

Paul A. Matiasic, SBN 226448
Vaheh Manoukian, SBN 333026
THE MATIASIC FIRM, P.C.
4 Embarcadero Center, Suite 1400
San Francisco, CA 94111
Phone: 415.675.1089
Facsimile: 415.675.1103

Attorneys for Plaintiff
[REDACTED]

Superior Court of California
County of Butte
1/17/2023
Shant Elmallah, Clerk
By [Signature] Deputy
Electronically FILED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF BUTTE

No. 22CV02312

FIRST AMENDED COMPLAINT

Plaintiff,

v.

BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY;
CHRISTOPHER MARKS; and DOES 1
THROUGH 50, INCLUSIVE,

Defendants.

- (1) Negligence
- (2) Negligent Hiring/Retention
- (3) Negligent Supervision/Failure to Warn
- (4) Battery
- (5) Sexual Battery
- (6) False Imprisonment
- (7) Intentional Infliction of Emotional Distress
- (8) Violations of Title IX (20 U.S.C. § 1681 *et seq.*)

*Assigned for all purposes to
Hon. Tamara L. Mosbarger*

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff [REDACTED] by and through her undersigned attorneys, for causes of action against Defendants, and each of them, hereby alleges as follows:

1. All acts, occurrences and transactions hereafter mentioned occurred in the City of Chico, County of Butte, State of California.

2. At all relevant times herein, Plaintiff [REDACTED] (hereinafter "Plaintiff") was, and is currently, an adult residing in the State of California, and was a student at California State University, Chico.

1 3. Plaintiff is informed and believes, and upon such information alleges, that Defendant
2 BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY at all relevant times herein
3 was, and is now, a governmental organization organized and existing under the laws of the State of
4 California, with its principal place of business located at 401 Golden Shore, City of Long Beach,
5 County of Los Angeles, State of California. Defendant BOARD OF TRUSTEES OF THE
6 CALIFORNIA STATE UNIVERSITY (hereinafter “CSU”) at all relevant times herein did, and does
7 currently, govern, own, operate and control California State University, Chico (hereinafter “CSU
8 Chico”) located at 400 West First Street, City of Chico, County of Butte, State of California. At all
9 relevant times herein, CSU stood in special relationship with its students, including Plaintiff.
10

11 4. At all relevant times herein, Defendant CHRISTOPHER MARKS (hereinafter
12 “MARKS”) was, and is believed to be currently, an individual residing within the County of Butte.
13 At all relevant times herein, MARKS was an employee of CSU and a mathematics professor at CSU
14 Chico. At all relevant times herein, MARKS taught a mathematics course in which Plaintiff was
15 enrolled. As such, MARKS stood in special relationship to Plaintiff, his student at CSU Chico.
16

17 5. Plaintiff is unaware of the true names and capacities of Defendants sued in this
18 Complaint for Damages as DOES 1 through 50, inclusive, and therefore sues these Defendants by
19 such fictitious names. Plaintiff will amend this Complaint for Damages to allege their true names and
20 capacities when ascertained. Plaintiff is informed and believes, and upon such information alleges,
21 that each of the fictitiously named Defendants is responsible in some manner, or ratified and
22 condoned the behavior and acts of each other Defendant, for the occurrences herein alleged and that
23 Plaintiff’s injuries and damages herein were proximately caused by that conduct.
24

25 6. Plaintiff is informed and believes, and upon such information alleges, that at all
26 relevant times herein, each and every Defendant herein was the agent, ostensible agent, servant,
27 partner, joint venturer, licensee, and employee of each of the other Defendants, and each was at all
28 times acting within the course, scope, purpose, and authority of such agency, ostensible agency,

1 service, partnership, joint venture, license, and employment with the full knowledge, permission, and
2 consent of each of their Co-Defendants who ratified and condoned each other's conduct as alleged
3 herein.

