrary, he expressed his great disappointment and frustration that he could not do more to help the student-athlete despite bringing the report to the attention of his sports administrator, the head football coach, and the Athletic Director.

110. This was the first time that Plaintiff became aware that no one had reported her sexual assault to Judicial Affairs.

111. Prior to this time, Baylor officials misinformed Plaintiff and actively concealed from Plaintiff her options to further report the sexual assault, accommodations she was entitled to under Title IX, and further investigatory actions that could be taken by Baylor. Plaintiff was manipulated into not pursuing her rights.

112. Throughout this entire period of time, Baylor was clearly on notice of the report that one of their female students, Plaintiff, was raped by Baylor football players.

113. As a result, Baylor had control over both the offenders as well as the context of the ongoing harassment and had the ability to address its effects and prevent its recurrence. Yet, Baylor did nothing.

XIV.
CAUSES OF ACTION

A. GENDER DISCRIMINATION UNDER TITLE IX: DELIBERATE INDIFFERENCE TO PLAINTIFF'S GANG RAPE (Violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a))

114. Plaintiff incorporates by reference all preceding facts and allegations set forth above in Paragraphs 1 through 113.

115. The sex-based harassment articulated in this complaint was so severe, pervasive and objectively offensive that it deprived Plaintiff of access to educational opportunities or benefits provided by the school.

116. Baylor created and/or subjected Plaintiff to a hostile educational environment in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a) (Title IX) because:

- a) Plaintiff was a member of a protected class;
- b) Plaintiff was subjected to sexual harassment in the form of sexual assault by other student-athletes;
- c) Plaintiff was subjected to harassment based on her sex; and
- d) Plaintiff was subjected to a hostile educational environment created by the Defendant's lack of policies and procedures and failure to properly investigate and/or address the sexual assault and subsequent harassment.

117. Defendant and its officials had actual knowledge of Plaintiff's sexual assault, Plaintiff's assailants, and the resulting harassment of Plaintiff created by its failure to investigate and discipline Plaintiff's assailants in a timely manner and consistent with federal and state law.

118. Defendant deliberately chose not to investigate Plaintiff's sexual assault after learning of the assault and the identities of the football players involved.

119. Defendant's failure to investigate the assault, conduct disciplinary hearings, or contact Plaintiff and offer any assistance or resources was clearly unreasonable.

120. Defendant's deliberate indifference to Plaintiff's rape exposed her to continued sexual harassment which was so severe, pervasive, and objectively offensive that it effectively barred her access to meaningful educational opportunities and benefits including academics, athletic programs, and on-campus events and activities.

121. Defendant's failure to promptly and appropriately respond to the alleged sexual harassment resulted in Plaintiff, on the basis of her sex, being excluded from participation in, being denied the benefits of, and being subjected to discrimination in the Defendant's education program in violation of Title IX.

122. Defendant failed to take immediate, effective remedial steps to resolve the complaints of sexual harassment, and instead acted with deliberate indifference towards Plaintiff.

123. Defendant persisted in its actions and inaction even after it had actual knowledge of the harm suffered by Plaintiff.

124. Defendant engaged in a pattern and practice of behavior designed to discourage and dissuade students and guest students who had been sexually assaulted from seeking prosecution and protection and from seeking to have sexual assaults from being fully investigated.

125. This policy and/or practice constituted disparate treatment of females and had a disparate impact on female students.

126. Plaintiff has suffered emotional distress and psychological damage, and her character and standing in the community has suffered from the harassment fostered as a direct and proximate result of Defendant's deliberate indifference to their rights under Title IX.

B. DISCRIMINATION UNDER TITLE IX: SEXUALLY HOSTILE CULTURE (Violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681(a))

127. Plaintiff incorporates by reference all preceding facts and allegations set forth above in Paragraphs 1 through 113.

128. Baylor actively created and was deliberately indifferent to a culture of sexual hostility and violence within its football program by instituting several policies and permitting practices that included, but are not limited to:

- Policy of no or little discipline for football players;
- Policy of interference with female students' access to help;
- Policy of enacting a separate system of discipline for the football team;
- Policy of not reporting allegations of sexual violence and dating violence;
- Policy of diverting cases away from student conduct or criminal processes;
- Policy of not education staff/students;
- Policy of accepting football players with histories of violence toward women;
- Policy of "Show 'em a good time" in recruiting; and
- The use of a sexually hostile football hostess program.

129. Baylor's sexually hostile policies and practices were a proximate cause of Plaintiff being subjected to four semesters of sexual harassment in the form of (1) gang rape by football players, (2) a hostile educational environment, and (3) ongoing harassment by forcing her to interact and attend classes with her assailants, and share athletic training facilities with her assailants. Baylor's sexually hostile policies and practices were also a proximate cause of Plaintiff's apartment being burglarized by Baylor football players and Plaintiff's personal safety being threatened by Baylor football players.

130. The sexual harassment that Plaintiff suffered was so severe, pervasive and objectively offensive that it effectively barred her access to educational opportunities and benefits.

131. As a direct and proximate result of Baylor's creation of and deliberate indifference to its sexually hostile educational environment, Plaintiff suffered damages and injuries for which Baylor is liable.

C. ACCRUAL OF PLAINTIFF'S PRE-ASSAULT "HEIGHTENED RISK" CLAIMS

132. Plaintiff incorporates by reference all preceding facts and allegations set forth above in Paragraphs 1 through 113.

