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BOARD OF TRUSTEES OF THE CALIFORNIA
STATE UNIVERSITY

**Filing Fee Exempt per
Government Code §6103**



SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF BUTTE

[REDACTED]
Plaintiff,

vs.

BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY;
CHRISTOPHER MARKS; and DOES 1
through 50, inclusive,

Defendant.

Case No. 22CV02312

[Assigned to Judge Tamara L. Mosbarger]

**DEFENDANT BOARD OF TRUSTEES OF
THE CALIFORNIA STATE
UNIVERSITY'S ANSWER TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT**

Complaint filed: April 29, 2021

Defendant BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY
("Defendant CSU"), hereby responds to Plaintiff [REDACTED] ("Plaintiff") First Amended
Complaint ("FAC") in this action as follows:

GENERAL DENIAL

Pursuant to Code of Civil Procedure section 431.30(d), Defendant CSU generally denies
each and every material allegation contained in the FAC. Defendant CSU further generally denies
that Plaintiff is entitled to declaratory relief, injunctive relief, statutory penalties, compensatory

1 damages, restitution, interest, attorneys' fees or costs, or any other form of legal or equitable relief
2 whatsoever as they have not suffered any damages by reason of any act or omission on Defendant
3 CSU's part.

4 **FIRST AFFIRMATIVE DEFENSE**

5 **(Failure to State a Claim)**

6 1. The FAC, and each cause of action set forth therein, fails to state facts sufficient to
7 constitute any cause of action, or to set forth a claim upon which relief can be granted.

8 **SECOND AFFIRMATIVE DEFENSE**

9 **(Waiver, Estoppel, Unclean Hands and Laches)**

10 2. The FAC, and each cause of action set forth therein, is barred in that Plaintiff, by
11 reason of her conduct and actions, is barred by the doctrines of estoppel, unclean hands, waiver
12 and/or laches from asserting the claims set forth therein.

13 **THIRD AFFIRMATIVE DEFENSE**

14 **(Good Faith Defense)**

15 3. The FAC, and each cause of action set forth therein, is barred as all of Defendant
16 CSU's actions or omissions were in good faith and Defendant CSU had reasonable grounds for
17 believing that its actions or omissions did not violate law, statute, or regulation.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 **(No Knowing, Intentional or Willful Acts)**

20 4. The FAC, and each cause of action set forth therein, is barred because Defendant
21 CSU did not knowingly, intentionally or willfully commit a violation of any applicable law, statute,
22 or regulation.

23 **FIFTH AFFIRMATIVE DEFENSE**

24 **(Failure to Exhaust Administrative Remedies)**

25 5. The FAC, and each cause of action set forth therein, is barred in that Plaintiff has
26 failed to exhaust her administrative remedies.

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SIXTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

6. The FAC, and each cause of action set forth therein, is barred in whole or in part by applicable statutes of limitations.

SEVENTH AFFIRMATIVE DEFENSE

(Compliance with the Law)

7. The FAC, and each cause of action set forth therein, is barred in whole or in part, because of Defendant CSU's compliance with relevant underlying laws. Further, because Defendant CSU's actions comply with the relevant underlying law, Defendant CSU did not engage in any unfair, unlawful or fraudulent conduct with respect to its operations as they relate to Plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

(Plaintiff's Negligent, Intentional and/or Bad Faith Conduct)

8. The FAC, and each cause of action set forth therein, is barred in whole or in part by Plaintiff's negligent, intentional, and/or bad faith conduct.

NINTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

9. Plaintiff has failed to mitigate damages and, to the extent of such failure, any damages awarded to Plaintiff should be reduced accordingly.

TENTH AFFIRMATIVE DEFENSE

(No Attorneys' Fees)

10. The FAC, and each cause of action set forth therein, fails to state facts sufficient to constitute a claim for attorneys' fees against Defendant CSU.

ELEVENTH AFFIRMATIVE DEFENSE

(Res Judicata and Collateral Estoppel)

11. Plaintiff's FAC, and each cause of action set forth therein, is barred by the doctrines of res judicata and/or collateral estoppel, to the extent that such claims have been adjudicated in other proceedings.

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TWELFTH AFFIRMATIVE DEFENSE

(Accord and Satisfaction/Release)

12. The FAC, and each cause of action set forth therein, is barred in whole or in part, pursuant to an accord and satisfaction, and/or is barred to the extent that Plaintiff has entered into or are otherwise bound by compromise, settlement or release agreements regarding those claims.

THIRTEENTH AFFIRMATIVE DEFENSE

(No Oppression, Fraud, or Malice)

13. Any acts or omissions to act by Defendant CSU was not the result of oppression, fraud or malice as such terms are defined by California Civil Code section 3294.