4 7. Plaintiff alleges that at all times mentioned herein, Defendants CSU and DOES 1
5 through 10, and each of them, were in possession of, owned, operated, managed, supervised,
6 monitored, maintained, and controlled certain school premises, known as CSU Chico, located at 400
7 West First Street, City of Chico, County of Butte, State of California, whereon Defendants carried on
8 the business of operating a public university. Defendants CSU, MARKS, and DOES 1 through 20,
9 inclusive, and each of them, actively and expressly held CSU Chico out as a safe and nurturing
10 environment in which students, including 22-year-old Plaintiff, would receive a safe and high-quality
11 education.
12

13 8. Prior to February 2020, 48-year-old Defendant MARKS engaged in conduct that
14 would have provided notice to a reasonably prudent person of his propensity to engage in
15 inappropriate assaultive conduct, including sexual contact with students and the solicitation of and
16 engagement in sexual conduct in exchange for favorable academic treatment. His superiors and
17 coworkers at CSU Chico, employees of CSU, knew or reasonably should have known, that his
18 behavior was abnormal, troubling, and suggestive of a proclivity to have inappropriate sexual contact
19 with students.
20

21 9. Prior to February 2020, Defendants CSU and DOES 1 through 10, and each of them,
22 had advance knowledge of MARKS'S unfitness and nonetheless employed him with a conscious
23 disregard of the rights and safety of others, including Plaintiff, and further authorized, condoned, and
24 ratified his sexually abusive behavior. This advance knowledge of MARKS'S unfitness and decision
25 to nonetheless continue to employ him in conscious disregard of the rights and safety of others,
26 including Plaintiff, and the authorization, condoning, and ratification of MARKS'S conduct was
27
28

undertaken by Defendant CSU on multiple levels, including by officers, managers, and managing agents.

10. Prior to February 2020, MARKS engaged in prohibited sexual conduct with several other undergraduate students at CSU Chico. This included soliciting and engaging in sexual conduct with students in exchange for providing them with favorable academic treatment. Other employees of CSU Chico were aware of these relationships and failed to report MARKS'S conduct or to warn others of MARKS'S propensity to engage in prohibited student-professor relationships.

11. Between approximately February and April 2020, while MARKS was Plaintiff's mathematics professor of record and exercised significant control and academic authority over Plaintiff, MARKS engaged in a sexual relationship with Plaintiff. This conduct was prohibited by the policies of CSU.

12. On or about March 18, 2020, MARKS used his position of authority at the university to engage in unlawful sexual assault and battery of Plaintiff, among other tortious conduct, resulting in injuries and damages at Plaintiff's residence in Chico, California. MARKS'S sexual abuse of Plaintiff included, but is not limited to: anally penetrating Plaintiff; vaginally penetrating Plaintiff; and rubbing his genitalia on Plaintiff.

13. Between approximately February and April 2020, including after the March 18, 2020 assault, MARKS used his position of authority at the university to offer favorable academic treatment in exchange for Plaintiff performing sexual acts and favors. On one occasion, on April 16, 2020, MARKS sent text messages to Plaintiff suggesting that she perform oral sex on MARKS to ensure that she passed his class that semester.

14. On September 18, 2020, Plaintiff filed a formal government tort claim with CSU. CSU did not respond within the time set forth by statute, and as such, the claim was rejected by operation of law.

JURISDICTION AND VENUE

(Negligence – Against Defendants CSU and DOES 1 through 10)

16. Plaintiff hereby re-alleges and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 15 of this Complaint as though fully set forth herein.

17. Defendants CSU and DOES 1 through 10, and each of them, had a duty to protect Plaintiff as an individual and student at CSU Chico. Moreover, Defendants, by virtue of the fact that Plaintiff was a student at the university, stood in a special relationship to Plaintiff, and as such, had a duty to protect her. These duties to Plaintiff included preventing MARKS from interacting with and working with students at CSU Chico, given his propensity to engage in inappropriate sexual contact with them, and providing Plaintiff and others with information regarding the fact that MARKS, a university professor, would have access to her as a student in his mathematics class in the spring of 2020.

