

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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ERICA MORRELL,	:	
	:	
Plaintiff,	:	Civil Case No.: 23-cv-00426
	:	(BKS)(DJS)
v.	:	
	:	
ST. LAWRENCE UNIVERSITY, and	:	<b><u>AMENDED COMPLAINT</u></b>
ERNESTO MORALES, in his individual	:	
and professional capacity,	:	
	:	<b><u>Jury Trial Demanded</u></b>
Defendants.	:	
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Plaintiff Erica Morrell (“Plaintiff”), by and through her undersigned counsel, Wigdor LLP, as and for her complaint against Defendants St. Lawrence University (“St. Lawrence,” “SLU” or “University”) and Ernesto Morales (“Morales”) (“Defendants”), hereby alleges as follows:

**PRELIMINARY STATEMENT**

1. Tuesday April 12, 2022, should have been like every other Tuesday for Plaintiff, an assistant professor at St. Lawrence, who with her husband of 18 years, has two young children. Instead that Tuesday was a nightmare that has jarred and splintered her world into two parts: life before April 12, 2022, and life after.

2. That Tuesday evening, following a meeting with students that ended at 8 pm, she went to meet in person for the first time, Ernesto Morales (“Morales”), the Co-Chair of Public Health. The purpose of the meeting was to talk about future courses to be taught by Plaintiff in sociology that would be used to also satisfy requisites for a major or minor in Public Health. As detailed herein, sadly that in-person meeting caused Plaintiff to write this heart-breaking message to University officials several days later, that reads in part:

“..... Dr. Ernesto Morales, Assistant Professor and co-Chair in Public Health, has committed sexual harassment, sexual assault, and rape against

me ... This includes Moralez expressing sexually harassing verbal comments and initiating several forms of unwanted, nonconsensual sexual acts with me, including: kissing, touching, inserting fingers into my vagina, initiating anal sex, initiating vaginal sex, and reaching ejaculation inside of me without my consent or use of sexual protection. This occurred on Tuesday, April 12, 2022, between the hours of 8 pm and 2 am.”

3. Her somewhat clinical, yet brutally descriptive account of a rape by a victim, included as many details that she was able to recall days later, especially for someone still in a state of shock and never before having to describe abhorrent sexual acts committed on her own body without her consent.

4. Plaintiff felt pressured to meet Moralez in person that Tuesday night because 8 days earlier, during her April 4, 2022, mid-year tenure review meeting, it was made clear that she was not being viewed as a professor who was interacting with other faculty to the degree the University wanted her to and expected her to. And this was especially true when it came to Moralez, the Co-Chair of Public Health. Out of the 12 courses she had taught since the Fall of 2020, 10 of these were courses that satisfied requisites of a major or minor in Public Health. Yet, since the fall of 2020 when Moralez started at St. Lawrence, Plaintiff had not reached out to “welcome” him in person, as she specifically had been told to do by her superiors.

5. Plaintiff asked Moralez if they could meet in a public setting, such as at a school cafeteria or for coffee locally. Moralez insisted that she come to his house where he would have carry-out food waiting. Already feeling at fault for not proactively trying to meet him in person sooner, when he had started in the fall of 2020, she acquiesced.

6. What should have been an uneventful work meeting to discuss future courses taught by Plaintiff that would count towards Public Health requisites, was a night that turned into any woman’s worst nightmare.

7. She arrived to meet Morales, who lived alone at 43, having never been married and who had no children. They ate the Indian takeout Morales had picked up earlier. Plaintiff, not wanting to arrive empty handed, brought a six-pack of IPA beer from the town in Vermont where she lived with her family. Between 8 and 11 pm, Plaintiff drank two of the IPAs.

8. By 11 pm, Plaintiff was tired and said she wanted to go home. Quickly, Morales insisted that she try one of his mixed drinks, even though she had told him when she arrived that she does not drink hard alcohol. And she had just told him that she wanted to leave.

9. Morales insisted she have one of his mixed drinks. When she refused and repeated that she wanted to go home, he acted offended and claimed he was practically a professional bartender. Refusing to take no for an answer, he removed a Tupperware container from the refrigerator that she saw contained freshly peeled and cut grapefruit with some juice. He took that container and with his back to her on his kitchen counter, prepared a drink with clear alcohol and the grapefruit. Although she wanted to leave, Plaintiff politely remained at the island in the center of the kitchen, not far from the back door exit, and drank some of the mixed drink he handed her.

10. Within minutes, Plaintiff's entire body and mental acuity began to change. Contrary to how she had felt when she first said she wanted to go home, which was simply tired, her thoughts now felt muddled, cloudy and she was unsteady on her feet.

11. Plaintiff also began to feel nauseous. Seeing the water cooler, she walked over but her coordination already impaired, she fumbled with the spout and could not even pour herself a glass of water. For an adult who had consumed only two beers in a three-hour period, and then had part of a mixed drink Morales prepared for her around 11 pm, such cognitive and physical failures are grossly abnormal. Even if Plaintiff had not metabolized each beer in 60-90 minutes which is the average time for an adult to metabolize one alcoholic drink, three hours with only two

beers never would have caused such physical and mental reactions as she experienced.

12. From there, Plaintiff spiraled into a dark and murky space where she moved in and out of the ability to speak or control her physical movement and remembers only small pieces of events the rest of the night.<sup>1</sup>

13. Shockingly, Moralez then kissed her on the mouth. She remembers trying to get to the back door but he stepped in between. She tried to push him out of the way but he forcibly kissed her again and physically moved her away from the door.

14. Plaintiff, already reeling, was incapable of reacting normally. She describes facial paralysis, stating that her mouth felt like the painting the *Scream* and she was unable to form words. She identifies only a sensation of being guided by Moralez through his house and at some point, hazily remembers steep stairs.

