

IN THE CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE AT NASHVILLE

DEAN MASULLO,

Plaintiff,

v.

GIDGIE BASS,

Defendant.

Case No. 25C2312

**Judge Thomas Brothers
JURY DEMANDED**

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT GIDGIE BASS’S MOTION
TO DISMISS AND TENN. CODE §20-17-104(A) PETITION TO DISMISS THE
PLAINTIFF’S COMPLAINT PURSUANT TO THE TENNESSEE PUBLIC
PARTICIPATION ACT**

I. INTRODUCTION

This action is an egregious example of a Strategic Lawsuit Against Public Participation—also known as a “SLAPP suit”—filed by Plaintiff Dean Masullo (“Plaintiff” or “Masullo”) against his former student Defendant Gidgie Bass (“Defendant” or “Ms. Bass”). Masullo was a teacher at University School of Nashville (“USN”) until he was terminated for sexually harassing and grooming Ms. Bass while she was a student in his class, as substantiated by an independent investigation. He now seeks to weaponize the justice system against his victim. The specific facts and communications at issue in this case have already been found to be matters of public concern by the Chancery Court¹ prior to Masullo filing this suit. Nevertheless, Plaintiff filed the instant suit to retaliate against Ms. Bass for speaking truthfully about his misconduct. The Tennessee Public Participation Act (“TPPA”) Tenn. Code Ann. § 20-17-101 *et seq.* protects against retaliatory lawsuits such as this that are designed to silence and punish citizens for speaking out

¹ See *Reed v. USN*, No. 25-0097-II, slip op. at 8 (Tenn. Ch. Ct. Davidson Cnty. July 23, 2025), attached as Powell Dec. Ex. 2.

on matters of public concern. Ms. Bass respectfully petitions this Court to dismiss Plaintiff's Complaint with prejudice and award her the mandatory costs, expenses, and attorneys' fees to which she is entitled under Tenn. Code Ann. § 20-17-107.

II. FACTUAL BACKGROUND

A. Masullo's Unwanted Grooming Conduct and Sexual Advances Toward Ms. Bass

In the fall of 2023, during Ms. Bass's senior year, she enrolled in Masullo's English class. At Masullo's urging, she enlisted him as her independent study advisor for the spring 2024 semester. Barnes & Thornburg Investigative Report, attached as Powell Dec. Ex. 1, at 8–9 (hereinafter "B&T Report"). His conduct toward her quickly morphed from professionally appropriate to deeply disturbing.

Masullo initiated frequent, one-on-one text message exchanges with Ms. Bass on his personal cell phone, a practice discouraged by USN policy. *Id.* at 9, 27. These communications became intensely personal and inappropriate for a teacher-student relationship. He frequently used heart emojis, told her he loved her, and wrote, "I appreciate how open you are with me. It helps me to understand you, and that's important to me because you are important to me." *Id.* at 9–10. In one text, he confessed to looking up her home address; in another, he wrote, "Slept with my headphones on in case you texted me in the middle of the night. Didn't want to wake my wife; didn't want to miss the text." *Id.*; Bass Dec. Ex. 1.

Masullo also gave Ms. Bass numerous personal gifts in violation of school policy, including two pairs of Converse shoes, t-shirts, a jean jacket, and purchases from his trip to France. *Id.* at 10, 27–28. He also passed secret, handwritten notes to her, including one stating, "You are my heart's content. <3" (Bass Dec. Ex. 2), and another that read, "Thank you for allowing me into your life, and for being such an important part of mine. I love you." *Id.* at 10; B&T Report Exs. 2, 3; Bass Dec. Ex. 3.

His behavior escalated to include unwanted physical contact. Masullo and Ms. Bass would watch movies alone in his classroom for her independent study, during which he would cover the door's window with cardboard to block the view from the hallway. B&T Report at 6–7, 10. This arrangement violated USN policy, which required that interactions between teachers and students be observable by other persons. *Id.* at 26. On one occasion, he held her hand and pressed his leg against hers. *Id.* at 11. In March 2024, Masullo took Ms. Bass and his wife on an overnight trip to a concert in Kentucky, where he held Ms. Bass's hand during the concert and had her share their hotel room. *Id.* at 11.