18. Defendants CSU and DOES 1 through 10, and each of them, knew or should have known of MARKS'S propensity to engage in inappropriate sexual contact with students at CSU Chico and/or that he was an unfit agent. It was reasonably foreseeable that if Defendants breached their duty of care owed to individuals at CSU Chico, including but not limited to Plaintiff, these individuals would be vulnerable to coercive, predatory, and assaultive conduct and sexual battery by MARKS.

19. Defendants CSU and DOES 1 through 10, and each of them, breached their duty of care owed to Plaintiff by: failing to adequately hire, supervise, retain, and control MARKS, whom they permitted to have access to Plaintiff and other individuals at CSU Chico; failing to adequately and competently investigate MARKS given that he had engaged in past sexual relationships with

1 students, of which other professors and managing agents at CSU were aware; failing to warn of
2 MARKS'S assaultive, dangerous, and sexually exploitative propensities after Defendants knew or had
3 reason to know that MARKS had engaged in inappropriate sexual and physical contact with students
4 prior to February 2020; and creating a toxic environment and atmosphere whereby MARKS'S
5 abusive and assaultive conduct was ratified, condoned, and authorized, thereby enabling Plaintiff to
6 be coerced, sexually assaulted, and sexually battered by MARKS.
7

8 20. As a results of Defendants' breach of their duty of care owed to Plaintiff, Plaintiff was
9 subjected to MARKS'S abusive treatment between approximately February and April 2020, including
10 an incident of sexual assault and battery on or around March 18, 2020, wherein MARKS engaged in
11 sexual abuse of Plaintiff that included, but is not limited to: anally penetrating Plaintiff; vaginally
12 penetrating Plaintiff; and rubbing his genitalia on Plaintiff. Moreover, between approximately
13 February and April 2020, including after the March 18, 2020 assault, MARKS used his position of
14 authority at the university to offer favorable academic treatment in exchange for Plaintiff performing
15 sexual acts and favors. On one occasion, on April 16, 2020, MARKS sent text messages to Plaintiff
16 suggesting that she perform oral sex on MARKS to ensure that she passed his class that semester.
17

18 21. As a direct, legal, and proximate result of the negligence, willfulness, intent,
19 carelessness, and recklessness of Defendants, and each of them, Plaintiff suffered suicidal ideations
20 and was injured in her strength, health, and activity, sustaining shock and injury to her nervous
21 system, all of which have caused, and will continue to cause Plaintiff great mental pain,
22 embarrassment, humiliation, distress, anguish and suffering, all to her damage in an amount to be
23 proven at the time of trial of this action.
24

25 22. As a further direct, legal, and proximate result of the negligence, willfulness, intent,
26 carelessness, and recklessness of Defendants, and each of them, Plaintiff has been and will be
27 required to obtain the services of physicians and psychologists, obtain treatment and care, and incur
28 medical and incidental expenses in an amount to be proven at the time of trial of this action.

SECOND CAUSE OF ACTION

(Negligent Hiring/Retention – Against Defendants CSU and DOES 1 through 10)

23. Plaintiff hereby re-alleges and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 22 of this Complaint as though fully set forth herein.

24. Defendants CSU and DOES 1 through 10, and each of them, had a duty not to hire and/or retain MARKS given his propensity to engage in inappropriate sexual conduct with students at CSU Chico.

25. Defendants CSU and DOES 1 through 10, and each of them, knew or should have known of MARKS'S propensity to engage in inappropriate sexual contact with students at CSU Chico and/or that he was an unfit agent, and knew that MARKS'S unfitness created a particular risk to others, including Plaintiff. Despite possessing this knowledge, Defendants CSU and DOES 1 through 10, and each of them, negligently retained MARKS and, in fact, continue to employ him to this day, despite Plaintiff's reporting to the university of his abusive conduct.