15. Plaintiff began to go in and out of awareness. She can remember certain physical sensations and sounds throughout the next several hours during which Moralez raped her. Overwhelmingly, she was physically helpless like a rag doll and unable to formulate words – and unable to make her body move.<sup>2</sup> Plaintiff was incapacitated.

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<sup>1</sup> See *infra* at ¶¶ 161-181: Plaintiff experienced intermittent flashes of memory (both “flashbulb memories” and “fragmented memories”) that are consistent with rape trauma, as well as a number of substances commonly referred to as date rape drugs or “rape drugs,” or “designer drugs.” See <https://www.justice.gc.ca/eng/rp-pr/jr/trauma/p4.html> and <https://www.womenshealth.gov/a-z-topics/date-rape-drugs>.

<sup>2</sup> Under New York State Penal Law Article 130, “Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent. “Physically helpless” means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. See Article 130.00 Definitions. See <https://www.nysenate.gov/legislation/laws/PEN/130.00>.

16. At some point after midnight, Plaintiff realized she was not in her bed and to her horror saw that Morales was next to her, asleep. In a panic and still not completely in control of her physical movement, she somehow managed to find her pants and sweater and go downstairs.

17. Not knowing what had just happened, in shock and afraid that Morales would wake up and come downstairs, Plaintiff scribbled a note on a napkin to say she had left, and ran to her car. She remembers some of the drive back to the Bed & Breakfast (“B&B”) near campus where she stayed several nights a week, along with faculty who traveled from their homes in other towns to teach at SLU. Plaintiff tried to call her husband, but he was asleep and did not answer.

18. It was approximately 2 a.m. when Plaintiff arrived at the B&B. She is unsure if she slept more than a few hours, if that, as she violently vomited and experienced diarrhea until the next morning which are not uncommon reactions to numerous date rape drugs. After two beers between 8 pm and 11 pm, experiencing loss of memory and the ability to speak or control facial muscles or walk properly is not normal for the average adult, and it was grossly unusual for Plaintiff. Indeed, before this night, Plaintiff had never lost consciousness as a result of alcohol. In short, this level of incapacitation should never happen to any adult from two beers consumed in three hours.

19. She awoke on April 13 (Wednesday) confused, sick and not able to understand what had happened or why she felt like this. Her body hurt. Her head hurt. Nothing was clear in her mind. Nothing like this had ever happened to Plaintiff before.

20. Unbeknownst to Plaintiff, the second part of this tragic event was about to unfold.

21. In the second part of this tragedy, Morales claims to remember “everything.” Amazingly, he says he remembers *every detail of the evening* “exactly as it happened.” At no time has Morales ever claimed that he lost consciousness or was unable to physically move or formulate

words that night. He has never alleged that he violently vomited and experienced diarrhea throughout the night, as had Plaintiff.

22. Knowing that Plaintiff would never piece together events from after 11 pm, (and her recollection of the events prior to this time are clear and fully remembered) Moralez was emboldened to “tell her” his story about what happened.

23. Disgustingly and appallingly, his story about what happened to Plaintiff, while she was incapacitated and incapable of consent, is straight from a predator’s textbook.

24. Moralez told Plaintiff the next day that they were “two consenting adults” who had “carnal sex” and that “it was fun.” Disgusted but also afraid of him and what had happened to her, Plaintiff did not know what to do or who she could talk to – after all, she had not yet realized that pieces of the experience were completely blocked from her memory. Yet, she already knew the truth – nothing about what had happened was “fun” and she had not consented to sex with Moralez.

25. Moralez’s reference to animal-like and aggressive sex is textbook. As a hedge, a claim that a woman, who cannot dispute the account because she has limited memory, was aggressive sexually helps account for any unexplained bruising, torn clothing or other such potential evidence of physical dominance. Having never been accused of being sexually aggressive, Plaintiff was sickened and in shock at what Moralez said to her.<sup>3</sup>

26. As she came to terms with the fact that Moralez had had sex with her without her consent, this caused her to, understandably, panic all over again. Worried that she may have

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<sup>3</sup> Notably, as part of the University’s “investigation,” photos of Plaintiff’s sweater and jeans were included as evidence. Her sweater was torn at the neck and her jeans had a huge tear at the crotch. It is incomprehensible that someone allegedly *consenting* to sex would have torn her jeans at the crotch to such a degree as Plaintiff’s jeans were. Plaintiff has no recollection about how it happened. Moralez feigned knowledge that the jeans were torn.

contracted an STD, Plaintiff sought medical care that included a twenty-eight-day course of HIV post-exposure prophylaxis (“PEP”).

27. On April 15, 2022, Plaintiff reported what had happened to the best of her recollection to the University. Shockingly, SLU failed to immediately act and take critical steps that are basic and fundamental in such situations involving employees. SLU failed to immediately seize Morales’s SLU owned devices and subject them to forensic review, for things such as websites he had visited in the past months, especially as date rape drugs can be purchased online.

28. Not only did the University have the right to seize and inspect his devices, it could have done so without warning. Yet SLU failed to even ask Morales for access to his SLU owned devices during these critical hours and continued to fail to ask for months throughout the investigation.

29. In the second part of her trauma, as part of the internal Title IX process she naïvely believed would hold Morales accountable, St. Lawrence used the fact of her physical and mental incapacity following the mixed drink, including that her memory was impacted, to label her as untrustworthy and less credible as compared to her perpetrator – who purportedly remembered “everything that was said.”