Masullo's behavior continued to cross inappropriate boundaries. In late March 2024, Masullo planned a field trip to Columbus for Ms. Bass's independent study. *Id.* Thirty minutes into the drive to Columbus, Masullo ran out of gas in the rental van. *Id.* at 12. Masullo left Ms. Bass and two other female students alone on the side of the interstate, while he went to retrieve gas. *Id.* at 12, 20. Furthermore, as they arrived in Columbus, Masullo was pulled over by the police. *Id.* He did not contact any of the students' parents or any faculty members regarding either of the two incidents. *Id.* Instead, Masullo requested that the three students not tell anyone about the incidents. *Id.*

The misconduct culminated on April 27, 2024. Alone with Ms. Bass in his classroom on a Saturday, Masullo told her, "I can't stand the distance." He then grabbed her waist under her coat and shirt, rubbed her back, and pressed her into his body. As she pulled away, he grabbed her face and kissed her for at least twenty seconds. *Id.* at 13–14. Masullo's Complaint *admits* (adding editorializing adjectives) that this kiss occurred. Compl. ¶ 46.

B. Ms. Bass Reports Masullo's Misconduct

Disturbed and violated by the April 27 incident, Ms. Bass decided to report Masullo. On May 2, 2024, she met with three USN faculty and administration members and detailed

Masullo’s escalating pattern of misconduct. *Id.* at 15. The school officials who heard her account found it credible. *Id.* That same day, the administration placed Masullo on leave and removed him from a school-sponsored trip in Delaware. *Id.* at 16–17.

C. The School’s Flawed Initial Response and Investigation

The school’s initial response, under previous administration, “faltered” and “prioritized process over people.” *Id.* at 2. The investigation, handled by the school’s then-counsel, and the related communications, managed by the previous Head of School, proved deeply flawed and distressing for Ms. Bass. For over two months, she received minimal and conflicting information regarding the investigation and Masullo’s employment status. *Id.* at 22, 41–43. This lack of transparency caused her to reasonably fear Masullo would return to teach her friends and younger sisters. *Id.* at 42.

On May 20, 2024, Ms. Bass met with the school’s prior counsel. This meeting left Ms. Bass feeling unsupported and re-traumatized. *Id.* at 21. Faced with the school’s opacity and its failure to take her experience seriously, Ms. Bass exercised her right to speak out, first in a social media post intended for the USN community, attached as Bass Dec. Ex. 4, and later in a letter from her attorney, Alex Little, which was addressed to the USN Board of Trustees (attached as Bass Dec. Ex. 5, hereinafter the “Board Letter”). Attorney Little sent his letter to the USN Board of Trustees, and Ms. Bass sent it to some members of the USN Faculty. Bass Dec. Ex. 6.

D. The Independent Investigation Substantiates Ms. Bass’s Allegations

At some point an unknown member of the Board or of the Faculty leaked the Board Letter to the wider community. The ensuing community outcry prompted USN to retain Barnes & Thornburg to conduct a truly independent investigation. The resulting B&T Report, issued on December 18, 2024, resoundingly substantiated Ms. Bass’s account.

The Report concluded, “Masullo’s Conduct Was Inappropriate By Any Measure.” *Id.* at 26. It found his actions were “objectively improper and violated numerous USN policies regardless of his stated intent.” *Id.* These violations included policies prohibiting:

- Uninterruptible and unobservable one-on-one interactions with students;
- Inappropriate physical touching of students;
- One-on-one electronic communications on personal devices; and
- Giving personal gifts to students. *Id.* at 26–28.

Critically, the Report determined that “**Masullo’s conduct was consistent with ‘grooming’ behavior.**” *Id.* at 1, 29. The Report found that his actions fit the warning signs for grooming as defined by the Rape, Abuse & Incest National Network (RAINN), including victim selection, isolation, trust development through secrets and gifts, and desensitization to touch. *Id.* at 29–31. The Report noted that Masullo’s violations of school policies with respect to Ms. Bass were “flagrant and pervasive” and that his conduct was “objectively inappropriate.” *Id.* at 28 n. 26. The Report also noted that Masullo had a history of similar boundary-crossing behavior with other students. *Id.* at 7–8.

E. Masullo’s Termination and Retaliatory Lawsuit

When interviewed for the original investigation into Masullo’s behavior with Ms. Bass, “Masullo admitted the interactions and physical contact [Ms. Bass] had reported,” including “taking [Ms. Bass] to the Bob Dylan concert and holding her hand during the concert . . . hugging and kissing [Ms. Bass] on the forehead and cheek; and giving her gifts.” *Id.* at 20. Based on the original investigation, USN terminated Masullo’s employment. As part of his separation, Masullo executed a settlement agreement in which he released all claims against USN and its “related Parties.” *Id.* at 25. Notwithstanding this contractual release, the independent verification of his misconduct, and his own admission of the actions at issue Masullo filed this lawsuit

against the very student he victimized. His claims target the communications through which Ms. Bass brought his conduct, and the school’s initial insufficient response, to light.