133. Under federal law, a claim accrues and the limitations period begins to run the moment the plaintiff becomes aware that he has suffered an injury or has sufficient information to know that he has been injured." *King-White*, 803 F.3d at 762. "A plaintiff's awareness encompasses two elements: (1) [t]he existence of the injury; and (2) causation, that is, the connection between the injury and the defendant's actions." *King-White*, 803 F.3d at 762 (*quoting Piotrowski v. City of Houston*, 51 F.3d 512, 576 (5th Cir. 1995)).

134. With respect to Plaintiff's heightened risk claims, Plaintiff had no reason to know of Baylor's alleged causal connection to her sexual assault until the spring of 2016, when media reports regarding the rampant nature of sexual assault on Baylor's campus first came to light. The earliest date on which Plaintiff knew or had reason to know of Baylor's misconduct was May 26, 2016, the date on which Baylor released its Findings of Fact and Pepper Hamilton's recommendations. Prior to that time, Plaintiff did not know or have reason to further investigate those claims.

135. Therefore, Plaintiff's claims for heightened-risk liability did not accrue until May 26, 2016. Accordingly, Plaintiff's heightened-risk claims are timely.

D. FRAUDULENT CONCEALMENT AND EQUITABLE TOLLING: PLAINTIFF'S POST-REPORTING CLAIMS

136. Plaintiff incorporates by reference all preceding facts and allegations set forth above in Paragraphs 1 through 113.

137. Plaintiff's post-reporting Title IX claim is based on Baylor's affirmative involvement in manipulating and misinforming Plaintiff of her rights or lack thereof, discouraging Plaintiff from taking further action with respect to the sexual assault, and concealing Baylor football players' and school officials' misconduct with respect to Plaintiff's sexual assault.

138. Here, there is no evidence that Plaintiff knew or had reason to know of Baylor's affirmative misconduct until May 26, 2016, when Baylor released its Findings of Fact and Pepper Hamilton's recommendations.

139. Plaintiff neither knew nor had reason to know that Baylor officials were engaging in affirmative conduct whereby they manipulated and misinformed sexual assault victims, including Plaintiff, discouraged victims from taking further action with respect to sexual assaults, and concealed Baylor football players' and school officials' misconduct with respect to the reporting and handling of sexual assault cases.

140. In fact, several Baylor Board of Regents members have conceded that even the Board of Regents was "largely unaware of the extent of the football program's shortcomings in responding to Title IX and sexual assault complaints until an August 2015 Texas Monthly article made alarming allegations." In May of 2016, the Board of Regents members were "horrified and stunned" when Pepper Hamilton's investigation "uncovered evidence that Briles, Shillinglaw,

and others in the football program had developed, enabled, and encouraged a culture within the football program that deliberately insulated players from the normal University disciplinary process.”

141. Board of Regents members have likened the Baylor football program to a “disciplinary black hole.” If the Board of Regents neither knew nor had reason to know of Baylor officials’ affirmative misconduct in handling sexual assault claims involving football players, it goes without saying that Plaintiff herself would not know or have reason to know of this information prior to May of 2016.

142. Short of someone coming forward and admitting that Baylor officials covered up information regarding Plaintiff’s sexual assault and failed to report it to Judicial Affairs, Plaintiff had no way of knowing about Baylor’s affirmative misconduct until May of 2016. Notably, the Fifth Circuit recognized that under certain facts, equitable tolling principles such as fraudulent concealment may prevent the expiration of the limitations period in Title IX cases. *King-White*, 803 F.3d at 763-64.

143. At no point in time prior to May of 2016 did Plaintiff understand that Baylor’s deliberate indifference to her reports was the cause of Plaintiff’s post-reporting injuries nor could Plaintiff reasonably have been expected to “inquire further.”

144. Therefore, the statute of limitations on Plaintiff’s post-reporting claims is tolled by fraudulent concealment and equitable estoppel. According, Plaintiff’s post-reporting claims are timely.

XV. **REQUEST FOR PERMANENT INJUNCTION**

145. Plaintiff seeks a mandatory injunction ordering the Defendant to refrain from unlawful discrimination and/or retaliation, ordering Defendant to undertake and rectify any and

all Title IX violations and/or inequities, ordering Defendant and its athletic department to refrain from creating and condoning a hostile sexual harassment and/or discrimination environment against individuals on the basis of sex by immediately ceasing deliberate indifference to sexual assaults; and cease interference with the disciplinary process in favor of students who were charged with sexual assault.

XVI.
ATTORNEYS FEES

146. As a result of this action, Plaintiff has retained the law firm of Abraham, Watkins, Nichols, Sorrels, Agosto & Aziz to represent her in her claims against Baylor. Accordingly, Plaintiff seeks attorneys' fees incurred pursuant to Title IX.

XVII.
JURY DEMAND

147. Plaintiff respectfully demands a jury trial.

XVIII.
RELIEF REQUESTED

148. For the foregoing reasons, Plaintiff respectfully requests that the Court enter judgment against Defendant consistent with the relief requested herein, and for any and all other relief to which Plaintiff may be justly entitled including actual damages, compensatory damages, court costs, attorneys' fees, and pre- and post-judgment interest.

DATED: May 16, 2017

[signature to follow on next page]

Respectfully submitted,

**ABRAHAM, WATKINS, NICHOLS,
SORRELS, AGOSTO & AZIZ**

/s/Muhammad S. Aziz

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