30. Even more grotesque, displaying an utter lack of basic knowledge about sexual trauma victims or familiarity with well-documented medical literature about coping mechanisms by rape and sexual assault victims, St. Lawrence disgustingly grilled Plaintiff after the fact about what it considered “inconsistencies” in her recollections about such things as “how” she got from Morales’s kitchen up to his bedroom especially because the stairs were “so steep,” to what she “remembers” or not, about Morales shoving her face down on to his penis.

31. SLU, a higher learning institution, appears wholly ignorant of countless medical literature that discusses the common misconceptions about how people behave after rape, especially when the perpetrator is not a complete stranger, as many victims continue to communicate with their assaulter and up to eighty percent (80%) do not report to the police.<sup>4</sup>

32. Just as every victim fears, because she reported what had happened, SLU exacerbated the harm to Plaintiff by engaging in textbook victim blame and shame conduct. As set forth below, this conduct violates the laws in place to protect women like Plaintiff.

33. Such behavior is even more reprehensible given the fact that SLU fostered and helped create the opportunity for Morales's unlawful conduct when it looked the other way when it had the opportunity to delve further into Morales's past and specifically, into reports of alleged prior sexual misconduct. As detailed below, outrageously, rather than consider such prior allegations against Morales as relevant and probative, which of course they are, SLU opted to disregard information about his past, shamefully finding that any evidence of prior allegations were "not relevant" as to "what happened" on April 12, 2022.

34. No greater harm after the fact can be done to a rape victim other than to discredit and discount her experiences, yet repeatedly, the University has gone out of its way to discredit Plaintiff's account of what happened to "protect" Morales, the Co-Chair of its newly formed Public

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<sup>4</sup> <https://www.ojp.gov/pdffiles1/Digitization/146610NCJRS.pdf>; <https://www.brennancenter.org/our-work/analysis-opinion/sexual-assault-remains-dramatically-underreported>; <https://www.newyorker.com/magazine/2022/09/12/the-victim-who-became-the-accused>; In addition to data showing that more than 80% of victims do not report sexual assault or rape to the police, the data shows that for the 19% who do come forward, as few as 2% percent of women come forward with false accusations. See [https://www.nsvrc.org/sites/default/files/Publications\\_NSVRC\\_Overview\\_False-Reporting.pdf](https://www.nsvrc.org/sites/default/files/Publications_NSVRC_Overview_False-Reporting.pdf)



Health department, which had received an anonymous \$15 million donation to support this endeavor.<sup>5</sup>

35. SLU's conduct sends a message to all victims of sexual assault at SLU that it is better to remain silent than to speak truthfully about what you remember.

36. The ignorance and further discrimination that has been displayed throughout SLU's "investigation" of what happened to Plaintiff on April 12, 2022, is nothing less than unconscionable, but also is unlawful.

37. By and through this action, SLU, Moralez and the individuals that contributed to Plaintiff's harm will be held accountable.

### **ADMINISTRATIVE PROCEDURES**

38. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC"), an administrative pre-requisite to filing an action under Title VII of the Civil Rights Act of 1964 ("Title VII") and received her notice of her right to sue.

39. Plaintiff has complied with all prerequisites to filing this action.

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<sup>5</sup> See <https://www.nytimes.com/roomfordebate/2014/12/12/justice-and-fairness-in-campus-rape-cases/believing-victims-is-the-first-step-to-stopping-rape> ("society says it's the victim's responsibility to stop sexual assault by reporting their attack to the police. Yet disbelief of rape victims runs rampant in all levels of the institutions that are supposedly designed to help"); *see generally* "An Epidemic of Disbelief," *The Atlantic*, Barbara Bradley Hagerty, <https://www.theatlantic.com/press-releases/archive/2019/07/an-epidemic-of-disbelief-august-issue/594145/>; *see also* <https://news.harvard.edu/gazette/story/2020/08/how-rape-culture-shapes-whether-a-survivor-is-believed/> ("social attitudes about sexual assault lead to survivors being treated with skepticism and even hostility, while perpetrators are shown empathy and imbued with credibility not conferred on people accused of other serious crimes, like armed robbery").

### **JURISDICTION AND VENUE**

40. The Court has subject matter jurisdiction over this matter pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”), as well as pursuant to Title IX of the Education Amendments Act of 1972, 20 U.S.C. § 1681, *et. seq.*

41. The Court has supplemental jurisdiction over Plaintiff’s related claims arising under New York State law pursuant to 28 U.S.C. § 1367(a).

42. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) because Defendant St. Lawrence University is located in Canton, N.Y., within the Northern District of New York and a substantial part of the events or omissions giving rise to this action, including the unlawful practices alleged herein, occurred in this district.

### **PARTIES**

43. Plaintiff is an assistant professor in the Sociology Department at St. Lawrence University. Plaintiff is a citizen of the United States and resides in Vermont. At all relevant times, Plaintiff met the definition of “employee” and/or “eligible employee” under all applicable statutes.

44. Defendant St. Lawrence University (“St. Lawrence” or “SLU”) is a not-for-profit private university formed pursuant to the laws of the State of New York. SLU’s principal place of business is in Canton, New York. At all relevant times, St. Lawrence University was an “employer” within the meaning of all applicable statutes.

45. Defendant Ernesto Moralez (“Moralez”) is Co-Chair of Public Health and an assistant professor at SLU who is a citizen of the United States. Moralez resides in the state of New York. Moralez directly participated in the unlawful conduct to which Plaintiff was subjected, including sexually assaulting and raping Plaintiff.

46.