III. LEGAL STANDARD

The purpose of the TPPA is “to encourage and safeguard the constitutional rights of persons to petition, to speak freely, to associate freely, and to participate in government to the fullest extent permitted by law and, at the same time, protect the rights of persons to file meritorious lawsuits for demonstrable injury.” Tenn. Code. Ann. § 20-17-102. The TPPA goes on to explain that the “[e]xercise of the right of free speech’ means a communication made in connection with a matter of public concern or religious expression that falls within the protection of the United States Constitution or the Tennessee Constitution[.]” Tenn. Code Ann. 20-17-103. The TPPA, in turn, defines “matter of public concern” to include an issue related to:

- (A) **health or safety**;
- (B) environmental, economic, or **community well-being**;
- (C) the government;
- (D) a public official or public figure;
- (E) a good, product, or service in the marketplace;
- (F) a literary, musical, artistic, political, theatrical, or audiovisual work; or
- (G) **any other matter deemed by a court to involve a matter of public concern[.]**

Tenn. Code Ann. § 20-17-103(6) (emphasis added).

The Court of Appeals held in *Doe v. Roe*, 638 S.W.3d 614 (Tenn. Ct. App. 2021) that “sexual assault is clearly an issue related to ‘health or safety,’ as those terms are commonly understood,” and “conclude[d] that [defendant’s] Title IX complaint is protected activity under the TPPA and constitutes a matter of public concern within the parameters of the TPPA.”

The TPPA sets forth a three part burden-shifting framework courts must utilize to evaluate TPPA petitions.

First, the TPPA petitioner “has the burden of making a prima facie case that a legal action against the petitioning party is based on, relates to, or is in response to that party’s exercise of the

right to free speech, right to petition, or right of association.” Tenn. Code Ann. § 20-17-105(a).

To establish a ‘prima facie’ case, “a party must present enough evidence to allow the jury to rule in his favor on that issue,” which “may include ‘sworn affidavits stating admissible evidence’ and ‘other admissible evidence.’” *Charles v. McQueen*, 693 S.W.3d 262, 281 (Tenn 2024) (quoting Tenn. Code Ann. § 20-17-105(d)).

If the TPPA petitioner meets their initial burden of proving the validity of their petition, in the second step the burden shifts to the TPPA respondent to establish “a prima facie case for each essential element of the claim in the legal action.” Tenn. Code Ann. § 20-17-105. If the TPPA respondent cannot meet this burden, the initial legal action must be dismissed.

If the TPPA respondent establishes a prima facie case for his claims, the process turns to the third step, at which point the original legal action still must be dismissed if “the petitioning party establishes a valid defense to the claims in the legal action.” Tenn Code Ann. § 20-17-105(c). Dismissals of the original action under either the second or third step are with prejudice. Tenn. Code Ann. § 20-17-105(e).

IV. ARGUMENT

A. The TPPA Resolves This Case

The controversy involved in this case is indisputably “any other matter deemed by a court to involve a matter of public concern.” A Court in this jurisdiction has already found the specific speech and facts at issue to be a matter of public concern, for reasons including the health and safety and the well-being of the USN community. *Reed v. USN*, No. 25-0097-II, slip op. at 8 (Tenn. Ch. Ct. Davidson Cnty. July 23, 2025), attached as Powell Dec. Ex. 2. All of Plaintiff’s claims against Ms. Bass—defamation, false light invasion of privacy, and intentional infliction of emotional distress—were filed in response to Ms. Bass’s constitutionally protected speech and should be dismissed under the TPPA.

1. Plaintiff's claims all arise from Defendant's constitutionally protected speech on matters of public concern.

Plaintiff's claims of defamation, false light invasion of privacy, and intentional infliction of emotional distress all arise from constitutionally protected speech on matters that have already been found to be a matter of public concern under the TPPA. *See* Compl. ¶¶ 89, 92-3, 97-8 (reciting Ms. Bass's speech as the ground for each claim). The TPPA applies when a claim arises from "a communication made in connection **with a matter of public concern** . . . that falls within the protection of the United States Constitution or the Tennessee Constitution." Tenn. Code Ann. § 20-17-103(3) (emphasis added). As such, the TPPA applies to every claim in this case.