26. MARKS'S unfitness resulted in harm to Plaintiff between approximately February and April 2020, including an incident on or around March 18, 2020, when MARKS used his position as an employee of Defendants CSU and DOES 1 through 10, and each of them, with access to students at CSU Chico, to engage in unlawful sexual battery of Plaintiff, among other tortious conduct, resulting in injuries and damages. Moreover, between approximately February and April of 2020, including after the March 18, 2020 assault, MARKS used his position of authority at the university to offer favorable academic treatment in exchange for Plaintiff performing sexual acts and favors. On one occasion, on April 16, 2020, MARKS sent text messages to Plaintiff suggesting that she perform oral sex on MARKS to ensure that she passed his class that semester.

27. As a direct, legal, and proximate result of the negligence, willfulness, intent, carelessness, and recklessness of Defendants CSU and DOES 1 through 10, and each of them, Plaintiff suffered suicidal ideations and was injured in her strength, health, and activity, sustaining

1 shock and injury to her nervous system, all of which have caused, and will continue to cause Plaintiff
2 great mental pain, embarrassment, humiliation, distress, anguish and suffering, all to her damage in an
3 amount to be proven at the time of trial of this action.

4 28. As a further direct, legal, and proximate result of the negligence, willfulness, intent,
5 carelessness, and recklessness of CSU and DOES 1 through 10, and each of them, Plaintiff has been
6 and will be required to obtain the services of physicians and psychologists, obtain treatment and care,
7 and incur medical and incidental expenses in an amount to be proven at the time of trial of this action.

8
9 **THIRD CAUSE OF ACTION**

10 **(Negligent Supervision/Failure to Warn – Against Defendants CSU and DOES 1 through 10)**

11 29. Plaintiff hereby re-alleges and incorporates herein by reference each and every
12 allegation contained in Paragraphs 1 through 28 of this Complaint as though fully set forth herein.

13 30. Defendants CSU and DOES 1 through 10, and each of them, had duty to: provide
14 adequate supervision of MARKS; use reasonable care in investigating complaints of inappropriate
15 behavior by MARKS; take appropriate adverse employment actions against MARKS as a result of his
16 tortious conduct; provide adequate supervision and protection to students at CSU Chico with whom
17 Defendants CSU and DOES 1 through 10, and each of them, allowed MARKS to have contact;
18 provide adequate warnings to Plaintiff, and other individuals at the premises, of MARKS'S unfit,ness,
19 troubling and abnormal behavior, dangerous propensities, and proclivities to engage in assaultive
20 conduct, including the manipulation, coercion, and sexual battery of students, at CSU Chico.

21 31. Defendants CSU and DOES 1 through 30, and each of them, knew or should have
22 known of MARKS'S dangerous and exploitative propensities, that he was an unfit agent, and of his
23 proclivities to have inappropriate sexual contact with students at CSU Chico. It was reasonably
24 foreseeable that if Defendants breached the duty of care owed to students at CSU Chico, including but
25 not limited to Plaintiff, these young people would be vulnerable to assaultive conduct and sexual
26 battery by MARKS.
27
28

1 32. Despite receiving actual and constructive notice of MARKS'S propensity to engage in
2 inappropriate assaultive and sexual conduct with students at CSU Chico prior to February 2020,
3 Defendants CSU and DOES 1 through 10, and each of them, negligently failed to supervise MARKS,
4 thereby allowing him the ability and opportunity to commit wrongful, criminal acts against Plaintiff.
5 Defendants CSU and DOES 1 through 10, and each of them, further failed to: adequately and
6 competently investigate MARKS; take any adverse employment actions against MARKS upon
7 learning of his tortious conduct; warn students at CSU Chico, including Plaintiff, about MARKS'S
8 propensities; and take adequate measures to prevent future assaultive conduct and sexual battery of
9 students at CSU Chico, including that which was perpetrated upon Plaintiff.
10