## **FACTUAL ALLEGATIONS**

### **I. ST. LAWRENCE’S ADMINISTRATION HAS IGNORED THE RAPE CULTURE FOR YEARS**

47. In 2018, members of SLU’s faculty and staff called on the administration of SLU to bring an end to the rape culture on SLU’s campus.<sup>6</sup>

48. Before that, in 2014, because of the University’s failure to take adequate measures to address rape on campus, SLU students took matters into their own hands by bringing the “NO MORE” campaign to SLU.<sup>7</sup> Campus organizers for SLU’s NO MORE campaign spoke out about the lack of attention to the rape culture at SLU, saying: “if no one is doing anything it is up to us to make a difference and help the survivors” and “we don’t take it seriously which would be the main thing that needs to change.” At the time, a member of The Board of Trustees admitted the severity of sexual assaults at SLU and stated that things had become so bad that SLU had to seek outside help,

“We recognize that this issue is worse than it’s ever been, so at the last Board meeting a specialist came in to help us understand steps to solving it.”<sup>8</sup>

49. Unfortunately for the faculty, staff, and students, SLU’s actions were only performative.

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<sup>6</sup> *Academy Members Denounce the “Rape Culture” at St. Lawrence University as Part of Its Calls to Rescind Sen. Collins’ Honorary Degree*, JonathanTurley.org, Oct. 18, 2018, <https://jonathanturley.org/2018/10/18/faculty-members-denounce-the-rape-culture-at-st-lawrence-university-as-part-of-its-calls-to-rescind-sen-collins-honorary-degree/>; Ed O’Keefe, *Alumni and faculty call on St. Lawrence University to rescind Susan Collins’ honorary degree*, CBS News, Oct. 16, 2018, <https://www.cbsnews.com/news/alumni-and-faculty-call-on-st-lawrence-university-to-rescind-susan-collins-honorary-degree/>

<sup>7</sup> Jennifer Finan, *NO MORE Campaign*, The Hill News, Dec. 3, 2014, <https://thehillnews.org/uncategorized/jenniferfinan/no-more-campaign>.

<sup>8</sup> Sheila Murray, *St. Lawrence Says “No More”*, The Hill News, Dec. 3, 2014, <https://thehillnews.org/uncategorized/sheilamurray/st-lawrence-says-no-more>.

50. In October 2021, just months before Plaintiff's nightmare, hundreds of students gathered in the yard of the University's President, Kate Morris, to voice their outrage about SLU's failure to address the pervasive rape culture at SLU. In conjunction with the protest, over 700 people signed a petition to President Kate Morris calling out SLU's failures around preventing and investigating sexual assault at SLU.<sup>9</sup>

The culture of sexual assault apology at St. Lawrence University and the handling of Title IX violations has become so bad that on the night of October 12, hundreds of students gathered in the yard of President Kate Morris to voice their outrage and concerns in a peaceful manner. In a random poll of those who attended, nearly every person there had experienced a form of sexual assault on campus or knew someone who had. Additionally, of the same demographic, only one or two had seen the outcome of having a report filed and that person facing real consequences.

51. Despite the blatant warnings, the University's efforts to address the crisis have been abysmal. SLU's administration continues to prioritize shielding SLU from legal liability over their responsibility to protect members of the SLU community. At some point, a "task force" was appointed.<sup>10</sup>

52. The below account from North Country Public Radio's ("NCPR") piece in 2015, "Campus Rape in the North Country,"<sup>11</sup> details how in the past SLU's administration has focused on SLU's reputation rather than the victims of assault:

One guy I talked to—a student on a St. Lawrence sports team—told me about a meeting he went to. He says campus

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<sup>9</sup> The petition can be accessed here: <https://www.change.org/p/president-kate-morris-change-the-culture-at-st-lawrence-university>.

<sup>10</sup> Upon information and belief, the focus has been on providing support to victims after they suffer sexual violence, and not on how to stop it from happening. Information on the task force can be accessed here: <https://www.stlawu.edu/task-force-members>.

<sup>11</sup> Zach Hirsch, *Campus sexual assault in the North Country: what it's like to be the accused*, NCPR, Jan. 7, 2015, <https://www.northcountrypublicradio.org/news/story/27118/20150107/campus-sexual-assault-in-the-north-country-what-it-s-like-to-be-the-accused>.

administrators gathered all the male athletes into one room, and gave a lecture that was just sort of, confusing. “It was a really, really weird vibe that they gave out because it was like, it was almost as if, like ‘don’t do something that the university would not be proud of.’ Or like don’t do something that would look bad in a headline. Which is so bad, like, there’s so much more to it than that. Like don’t ruin someone’s life how ‘bout?”

52. The in-depth piece by NCPR describes the horrifying reality that members of the SLU community have faced for years:

There are people here who are kicked off and suspended for mouthing off to security, and then there are people here who absolutely for sure from multiple people have been accused of assault and rape and they’re all still here. I hear story after story like this from women on campus—at St. Lawrence University. They agreed to talk anonymously. They tell me over and over that guys who sexually victimize people on campus rarely face serious consequences.

## **II. ST. LAWRENCE NEGLIGENTLY HIRES MORALES**

53. SLU’s failure to protect members of the SLU community and refusal to subject perpetrators of sexual assault to any meaningful discipline directly contributed to what happened to Plaintiff. Whether sexual violence involved students, professors and students or just professors, evidence that “[t]hey tell me over and over that guys who sexually victimize people on campus rarely face serious consequences,” is the definition of an employer that effectively discourages complaints from being filed, fails to adequately respond to complaints and is grossly negligent on a systemic level. Harassers are emboldened when they know they are less likely to face consequences for sexual misconduct.