The TPPA does not define the terms "health", "safety," or "community well-being". However, Tennessee courts have determined that these terms must be construed by their "natural and ordinary meaning," *Doe v. Roe*, 638 S.W.3d at 619, and "pursuant to their ordinary meanings and common usage, 'health' and 'safety' may involve the state or condition of a single person." *Id.* at 620 (emphasis added). Here, the issue of health and safety affected both Ms. Bass, the current and future students of USN, and the USN community as a whole. Masullo's actions clearly impacted Ms. Bass's health and safety. B&T Report at 20-21 (describing traumatic effects on Ms. Bass). Additionally, *Doe v. Roe* established that "sexual assault is clearly an issue related to 'health and safety' as those terms are commonly understood." *Id.* at 622. Moreover, Masullo's continued presence at the school could well have affected more and future students and that would have continued if Ms. Bass had not had the courage to report his behavior. There is no debating the fact that grooming and other sexually inappropriate behavior by a teacher is clearly an issue of health and safety.

The Chancery Court has already found that is the specific facts of this case to be a matter of public concern. Former Head of School Amani Reed's suit against the school, *Reed v. USN*, arose from the same underlying controversy (Masullo's inappropriate conduct and the handling of the subsequent investigation). In that case, Chancellor Martin determined that the Masullo controversy was a matter of public concern: "Here, the Masullo matter involved an investigation into an inappropriate relationship between a student and teacher. The B&T Report 'opined that the former teacher's actions were "likely grooming.'" Although there were no allegations of sexual assault, such behaviors are matters of public concern because they relate to the health and safety of USN students and well-being of the USN community." Powell Dec. Ex. 2 at 8 (citation omitted). This Court should likewise find that the speech at issue in this legal action is entitled to protection under the TPPA. For that reason, Masullo's complaint must be dismissed.

The TPPA applies to this matter before the Court. Because Ms. Bass has met her initial burden under Tennessee Code Annotated § 20-17-105(a), this legal action should be dismissed unless the Plaintiff can establish a prima facie case for each essential element of his claims. Tenn. Code Ann. § 20-17-105(b). As the discussion below demonstrates, that is a burden he cannot meet.

B. Plaintiff Lacks a Prima Facie Case On Each Claim

1. Plaintiff lacks a prima facie case of defamation because the accused statements were true or substantially true.

Plaintiff cannot establish a prima facie case for defamation, because Defendant's statements were true or substantially true, and therefore not defamatory.

To prove a prima facie case of defamation, Plaintiff must establish: "(1) a party published a statement; (2) with knowledge that the statement was false and defaming to the other; or (2) with reckless disregard for the truth of the statement or with negligence in failing to ascertain the truth of the statement." *Davis v. The Tennessean*, 83 S.W.3d 125, 128 (Tenn. Ct. App. 2001).

It is axiomatic that truth is always an absolute defense to defamation. *Sullivan v. Wilson Cty.*, No. M2011-00217-COA-R3CV, 2012 WL 1868292, at *12 (Tenn. Ct. App. May 22, 2012). “The damaging words must be factually false. If they are true, or essentially true, they are not actionable, even though the published statement contains other inaccuracies which are not damaging. Thus, the defense of truth applies so long as the “sting” (or injurious part) of the statement is true. “... it is not necessary to prove the literal truth of the accusation in every detail, . . . it is sufficient to show that the imputation is substantially true, or, as it is often put, to justify the ‘gist,’ the ‘sting,’ or the ‘substantial truth’ of the defamation.” *Isbell v. Travis Elc. Co.*, 2000 WL 1817252, at *5 (Tenn. Ct. App. December 13, 2000).

Not surprisingly, Masullo’s Complaint takes issue with a number of details related in the Board Letter, all of which are based on his unsupportable contention that his admitted actions toward Ms. Bass somehow were not inappropriate. Compl. ¶¶ 63-75; *see also* B&T Report at 20 (Masullo’s claim that his intentions were not inappropriate). Contrary to the grace Masullo grants himself, the factual record demonstrates the truth or substantial truth of Ms. Bass’s statements: in the course of the initial investigation of his conduct, Masullo admitted the substantial truth of Ms. Bass’s allegations of grooming behavior and physical contact, including a hug and kiss on April 27, holding her hand at the Bob Dylan concert, giving gifts, and saying “I love you.” B&T Report at 20. Indeed, Masullo further admitted the substantial truth of Ms. Bass’s allegations of the unwanted hug and kiss in his own Complaint filed with this Court. Given the uncontested nature of these and other inappropriate facts, Masullo’s efforts to nitpick small details in the Board Letter are not sufficient to save Masullo’s claim for defamation, which must be dismissed with prejudice.