11 33. As a direct, legal, and proximate result of the negligence, willfulness, intent,
12 carelessness, and recklessness of Defendants, and each of them, Plaintiff suffered suicidal ideations
13 and was injured in her strength, health, and activity, sustaining shock and injury to her nervous
14 system, all of which have caused, and will continue to cause Plaintiff great mental pain,
15 embarrassment, humiliation, distress, anguish and suffering, all to her damage in an amount to be
16 proven at the time of trial of this action.
17

18 34. As a further direct, legal, and proximate result of the negligence, willfulness, intent,
19 carelessness, and recklessness of Defendants, and each of them, Plaintiff has been and will be
20 required to obtain the services of physicians and psychologists, obtain treatment and care, and incur
21 medical and incidental expenses in an amount to be proven at the time of trial of this action.
22

23 **FOURTH CAUSE OF ACTION**

24 **(Battery – Against Defendants CSU, MARKS, and DOES 1 through 20)**

25 35. Plaintiff hereby re-alleges and incorporates herein by reference each and every
26 allegation contained in Paragraphs 1 through 34 of this Complaint as though fully set forth herein.
27

28 36. On or about March 18, 2020, Defendants MARKS and DOES 11 through 20, and each
of them, used their position as employees of Defendants CSU and DOES 1 through 10, and each of

1 them, at CSU Chico to engage in unpermitted, harmful, offensive, and unlawful sexual contact and
2 battery upon the person of Plaintiff, a 22-year-old female student in MARKS'S mathematics class.

3 37. Plaintiff did not consent to these acts of battery.

4 38. As set forth in greater detail above, Defendants CSU and DOES 1 through 10, and
5 each of them, had actual and/or constructive knowledge of the fact that MARKS had engaged in
6 inappropriate sexual contact with students at CSU Chico prior to battering Plaintiff, and failed to
7 report, discipline, or terminate him for this conduct.

8 39. At all relevant times, Defendants DOES 1-10 were acting as managing agents in their
9 roles at CSU. As such, Defendants CSU and DOES 1 through 10, and each of them, authorized,
10 condoned, and ratified such behavior, making them liable under a theory of vicarious liability.

11 40. As a direct, legal, and proximate cause of the conduct of Defendants, and each of them,
12 as herein alleged above, Plaintiff suffered suicidal ideations and was injured in her strength, health,
13 and activity, sustaining shock and injury to her nervous system, all of which have caused, and will
14 continue to cause Plaintiff great mental pain, embarrassment, humiliation, distress, anguish and
15 suffering, all to her damage in an amount to be proven at the time of trial of this action.

16 41. As a further direct, legal, and proximate result of the conduct of Defendants, and each
17 of them, as herein alleged above, Plaintiff will be required to obtain the services of physicians and
18 psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to
19 be proven at the time of trial of this action.

20 42. The acts of Defendants, and each of them, alleged above were done maliciously,
21 oppressively, and/or fraudulently, entitling Plaintiff to recover punitive damages (against Marks and
22 the Doe defendants) in an amount to be proven at the time of trial of this action.

23 **FIFTH CAUSE OF ACTION**

24 **(Sexual Battery – Against Defendants CSU, MARKS, and DOES 1 through 20)**

1 43. Plaintiff hereby re-alleges and incorporates herein by reference each and every
2 allegation contained in Paragraphs 1 through 42 of this Complaint as though fully set forth herein.

3 44. On or about March 18, 2020, Defendants MARKS and DOES 11 through 20, and each
4 of them, used their position as employees of Defendants CSU and DOES 1 through 10, and each of
5 them, at CSU Chico to engage in unpermitted, harmful, offensive, and unlawful sexual contact and
6 battery upon the person of Plaintiff, a 22-year-old female student in MARKS'S mathematics class.

7 45. Plaintiff did not consent to these acts of sexual battery.

8 46. Defendants MARKS and DOES 11 through 20's conduct against Plaintiff constitutes
9 sexual battery within the meaning of California Civil Code Section 1708.5 and resulted in significant
10 injuries and damages to Plaintiff.