54. St. Lawrence hired Morales while failing to conduct an in-depth background check, and failing to investigate any prior complaints of sexual assault that were made against him. There is no excuse for failing to require employee applicants at residential institutions of higher learning to sign a sworn statement indicating whether to the best of the applicant’s knowledge he or she has

ever been arrested or convicted of a crime in New York State or any other jurisdiction, or for teachers in accredited institutions of higher learning, to *self-report* all prior Title IX investigations in which he or she has been a respondent, regardless of the outcome. It is disingenuous for SLU to claim that it was taking the issue of sexual assault seriously, yet it made zero changes to the way in which it evaluated professors it was considering hiring.

55. Residential universities are uniquely situated in that professors are regularly in substantial physical contact with students, most of who are 18-21. At a minimum, this should create a heightened bar for screening of all employees working on a residential campus. Professors, for example, regularly meet students, and one another, in isolated offices located in buildings far removed from one another. Professors engage in regular and substantial physical contact with students and other faculty when they serve as residential dorm faculty, and as hosts for visiting international students and visiting professors. Regular and substantial isolated contact between professors and students and professors with other faculty takes place as part of off campus internships, and outings and events off-campus associated with specific courses. It is not the responsibility of another faculty member or a student, to inquire about his or her professor's history of prior allegations of gender motivated violence.

56. Requiring a professor or university staff member to self-report is no different than numerous other employment industries that employ a heightened level of background history due diligence based on the realities of the job.<sup>12</sup>

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<sup>12</sup> Applicants for employment in daycare facilities or other social services related jobs that have the potential for substantial contact with children are the most obvious example. However, countless other jobs require employees to voluntarily disclose background histories in line with the tasks of the job, such as those in finance and banking who must disclose minor infractions involving money or involving breaches of fiduciary duties.

57. At schools such as St. Lawrence, regular and substantial physical interaction and contact with other faculty is encouraged and takes place at the residential homes of staff and professors as part of normal business. In contrast, coworkers in most other industries, rarely, if ever, are asked to attend work meetings at the personal residences of their coworkers.

58. In addition, the faculty events at SLU usually involve alcohol.

59. Further, it is common knowledge that the primary sources for background checks fail miserably at the task, and the excuse that “everyone else” in higher education relies on these same companies is no defense for St. Lawrence or any other institution of higher learning. In fact, although the consumer credit reporting agencies are prohibited from reporting on any crimes more than seven years prior to screening, such a restriction does not apply for individuals who will be paid a salary of \$25,000 a year or more. Yet, SLU, upon information and belief, did use and continues to use, screening agencies that adhere to the most restrictive of background history of information – because of alleged fear that the University will be accused of wrongfully discriminating against an applicant with a past involving criminal offenses.

60. Specifically, upon information and belief, St. Lawrence did not at the time it hired Moralez, and through the present, screen professors applying for employment, whether adjunct, visiting or for full-time employment, about past information of any accusations regarding gender-related harassment or whether the applicant was ever a named respondent in any Title IX related investigations. Given the fact that universities must record and report Title IX related investigations, requiring an applicant to produce such information would not be a burden for the applicant or his or her prior employers. With the abundant public information about the prevalence of sexual violence on university campuses, and specifically including SLU’s knowledge from 2018

through the protests in October 2021, about the likelihood of such violence on its own campus, failing to require and review such information from applicants is obvious negligence.

61. St. Lawrence's negligence in hiring and retaining Morales is well documented for other reasons as well. After SLU was directly and publicly informed of Morales's alleged prior sexual misconduct, it failed to take appropriate action to protect their faculty, staff and students, including Plaintiff.

62. As detailed *infra*, at least one Human Resources employee, and former Title IX Coordinator, along with Patrick Gagnon, SLU's Assistant Vice President of Safety, failed to properly investigate complaints about Morales allegedly sexually harassing a woman at his previous university, New Mexico State University ("NMSU"), as well as at a high school where he worked closely with students, also in New Mexico.

63. The failure to properly screen employees about their past involvement with any gender-based sexual harassment or violence is exacerbated given the undisputed awareness the University had about the frequency and severity of sexual assaults taking place on its own campus, due to students and faculty speaking up about it since as early as 2014, and up and through the protests in October 2021. Further, because of the required reporting under Title IX, the University was forced to examine the level of sexual assaults, as well as other gender related violence, including stalking, that was taking place annually.

### **III. SLU INTENTIONALLY ENCOURAGED PROFESSORS TO MEET AT FACULTY RESIDENCES**

64. SLU regularly and consistently encouraged faculty to meet to discuss work at their homes, and other off-campus spaces. The University cannot distinguish between events purely for "work" from those it claims are only "social," when it is understood and accepted by all faculty that part of one's ability to earn tenure at the school involved receiving multiple recommendations



about their work, including from faculty outside of their own departments, and being viewed as “collegial.” One way to gain such exposure in other departments and by other professors is to collaborate on courses among several disciplines, engage in panels, conferences with faculty outside of a professor’s own department, as well as to work on research collaborations. To be invited to work with others on panels, research and at conferences, faculty needed to make themselves known to the “St. Lawrence community” and engage in discussions with other faculty about their work specifically.

65. Such opportunities to participate in the “community” and interact with other faculty about work was regularly and consistently fostered by the administration at SLU – by hosting events, suggesting that faculty themselves volunteer to host such events at their homes, and where such events regularly involved alcohol.

66. By way of example only, prior to April 12, 2022, the Sociology department’s leadership encouraged Plaintiff numerous times to meet Moralez outside of the classroom to discuss future courses and programs.