(a) Ms. Bass’s allegations of “sexual harassment” and “sexual misconduct” were accurate.

Masullo claims that Ms. Bass’s allegations of sexual harassment or sexual misconduct were defamatory. Compl. ¶¶ 89-91. That claim cannot withstand scrutiny. Masullo admitted to relational and physical conduct, including hand-holding, hugging, and kissing, that would make a student incredibly uncomfortable and constituted employee misconduct according to USN’s policies. Masullo’s claims regarding sexual harassment and sexual misconduct must fail.

Rather than deny the largely undisputed facts, Masullo attempts to diminish the inappropriateness of his behavior, in both this instance and in others, through his Complaint by saying he had “pure intentions.” B&T Report at 20. Setting aside the offensiveness of such assertions under the undisputed circumstances of this case, Ms. Bass did not consent to this instance or other instances of unwanted touching from him. Not only did Masullo’s behavior and unwanted touching cause Ms. Bass extreme discomfort, but it also caused her emotional distress throughout the semester.

The B&T Report contains admissions from Masullo where he further admitted to instances of physical contact with Ms. Bass. For example, the B&T Report states: “During this meeting, Masullo admitted the interactions and physical contact [Ms. Bass] had reported. His admissions included, among other things, taking [Ms. Bass] to the Bob Dylan concert and holding her hand during the concert; leaving the three female students on the side of the road on the way up to Columbus; hugging and kissing [Ms. Bass] on the forehead and cheek; and giving her gifts.” B&T Report at 20. These statements demonstrate that Ms. Bass was telling the truth.

(b) Ms. Bass’s allegations of “grooming behavior” were accurate.

Masullo’s behavior toward Ms. Bass meets the Rape, Abuse, & Incest National Network (RAINN) grooming indicators, including boundary testing, excessive personal attention, and

inappropriate emotional dependence, among others. Ms. Bass's allegations of grooming were not defamatory.

Grooming and the associated warning signs are defined as:

A set of manipulative behaviors that the abuser uses to gain access to a potential victim, coerce them to agree to the abuse, and reduce the risk of being caught. While these tactics are used often against younger kids, teens and vulnerable adults are at risk...

Though grooming can take many different forms, it often follows a similar pattern.

- Victim selection: Abusers often observe possible victims and select them based on ease of access to them or their perceived vulnerability.
- Gaining access and isolating the victim: Abusers will attempt to physically or emotionally separate a victim from those protecting them and often seek out positions in which they have contact with minors.
- Trust development and keeping secrets: Abusers attempt to gain trust of a potential victim through gifts, attention, sharing "secrets" and other means to make them feel that they have a caring relationship and to train them to keep the relationship secret.
- Desensitization to touch and discussion of sexual topics: Abusers will often start to touch a victim in ways that appear harmless such as hugging, wrestling, and tickling, and later escalate to increasingly more sexual contact, such as massages or showering together. Abusers may also show the victim pornography or discuss sexual topics with them, to introduce the idea of sexual contact.
- Attempt by abusers to make their behavior seem natural, to avoid raising suspicions. For teens, who may be closer in age to the abuser, it can be particularly hard to recognize tactics used in grooming. Be alert for signs that your teen has a relationship with an adult that includes secrecy, undue influence or control, or pushes personal boundaries.

B&T Report at 29-30.

Masullo admitted to engaging in several forms of behaviors that meet the grooming indicators.

- Masullo admitted to regularly engaging in one-on-one text messages with Ms. Bass.

Compl. ¶ 21. B&T found that many of these text messages were not related to school activities. B&T Report at 9. In fact, many of these text messages from Masullo included the use of several heart emojis. Several times during these exchanges Masullo texted Ms. Bass "I love you" or "Love you." *Id* at 9-10.

- Masullo admitted to holding hands with Ms. Bass at the Bob Dylan concert. *Id* at 20.
- Masullo admitted to hugging Ms. Bass. Compl. ¶ 46.
- Masullo admitted to giving Ms. Bass gifts (B&T Report at 9), all of which were unwanted or unexpected. The gifts included two pairs of Converse shoes, t-shirts, several gifts from his trip to France (a book, a t-shirt, and a keychain), a pair of eclipse glasses with hearts drawn on them, and a jean jacket—all of which is physical evidence of Masullo’s attempts at grooming Ms. Bass. *Id* at 73-76.
- Masullo admitted to saying “I love you” to Ms. Bass. *Id* at 20. He attempted to excuse this behavior by claiming “that telling a student ‘I love you’ was not a ‘culturally inappropriate’ thing for a USN faculty member to say.” *Id*.