11 47. The acts of sexual battery willfully committed by Defendants MARKS and DOES 11
12 through 20 upon Plaintiff include, but are not limited to: anally penetrating Plaintiff; vaginally
13 penetrating Plaintiff; and rubbing his genitalia on Plaintiff.

14 48. As set forth in greater detail above, Defendants CSU and DOES 1 through 10, and
15 each of them, had actual and/or constructive knowledge of the fact that MARKS had engaged in
16 inappropriate sexual contact with students at CSU Chico prior to sexually battering Plaintiff, and
17 failed to report, discipline, or terminate him for this conduct.

18 49. At all relevant times, Defendants DOES 1-10 were acting as managing agents in their
19 roles at CSU. As such, Defendants CSU and DOES 1 through 10, and each of them, authorized,
20 condoned, and ratified such behavior, making them liable under a theory of vicarious liability.

21 50. As a direct, legal, and proximate result of the conduct of Defendants, and each of them,
22 as herein alleged above, Plaintiff suffered suicidal ideations and was injured in her strength, health,
23 and activity, sustaining shock and injury to her nervous system, all of which have caused, and will
24 continue to cause Plaintiff great mental pain, embarrassment, humiliation, distress, anguish and
25 suffering, all to her damage in an amount to be proven at the time of trial of this action.
26
27
28

52. The acts of Defendants, and each of them, alleged above were done maliciously, oppressively, and/or fraudulently, entitling Plaintiff to recover punitive damages (against Marks and the Doe defendants) in an amount to be proven at the time of trial of this action.

(False Imprisonment – Against Defendants CSU, MARKS, and DOES 1 through 20)

53. Plaintiff hereby re-alleges and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 52 of this Complaint as though fully set forth herein.

54. The conduct of Defendants MARKS and DOES 11 through 20, and each of them, on or around March 18, 2020 deprived Plaintiff of her freedom of movement by use of menace, fraud, and deceit. This deprivation and confinement prevented Plaintiff from being able to leave the room wherein MARKS and DOES 11 through 20 were sexually battering her.

55. Plaintiff did not consent to this conduct or deprivation of her freedom of movement.

56. As set forth in greater detail above, Defendants CSU and DOES 1 through 10, and each of them, had actual and/or constructive knowledge of the fact that MARKS had engaged in inappropriate sexual contact with students at CSU Chico prior to falsely imprisoning Plaintiff, and failed to report, discipline, or terminate him for this conduct.

57. At all relevant times, Defendants DOES 1-10 were acting as managing agents in their roles at CSU. As such, Defendants CSU and DOES 1 through 10, and each of them, authorized, condoned, and ratified such behavior, making them liable under a theory of vicarious liability.

58. As a direct, legal, and proximate result of the conduct of Defendants, and each of them, as herein alleged above, Plaintiff suffered suicidal ideations and was injured in her strength, health,

1 and activity, sustaining shock and injury to her nervous system, all of which have caused, and will
2 continue to cause Plaintiff great mental pain, embarrassment, humiliation, distress, anguish, emotional
3 distress, and suffering, all to her damage in an amount to be proven at the time of trial of this action.

4
5 59. As a further direct, legal, and proximate result of the Defendants' conduct as herein
6 alleged above, Plaintiff has been and will be required to obtain the services of physicians and
7 psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to
8 be proven at the time of trial of this action.

9 60. Said conduct of Defendants, as herein alleged, was done knowingly and willfully, and
10 was malicious and oppressive in conscious disregard of Plaintiff's rights and safety, subjecting
11 Plaintiff to cruel and unjust hardship. As such, Plaintiff is entitled to punitive or exemplary damages
12 (against Marks and the Doe defendants) in an amount to be proven at the time of trial of this action.

13
14 **SEVENTH CAUSE OF ACTION**

15 **(Intentional Infliction of Emotional Distress – Against Defendants CSU, MARKS, and DOES 1**
16 **through 20)**

17 61. Plaintiff hereby re-alleges and incorporates herein by reference each and every
18 allegation contained in Paragraphs 1 through 60 of this Complaint as though fully set forth herein.