67. In fact, Plaintiff was encouraged, in 2020 as a second-year faculty member to be a “buddy” with certain first year faculty members. One of these new professors was Moralez. Of course, Plaintiff responded that she would be happy to be a “buddy” to one of the 11 new faculty members:

**From:** Evelyn Jennings

**Sent:** Tuesday, September 1, 2020 12:57:45 PM

**Subject:** Connecting with new first year faculty

Hello, Second Year Faculty! .... I write today to ask if you might be interested and willing to be a second year “**buddy**” for one of our new first year colleagues. I have listed their names and departments below..... **My hope is more that you will be able to connect and welcome the new folks to the SLU community.**

68. Although this email occurred during covid-19 limitations, it is representative of countless such urgings by heads of departments and the administration to faculty. Another example of such overt encouragement to engage in these social but “work related” events is below: By way of example only, Plaintiff continues to receive such overt encouragement to engage in these social but “work related” events.

From: Brigett Ritchie <britchie@stlawu.edu

Sent: Monday August 12, 2019 at 11:04 AM

Good morning, all!

Below you will find an invite to a BBQ for the first-year faculty hosted by the second-year faculty. This year Dr. Megan Carpenter (Psychology) has graciously offered to host the BBQ at her house!

Please RSVP as soon as you can to me at britchie@stlawu.edu. ...

Also, alcoholic beverages are welcome but you must bring your own and it would be helpful but not necessary if you could bring a dish to pass!

In the meantime if you have any questions, please don't hesitate to ask!



69. More recently, another faculty invite includes sexual innuendos:

From: Academic Dean's Office

Sent: Wednesday, January 11, 2023 12:18 PM

To: SLU Faculty Distribution Group

Subject: Invitation: First Year Mixer, Tuesday 1/24, 4:30-6:00

Are you FYP clueless, FYP curious, or FYP committed?  
If you answered yes, please join us!  
The First Year Program would like to invite you to a  
First Year Mixer on Tuesday, January 24th from 4:30-6pm  
in Sykes Formal Lounge  
Enjoy food and beverages  
Learn about the First Year Program  
Hear about some changes for the 2023-2024 academic year  
And maybe even meet potential (teaching) partners  
To RSVP (because we don't want to run out of food or drink), please email Deb  
Bishop (dbishop@stlawu.edu) by 12pm on Monday, January 16.

70. Encouragement to meet at one another's residential homes was normal and happened frequently at SLU. Indeed, the sole reason Plaintiff was meeting Moralez in person was to discuss the course offerings that they could create and oversee together, again, at the direction of the Sociology Department's leadership.

71. Further, as set forth *infra*, Plaintiff went because just 8 days earlier at her mid-year tenure track review, she was encouraged to meet and engage in precisely such work-related discussions with other faculty.

72. Such repeated and consistent urgings by the administration fostered the set of circumstances directly leading to Plaintiff's harm at Moralez's home.

#### **IV. PLAINTIFF'S BACKGROUND AND EMPLOYMENT AT SLU**

73. Plaintiff is an accomplished sociologist and educator with a focus on food and environmental justice, social change, and critical theory.

74. In addition to being a dedicated educator, Plaintiff is a mother of two children that she shares with her partner and husband of 18 years.

75. Plaintiff earned her bachelor's degree in sociology in 2007, and her PhD in 2016.

76. In 2019, after she completed a Mellon postdoctoral fellowship at a prestigious New England college, she began teaching at St. Lawrence that fall.

77. Her professional accomplishments and past research are stellar. She came to St. Lawrence believing that this would be her academic home for years to come. Indeed, prior to April 12, 2022, she was working on several high-profile ongoing research projects that she expected to continue into 2023.

78. Unfortunately, as a result of her trauma, she has been unable to perform research work or focus on teaching.

79. As of April 12, 2022, Plaintiff managed to balance her family in Vermont by traveling to Canton and staying in a B&B on campus for her in person teaching days and other obligations. This worked during Covid-19, but as things began to return to normal, she and her husband planned to move to Canton permanently. In fact, they had purchased a home in Canton, and planned to move over the summer of 2022. The closing for their new family home, a process started months prior, was scheduled for and did in fact take place on April 15, 2022.

80. However, the horrific rape on April 12, 2022, changed all those carefully thought-out family plans for Plaintiff and her husband and their children.

81. Plaintiff and her husband sold the home in Canton without ever living there a single day.

**V. ST. LAWRENCE NEGLIGENTLY HIRES AND RETAINS MORALES**

82. In or around July 2020, St. Lawrence hired Morales as the Co-Chair and an assistant professor in Public Health. At the time, only a minor was offered in Public Health and the school wanted to develop the department to allow students to major in Public Health.

83. Notably, since its inception in 2017, the Public Health program at SLU has generated over \$20 million in donations. Significantly, in early 2019, an anonymous donor gifted \$15 million to SLU specifically to develop the Public Health department.

84. Prior to joining the faculty of SLU, Moralez served as an assistant professor at New Mexico State University (“NMSU”), the same university where he earned his master’s degree in public health and a bachelor’s degree in human and community services.

85. Before that Moralez worked as a research assistant, instructor, and undergraduate advisor at the University of Colorado while he was completing his doctorate in philosophy and health and behavioral sciences. He also served as an affiliate professor at the Metropolitan State University of Denver.

86. Upon information and belief, a thorough screening of Moralez at these prior institutions at the time of his hiring by SLU would have revealed that Moralez had been previously accused of alleged sexual misconduct.

87. By way of example only, in or around 2005 while studying at NMSU, Moralez worked at Alma d’Arte Charter High School (“Alma d’Arte”), located in Las Cruces, New Mexico. Upon information and belief, Moralez was an office assistant who interacted with the high school students at the school. That same year, Moralez resigned from Alma d’Arte. Moralez told NMSU Title IX investigators that he “quit,” due to what he described as “uncomfortable situations,” after a high school student reported that he had physically touched and groped her.