FOURTEENTH AFFIRMATIVE DEFENSE

(Conduct Not Severe or Outrageous)

14. The FAC, and each cause of action set forth therein is barred, in whole or in part, because any alleged emotional distress suffered by Plaintiff was not severe, outrageous or sufficient to support such a claim.

FIFTEENTH AFFIRMATIVE DEFENSE

(Lack of Knowledge or Ratification)

15. The FAC, and each cause of action set forth therein is barred, in whole or in part, by Defendant CSU's lack of actual or constructive knowledge of the alleged conduct Plaintiff alleges to have occurred and did not ratify any of the alleged conduct Plaintiff alleges to have occurred.

SIXTEENTH AFFIRMATIVE DEFENSE

(Consent)

16. The FAC, and each cause of action set forth therein is barred, in whole or in part, and/or Plaintiff's damages are limited to the extent that Plaintiff consented to the conduct alleged in his FAC.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Good Faith/Justification and Legitimate Business Necessity)

17. The FAC, and each cause of action set forth therein is barred, in whole or in part, because all decisions relating to Plaintiff's conduct were undertaken in good faith and without

malice, were a just and proper exercise of management discretion, and were based on legitimate, non-discriminatory interest in running an undergraduate college campus, and were therefore privileged and/or done out of business necessity.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Failure to Use Preventative Opportunities/Avoidable Consequences)

18. The FAC, and each cause of action set forth therein is barred, in whole or in part, because Plaintiff unreasonably failed to take advantage of preventative or corrective opportunities provided by Defendant CSU or take reasonable precautions to avoid the purported harm alleged.

NINETEENTH AFFIRMATIVE DEFENSE

(Causation)

19. The FAC, and each cause of action set forth therein is barred, in whole or in part, because there is no causal relationship between any damages that it claims to have suffered and any act of Defendant CSU.

TWENTIETH AFFIRMATIVE DEFENSE

(Reasonable Care)

20. The FAC, and each cause of action set forth therein is barred, in whole or in part, because Defendant CSU routinely exercises reasonable care in their hiring, supervision, and

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Pre-Existing Condition)

21. The FAC, and each cause of action set forth therein is barred, in whole or in part, because to the extent Plaintiff suffered any symptoms of mental or emotional distress or injury, said injuries were the result of pre-existing psychological disorders or alternative concurrent causes, and not the result of any act or omission of Defendant CSU.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Third Parties)

22. The FAC, and each cause of action set forth therein is barred, in whole or in part, because any injuries or damages allegedly sustained by Plaintiff were not the result of any acts,

omissions, or other conduct of Defendant CSU. Further, any alleged injuries were caused in part or in whole by third parties or intervening occurrences.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Contributory Negligence)

23. The FAC, and each cause of action set forth therein is barred, in whole or in part, because Plaintiff was negligent and that negligence contributed as a proximate and legal cause to her injury and damages. Recovery under the FAC is therefore diminished and barred to the degree of that negligence.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Right to Raise Additional Affirmative Defenses)

24. The FAC fails to state the bases of the underlying claims made against Defendant CSU with sufficient particularity so as to enable Defendant CSU to determine all of its defenses thereto. Therefore, Defendant CSU reserves the right to assert all applicable defenses to the FAC once the specific bases of such claims are determined through discovery or otherwise.

PRAYER FOR RELIEF

WHEREFORE, Defendant CSU prays for judgment on the FAC and against Plaintiff as follows:

1. That Plaintiff takes nothing by her FAC against Defendant CSU, and that judgment be entered in favor of Defendant CSU on all of Plaintiff's cause of action;
2. That Defendant CSU recovers the costs of suit herein;
3. That Defendant CSU be awarded reasonable attorneys' fees; and

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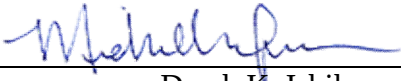
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4. For such other and further relief as this Court deems just and proper.

Dated: February 21, 2023

HIRSCHFELD KRAEMER LLP

By: 
Derek K. Ishikawa
Michelle C. Freeman
Attorneys for Defendant
BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I, the undersigned, am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 456 Montgomery Street, Suite 2200, San Francisco, California 94104. On February 21, 2023, I served the following document(s) by the method indicated below:

DEFENDANT BOARD OF TRUSTEES OF THE
CALIFORNIA STATE UNIVERSITY'S ANSWER TO
PLAINTIFF'S FIRST AMENDED COMPLAINT

☐

by placing the document(s) listed above in a sealed envelope(s) with postage thereon fully prepaid, in the **United States mail** at San Francisco, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited in the U.S. Postal Service on that same day with postage thereon fully prepaid 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.

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by transmitting via **email** on this date the document(s) listed above to the email address(es) set forth below.

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by submitting an **electronic** version of the document(s) listed above to the court's approved electronic service vendor.

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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 21, 2023, at San Francisco, California.

Sylvia Lee