Other evidence that confirms Ms. Bass’s grooming allegations against Masullo include:

- Several notes written by Masullo that he gave to Ms. Bass by hiding them in her locker or hiding them in her notebooks during class. *Id* at 10; 68-72. These notes include: A note with a heart drawn on it; a note that says “You are my heart’s content. <3”; and a note that says “Thank you for allowing me into your life, and for being such an important part of mine. I love you.” *Id*.

(c) Ms. Bass’s use of “serial predator” was accurate.

The use of “serial predator” in the Board Letter was made in reference to Ms. Bass’s knowledge of multiple USN alumni who had similar negative experiences with Masullo. After reporting Masullo to USN, several USN alumni reached out to Ms. Bass, over text and social media sharing their similar experiences with Masullo that mirrored her own. Board Letter at 12. While Masullo might not like the fact that several former students came forward to report similar

complaints, the B&T Report confirms that Masullo was engaged in inappropriate behavior with other USN students and alumni. For example:

One former student recalled taking a test in Masullo's sophomore English class. The student walked up to Masullo's desk to ask a question about the test. Masullo followed the student back to her seat, massaged the student's shoulders, and then leaned down and whispered, "You are my poetry queen" into her ear. The student told us that at the time, she found this interaction more odd than bothersome and did not report it. Another student described Masullo hugging her aggressively and then crying into her hair. One alumni stated Masullo attended off-campus movies with students at the Belcourt Theatre with no other faculty member or parent present. In several instances, alumni described receiving out of place and personalized gifts from Masullo. One alumni described receiving an ornate bouquet of red roses from Masullo after a performance.

B&T Report at 7.

All of these actions are examples of behavior that the independent investigation found to be consistent with grooming in violation of several USN policies. Ms. Bass was not the only person who had been subjected to inappropriate behavior. *Id.* Ms. Bass used this knowledge to push for an independent investigation, so future students would not be at risk from Masullo, and to ensure that students who would need to report inappropriate behavior would be protected and properly supported by the school. Bass Dec. Ex. 5 at 12.

2. Plaintiff cannot establish actual malice and therefore has not established a prima facie case for false light invasion of privacy.

Masullo has the burden of proving Ms. Bass acted with actual malice in order for his false light invasion of privacy claim to survive. That is a burden he cannot meet.

In a false light claim, as here, when the speech involves a matter of public concern, the actual malice standard will apply regardless of the identity of the speaker. *West v. Media Gen. Convergence, Inc.*, 53 S.W.3d 640, 648 (Tenn. 2001). Tennessee courts have shown that, similar to the TPPA, for a matter of public concern to occur such that actual malice applies under a false light claim the matter of public concern is defined as "of political, social or other concern to the

community.” *Charles v. McQueen*, No. M2021-00878-COA-R3-CV, 2022 WL 4490980 (Tenn. Ct. App. Sept. 28, 2022), *aff’d* in relevant part, 693 S.W.3d 262 (Tenn. 2024).

Ms. Bass’s statements are a matter of public concern which trigger the actual malice standard. Not only did Ms. Bass’s statements concern the safety of students at USN, but they also concerned the safety of students in the broader Nashville community, who may have had occasion to be in proximity to Masullo. As Ms. Bass’s statements were a matter of public concern related to the community, Plaintiff must establish actual malice.

Plaintiff cannot establish actual malice. Actual malice occurs when statements are made with “knowledge of the falsity of the statement or reckless disregard for the truth of the statement.” *West*, 53 S.W.3d at 647 (Tenn. 2001). Because Ms. Bass’s statements were true or substantially true, she cannot have made the statements with knowledge of the falsity of the statement or reckless disregard for the truth. Therefore, Masullo cannot establish a *prima facie* case for his false light claim.

3. Plaintiff cannot establish that Ms. Bass’ conduct was objectively outrageous to a reasonable person and therefore cannot establish a *prima facie* case for his intentional infliction of emotional distress claim.

Plaintiff has not shown a *prima facie* case for his intentional infliction of emotional distress claim because Plaintiff has not and cannot establish that the conduct was objectively outrageous to a reasonable person.

To prove intentional infliction of emotional distress a plaintiff must show “(1) the conduct complained of must be intentional or reckless; (2) the conduct must be so outrageous that it is not tolerated by civilized society; and (3) the conduct complained of must result in serious mental injury.” *Bain v. Wells*, 936 S.W.2d 618, 622 (Tenn. 1997).