88. Also by way of example, upon information and belief, while Moralez was a graduate student at NMSU, a female graduate student alleged sexual misconduct, based upon Moralez’s alleged pressuring of her into sleeping in the same hotel room with him while they were away at an academic conference. Notably, Moralez admitted to at least one other professor at SLU that this sexual harassment complaint had been made against him. Moralez implied to this SLU professor that a Title IX investigation, hearing or both, had taken place as a result.

89. After he arrived at SLU and was working, information about some of these earlier

accusations of sexual misconduct resurfaced. By way of example, in or around May 2021, through social media, a person directly informed numerous SLU affiliated social media accounts that Moralez had engaged in sexual misconduct against her in 2005 at Alma d'Arte.



Replying to @StLawrenceU

in 2005 Ernesto Moralez sexually harassed me in high school he later denied it when I reported him and got away with it.

11:10 PM · May 8, 2021 · Twitter Web App



90. In or around the same time, the same person also informed the Chancellor of NMSU, Dan Arvizu, of her allegations through public social media posts.

91. This allegation was documented within the internal systems of NMSU's Office of Institutional Equity ("OIE") that logs incident reports of this nature.

92. In or around August 2021, NSMU's OIE documented another set of allegations which read, "Ernesto Moralez sexually harassed me in high school he later denied it when I reported him and got away with it. There's been other incidents. I feel women shouldn't be afraid to voice what's been done to them by men who are predators."

93. Officials in NMSU's OIE created an internal report documenting both sets of allegations.

94. In the beginning of September 2021, Ashlerose Francia (“Investigator Francia”), an Equity Officer and Investigator at NMSU’s OIE, emailed Moralez at SLU to inform him of the allegations. She requested that Moralez email her to set a time for them to discuss the complaints.

95. Because Moralez did not respond to NMSU OIE’s email, Investigator Francia followed-up with Moralez approximately one week later.

96. On or around September 23, 2021, Investigator Francia spoke with Moralez about the allegations of sexual misconduct.

97. Of course, Moralez claimed to NMSU that the allegations were “false.”

98. Incredibly, Moralez claimed that he was a victim of online harassment and identity theft, and even said that he had reported the situation to the police in the past, allegedly in New York City and Los Cruces, New Mexico.<sup>13</sup>

99. That same day, September 23, 2021, Investigator Francia reached out to Human Resources at St Lawrence about the complaints made against Moralez.

100. Almost a month later, on October 19, 2021, Investigator Francia reached out again to SLU, this time to Patrick Gagnon (“Gagnon”), SLU’s Assistant Vice President of Safety, to schedule a meeting on October 21, 2021 to discuss Moralez. Investigator Francia and Gagnon spoke on October 21, 2021. Upon information and belief, nothing was done to contact prior institutions such as the University of Colorado, or other employers of Moralez’s to inquire about reports or complaints.

101. Indeed, despite the fact that in or about 2018 at least one female student at NMSU had made a sexual harassment complaint about Moralez, which is likely why NMSU was taking

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<sup>13</sup> Moreover, such purported reports to police in New York City are highly suspect given that he worked at Alma d’Arte in 2005 and had not lived in NYC since 2003.



the 2021 social media reports seriously, it does not appear that SLU made a single request to NMSU to obtain more personnel information about Moralez, especially from the Title IX investigators.

102. Significantly, nothing prevented SLU from asking Moralez to self-report about any prior allegations involving gender harassment, regardless of his own opinion that such allegations were baseless. Yet it failed to do so.

103. Gagnon admitted to Investigator Francia that the timing of the allegations coincided with Moralez's previous employment at Alma d'Arte, a public charter high school in Los Cruces, New Mexico. This is especially troubling, as Moralez told one of the investigators that he had acted as a counselor and mentor to young girls at Alma d'Arte and ultimately resigned from the high school because of "uncomfortable situations."

104. Despite this, Gagnon never contacted Alma d'Arte to ask questions or obtain more facts about the alleged complaints of sexual misconduct that were made against Moralez.

105. Because Plaintiff learned about these alleged issues only subsequent to April 12, 2022, she attempted to contact the person who had reported the Alma d'Arte incident on social media. This person alleged that when she was a high school student and Moralez was an employee, he "ran his hands over [her] chest and fondled [her]," and "pushed [her] against a wall and continued to feel [her] until [she] pushed him," when a male friend came upon them, saw what Moralez was doing and he stopped.

106. At a minimum, a proper investigation by SLU would have included contacting Alma d'Arte to see if there were any disciplinary actions taken against Moralez while he worked there, and importantly, what were the circumstances surrounding his exit. Upon information and belief, the school failed to require Moralez to self-report about what happened, or to provide any