19 62. The conduct of Defendants MARKS and DOES 11 through 20, and each of them, as
20 herein alleged was intentional, extreme, outrageous, malicious, and committed for the purpose of
21 causing Plaintiff to suffer humiliation, mental anguish, and severe emotional distress.

22 63. As set forth in greater detail above, Defendants CSU and DOES 1 through 10, and
23 each of them, had actual and/or constructive knowledge of the fact that MARKS had engaged in
24 inappropriate sexual contact with students at CSU Chico prior to his March 28, 2020 acts of abuse
25 toward Plaintiff, and failed to report, discipline, or terminate him for this conduct.
26
27
28

64. At all relevant times, Defendants DOES 1-10 were acting as managing agents in their roles at CSU. As such, Defendants CSU and DOES 1 through 10, and each of them, authorized, condoned, and ratified such behavior, making them liable under a theory of vicarious liability.

65. As a direct, legal, and proximate result of the conduct of Defendants, and each of them, as herein alleged above, Plaintiff suffered suicidal ideations and was injured in her strength, health, and activity, sustaining shock and injury to her nervous system, all of which have caused, and will continue to cause Plaintiff great mental pain, embarrassment, humiliation, distress, anguish, emotional distress, and suffering, all to her damage in an amount to be proven at the time of trial of this action.

66. As a further direct, legal, and proximate result of the Defendants' conduct as herein alleged above, Plaintiff has been and will be required to obtain the services of physicians and psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to be proven at the time of trial of this action.

67. The acts of Defendants as alleged above were done maliciously, oppressively, and/or fraudulently, entitling Plaintiff to recover punitive damages (against Marks and the Doe defendants) in an amount to be proven at the time of trial of this action.

EIGHTH CAUSE OF ACTION

(Violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. – Against Defendants CSU and DOES 1 through 10)

68. Plaintiff hereby re-alleges and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 67 of this Complaint as though fully set forth herein.

69. Title IX of the Education Amendments Act of 1972 states: “No person in the United States shall on the basis of sex, be . . . subject to discrimination under any education program or activity receiving Federal financial assistance . . .” (20 U.S.C. § 1681(a).)

1 70. Defendant CSU receives federal financial assistance for its education program and is
2 therefore subject to the provisions of Title IX of the Education Act of 1972, 20 U.S.C. § 1681(a), *et*
3 *seq.*

4 71. Defendants CSU and DOES 1 through 10, and each of them, are required under Title
5 IX to investigate allegations of sexual assault, sexual abuse, and sexual harassment.
6

7 72. MARKS'S conduct described above constitutes sexual harassment, abuse and assault,
8 and constitutes sex discrimination under Title IX. This includes his conduct between approximately
9 February and April 2020, including after the March 18, 2020 assault, when MARKS used his position
10 of authority at the university to offer favorable academic treatment in exchange for Plaintiff
11 performing sexual acts and favors. On one occasion, on April 16, 2020, MARKS sent text messages
12 to Plaintiff suggesting that she perform oral sex on MARKS to ensure that she passed his class that
13 semester.
14

15 73. Despite having actual and/or constructive knowledge of MARKS'S propensity to
16 engage in inappropriate sexual conduct with students prior to February 2020, Defendants CSU and
17 DOES 1 through 10, and each of them, nonetheless failed to carry out their duties to investigate and
18 take corrective action under Title IX, thereby resulting in harm to Plaintiff. Moreover, CSU and
19 DOES 1 through 10, and each of them, continue to employ MARKS to this day, despite having actual
20 knowledge of his abuse of Plaintiff.
21

22 74. As a direct, legal, and proximate result of the negligence, willfulness, intent,
23 carelessness, and recklessness of Defendants, Plaintiff suffered suicidal ideations and was injured in
24 her strength, health, and activity, sustaining shock and injury to her nervous system, all of which have
25 caused, and will continue to cause Plaintiff great mental pain, embarrassment, humiliation, distress,
26 anguish and suffering, all to her damage in an amount to be proven at the time of trial of this action.
27

28 75. As a further direct, legal, and proximate result of the negligence, willfulness, intent,
carelessness, and recklessness of Defendants, Plaintiff has been will be required to obtain the services

of physicians and psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to be proven at the time of trial of this action.