For an intentional infliction of emotional distress claim to be successful, a plaintiff is required to show that the defendant’s conduct was “so outrageous in character, and so extreme in

degree, as to go beyond all possible bounds of decency and to be regarded as atrocious and utterly intolerable in a civilized community.” *Lourcey v. Est. of Scarlett*, 146 S.W.3d 48, 51 (Tenn. 2004) (citing *Miller v. Willbanks*, 8 S.W.3d 607, 614 (Tenn. 1999)). Plaintiff fails to establish this.

By way of example, Tennessee courts have found conduct to be outrageous when a cremator dumped and buried the corpse of someone’s loved one in a shallow grave and misrepresented a box of potting soil and cement as the person’s ashes. *Akers v. Prime Succession of Tenn., Inc.*, 387 S.W.3d 495, 499 (Tenn. 2012). That is clearly an instance where “the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, ‘Outrageous.’” *Bain v. Wells*, 936 S.W.2d 618, 623 (Tenn. 1997). Ms. Bass’s true statements don’t even come close to meeting that demanding standard. Far from being outrageous, Ms. Bass’s decision to come forward was an act of courage and integrity, taken to protect other students despite the personal difficulty involved.

In fact, there would be an extreme chilling effect on students reporting inappropriate behavior by teachers or other individuals with authority, if it was found that Ms. Bass’s statements related to Masullo’s inappropriate conduct were regarded as “atrocious” and “utterly intolerable” in a community. Victims would be unable to hold perpetrators accountable for sexual misconduct, sexual harassment, and/or grooming. The TPPA does not countenance this result.

C. Ms. Bass Has Established Valid Defenses

1. The public interest privilege applies.

Plaintiff’s grooming, sexual harassment, and sexual misconduct defamation claim is foreclosed from liability by the public interest privilege. Tennessee has adopted the public interest privilege. *Pate v. Serv. Merch. Co.*, 959 S.W.2d 569, 576 (Tenn. Ct. App. 1996). The public interest privilege states that a publication is privileged “if the circumstances induce a

correct or reasonable belief that (a) there is information that affects a sufficiently important public interest, and (b) the public interest requires the communication of the defamatory matter to a public officer or a private citizen who is authorized or privileged to take action if the defamatory matter is true.” *Id.*

Ms. Bass’s statements were all forms of communication made in good faith and intended to place pressure on USN officials and prior administrators for not handling the initial investigation correctly. Board Letter at 1.

Ms. Bass had a reasonable belief that the information would affect a sufficiently important public interest, the health and safety of other students within the USN community. *Id.* The Board Letter was written not for herself (she had already graduated), but instead to help ensure current and prospective students at USN “will find themselves more protected and respected than she was” during the initial investigatory process of Masullo’s conduct. *Id.* Ms. Bass included the statements related to Plaintiff’s inappropriate behavior to give background to the USN Board of Trustees to help explain how the failure of USN administrators to act efficiently continued to affect her while potentially endangering other students at the school.

The health and safety of children in a school setting is clearly an important public interest. The extent to which this was an important public interest in the USN community and beyond was made clear when numerous USN students, parents, and faculty members brought forth their own concerns after the news about Masullo’s misconduct broke. *Connor Daryani, University School Bows to Public and Internal Criticism, Launches New Investigation of Fired Teacher, Nashville Banner*, September 13, 2024, attached as Powell Dec. Ex. 3. Many USN students, parents, and faculty members wrote letters, participated in walkouts, and withheld donations from the school.

The public interest in this matter required Ms. Bass to make the communication to a group of private citizens, the USN Board of Trustees, who were authorized to take action in the matter. Ms. Bass' attorney transmitted this information directly to the USN Board of Trustees via letter. *See* Board Letter. Ms. Bass then sent the Board Letter to USN faculty responsible for the safety of students attending USN. *See* Bass Dec. Ex. 6. Ms. Bass did not authorize or participate in the Board Letter's later leak to the public. She made the statements about Masullo to USN Board of Trustees because USN's prior administration failed to adequately conduct an initial investigation. Ms. Bass, her attorney, and her parents continually asked the USN administration for updates regarding the initial investigation, especially on the employment status of Masullo. B&T Report at 23. Ms. Bass did not receive this information. *Id.* Therefore, she went to the USN Board of Trustees to put pressure on USN's administration to ensure that an independent investigation was implemented and their policies were reviewed. USN's initial investigation lacked necessary transparency such that parents and students were not informed of the reasons behind Masullo's leave. *Id.* at 44. Parents and students of USN were not aware of the danger that was posed to the community by Masullo. In fact, Ms. Bass recalls being in classes where her teachers had students writing "get well" letters to Masullo, as they were unaware of the true reason behind his leave of absence from USN.

2. Masullo contractually released his claims against Ms. Bass.

Plaintiff's claims are unequivocally barred by the settlement agreement he executed with USN on July 19, 2024. In that agreement, Masullo released USN and related parties, including "all persons acting by, through, under, or with any of" USN, its affiliates, agents, or representatives. *See* Settlement Agreement § 4, attached as Powell Dec Ex. 4. The agreement releases these parties "from each and every claim, cause of action, right, liability, or demand of any kind and nature in existence at the time this Agreement is executed, and from any claims

which may be derived therefrom.” To eliminate any doubt as to its scope, the agreement contains an all-caps provision stating: “BY SIGNING BELOW, YOU CONFIRM THAT IT IS YOUR INTENT TO RELEASE ALL CLAIMS OF EVERY NATURE AND KIND WHETHER KNOWN OR UNKNOWN WHICH YOU MAY HAVE AGAINST THE RELEASED PARTIES AS OF THE DATE YOU SIGN THIS AGREEMENT.”

Ms. Bass plainly qualifies as a “Released Party.” As the student who reported Masullo’s misconduct, her cooperation was the foundation of the school’s investigation. In this capacity, she was a person “acting ... with” USN in its efforts to investigate and remedy his conduct. Masullo signed this release on July 19, 2024, more than two months after Ms. Bass had made her detailed allegations to the USN administration. As such, any potential claim for defamation against her for making those allegations was already “in existence” at the time of execution and was therefore extinguished. The present lawsuit, which complains of the subsequent republication of these same core allegations, asserts claims that are, by definition, “derived therefrom” regarding the original reports. This is fatal to Masullo’s case, as he contractually surrendered his right to sue the very person whose bravery brought his misconduct to light.

At a minimum, the release prevents Masullo from proving legally cognizable damages proximately caused by the post-release communications. The allegedly defamatory statements he recites are simple repeats of the same allegations of sexual misconduct and grooming behavior that had already led to his termination. Any reputational harm had already occurred or was already inevitable by the time he signed the release. Furthermore, Masullo cannot prove damages for two independent reasons: first, the communications are privileged speech on a matter of intense public concern (see *supra* Part 1), and second, the allegations would have become public in any event due to the community outrage over USN’s mishandling of the investigation.

Moreover, Masullo cannot prove economic damages since he was terminated prior to the post-release communications. The release, coupled with the pre-existing damage to his reputation, creates an insurmountable bar to recovery.

V. COSTS, ATTORNEY'S FEES, & SANCTIONS

Tennessee Code Annotated § 20-17-107(a) provides: If the court dismisses a legal action pursuant to a petition filed under this chapter, the court **shall** award to the petitioning party:

- (1) Court costs, reasonable attorney's fees, discretionary costs, and other expenses incurred in filing and prevailing upon the petition; and
- (2) Any additional relief, including sanctions, that the court determines necessary to deter repetition of the conduct by the party who brought the legal action or by others similarly situated.

The Plaintiff's outrageous retaliatory prosecution of this action merits the full measure of costs and fees authorized by statute. The transparent purpose of this lawsuit is to intimidate and punish Ms. Bass for having the courage to speak the truth about his substantiated misconduct—conduct confirmed by an independent investigation and resulting in his termination. Plaintiff filed his suit even after a court of this jurisdiction found the issues at hand to be of public concern. Rather than demonstrating contrition, Plaintiff has chosen to re-victimize his former student through litigation designed to chill her speech and deter others from coming forward. No litigant acting in good faith could reasonably believe these claims have merit. The Court should therefore award Ms. Bass both the mandatory costs and attorneys' fees, and such additional relief as may be necessary to deter similar abuse of the judicial process.

VI. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that the Court dismiss Plaintiff's Complaint in its entirety and with prejudice, that all relief requested therein be denied, that Defendant be awarded the mandatory costs and attorneys' fees incurred herein as required by the TPPA, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Chanelle Acheson

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CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2025, a true and correct copy of the foregoing document has been filed with the Court's electronic filing system, which will send notification to all counsel of record.

/s/ Chanelle Acheson

Chanelle Acheson