76. Plaintiff is entitled to statutory damages and attorneys' fees and costs pursuant to 20 U.S.C. § 1681 *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. For general (non-economic) damages according to proof;
- B. For special (economic) damages according to proof;
- C. For exemplary (punitive) damages (against Marks and the Doe defendants) according to proof (Causes of Action 4, 5, 6, 7);¹
- D. For prejudgment interest as permitted by law;
- E. For costs of suit herein;
- F. For attorneys' fees pursuant to the California Code of Civil Procedure § 1021.5, and 20 U.S.C. § 1681 *et seq.* (Cause of Action 9); and
- G. For such other and further relief as the Court may deem just and proper.

Dated: January 16, 2023

THE MATIASIC FIRM, P.C.

By: 

Paul A. Matiasic
Vaheh Manoukian
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

¹ Plaintiff is not seeking punitive damages against defendant CSU.

Dated: January 16, 2023

THE MATIASIC FIRM, P.C.

By: 
Paul A. Matiasic
Vaheh Manoukian
Attorneys for Plaintiff



PROOF OF SERVICE

[REDACTED] v. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, ET AL.
Butte Superior Court Case No.: 21STCV16283

I am employed in the County of San Francisco, State of California. I am over the age of 18 and not a party to the within action. My business address is [REDACTED]

On January 17, 2023, I served the following documents described as:

FIRST AMENDED COMPLAINT

on all interested parties in this action by placing ☒ a true copy ☐ the original thereof enclosed in sealed envelopes addressed as follows:

DEREK K. ISHIKAWA (dishikawa@hkemploymentlaw.com)
MICHELLE C. FREEMAN (mfreeman@hkemploymentlaw.com)
HIRSCHFELD KRAEMER LLP
233 Wilshire Boulevard, Suite 600 Santa Monica, CA 90401
Attorneys for Defendant
BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY

☐ (BY FACSIMILE) The facsimile machine I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a record of the transmission.

☐ (BY MAIL, 1013a, 2015.5 C.C.P.)

☐ I deposited such envelope in the mail at San Francisco, California. The envelope was mailed with postage thereon fully prepaid.

☐ I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, this document will be deposited with the U.S. Postal Service on this date with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ (BY E-MAIL or ELECTRONIC TRANSMISSION) Pursuant to California Code of Civil Procedure § 1010.6, I caused the document to be sent to the persons at the e-mail addresses listed above.

☐ (BY OVERNIGHT DELIVERY/COURIER)

☐ I delivered such envelope to an authorized courier or driver authorized by the express service carrier to receive documents in an envelope or package designated by the express service carrier with delivery fees provided for.

- 1
2 [] I deposited such envelope in a box or facility regularly maintained by the express
3 service carrier in an envelope or package designated by the express service carrier with
4 delivery fees provided for.
5
6 [] (BY MESSENGER) I served the documents by placing them in an envelope or package
7 addressed to the persons at the addresses listed above and providing them to a messenger for
8 personal service. (A proof of service executed by the messenger will be filed in compliance
9 with the *Code of Civil Procedure*.)
10 [] (BY PERSONAL SERVICE) I delivered the foregoing envelope by hand to the following
11 individual:
12 [X] (STATE) I declare under penalty of perjury under the laws of the State of California that the
13 above is true and correct.
14 [] (FEDERAL) I declare that I am employed in the office of a member of the bar of this Court
15 at whose direction the service was made.
16
17
18
19
20
21
22
23
24
25
26
27
28

Executed on January 17, 2023, at Los Angeles, California.



Vaheh Manoukian