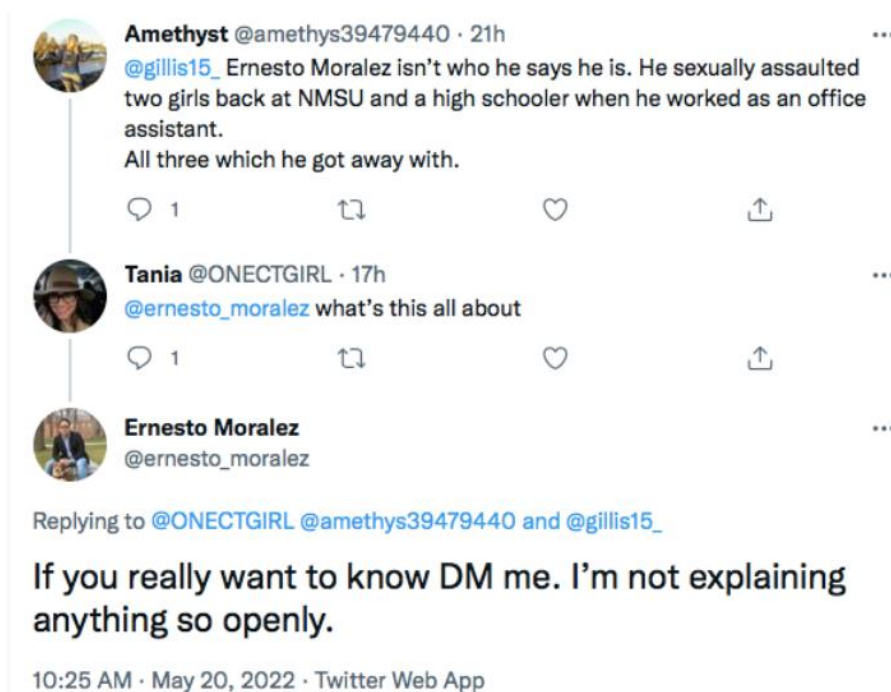


sources to verify his own account.

107. Similarly, a proper investigation would have included contacting Alma d'Arte to determine whether any other concerns, complaints, formal or informal, were made about Moralez that involved allegations of inappropriate sexual conduct, sexual misconduct, or sexual harassment in any way. Such concerns, if raised, would be important whether raised by students, teachers or staff at Alma d'Arte.

108. Instead, it appears that Moralez contacted the Canton, New York, police to report that he was the victim of alleged online stalking, after questions were being raised by NMSU.

109. In May 2022, Moralez was tagged in another tweet accusing him of sexual assault that he opted to respond to on social media:



110. Rather than using the red flags as an opportunity to reasonably take a deeper dive into Moralez's previous employers or academic institutions, SLU opted to view Moralez as a present-day victim of online harassment and stop the line of inquiry there. Because the person posting the online accounts refused to come forward and be questioned, SLU used this as a reason

to throw its hands up and excuse itself from further due diligence. Such negligence perpetuated Moralez's victim persona and paved the way for the devastation to Plaintiff on April 12, 2022, and her subsequent treatment by SLU's Title IX investigators.

111. At a minimum, had SLU attempted to obtain more information about the online reports, they would have noted that at least one person alleges that another incident took place in 2018 at NMSU, and claims to have the female student's name and contact information. Not only did SLU ignore these red flags in the spring of 2021, but it also failed to revisit the issues and seek more records from Moralez's previous employers or academic institutions, even after Plaintiff came forward in April 2022.

112. It is incomprehensible that SLU deemed such information as "not relevant" to the atrocity that occurred on April 12, 2022.

113. Further, months prior to April 12, 2022, Moralez admitted to at least one professor at SLU that a female graduate student at NMSU had in fact accused him of improper conduct of a sexual nature. Of course, Moralez discounted the allegations by this woman as a "misunderstanding."

114. The likelihood of a female high school student contriving a "story" that led to his exit from Alma d'Arte, already incredulous, becomes even less believable with such information. Indeed, had SLU taken the time to question anyone else except Moralez *himself*, such as other female professors at SLU, they would have discovered that Moralez had told another professor at SLU that a high school student had in fact complained about his conduct but that what "really happened" is that Moralez was "handsome" and "good-looking" and the younger girls were attracted to him and it was, according to him, nothing more than a "misunderstanding."

115. Not surprisingly, months before April 12, 2022, Moralez had a working narrative

in place to hedge any gossip about his relationships with women. He had told at least one other female faculty member that as a good-looking single man, women were attracted to him, and those who did not receive enough attention from their boyfriends or significant others, were especially attracted to Morales.

116. Having used this theme in the past, it is no surprise that one of the first falsities Morales raised in defense of Plaintiff's accusations against him, was that she purportedly told him she was having "marriage problems."

117. The opposite was true. Plaintiff never said such a thing to him, and as is obvious, she and her husband (who she has been with for more than 18 years) were closing on the house they had just purchased in Canton on April 15, 2022. She planned to remain at SLU for years, and this was the house that she and her husband had made the decision to buy so they could move their two children into a new school system and be together full-time.

118. As detailed *infra*, despite the opportunity to seek information from witnesses who know and work with Plaintiff, not a single faculty member or University employee who knows Plaintiff was asked by the Title IX investigators if she had discussed or even mentioned that she was having alleged "marriage issues." Of course, had anyone of these witnesses been asked, the answer would have been no.

## **VI. AS PART OF HER TENURE TRACK, PLAINTIFF IS ENCOURAGED TO BE MORE SOCIAL WITH OTHER PROFESSORS**

119. As part of the university's norms, SLU officials regularly encourage faculty to meet and build relationships with each other, including through off-campus events. Set forth *supra*, it is an open secret that at almost all faculty events, alcoholic drinks are provided.

120. Because of this, SLU professors did in fact regularly meet in private settings for events that while "social," really involved networking and talking about work. These events

almost always included alcohol. Again, SLU was aware of and encouraged this regularly occurring practice.

121. On April 4, 2022, as part of staying on track for tenure, which she hoped would happen in 2025, Plaintiff went through her third-year tenure review process. Included in her written mid-probationary review, SLU's university-wide and Sociology department's leadership stated that Plaintiff is a "very good teacher" who is "making excellent progress towards tenure."

122. Specifically, during the review process, Cynthia Bansak ("Bansak"), a professor who has held several administrative positions, encouraged Plaintiff to branch out more by collaborating with other professors, especially those outside of her department because, as is known, part of the tenure track review process is observing other professors teach and having your teaching be observed by other professors. During the discussions about Plaintiff's tenure progress, comments were made that Plaintiff was not "well-networked at SLU" and therefore, she was reminded that it is critical to tenure to co-teach courses, especially with professors in other departments, and to participate in activities with other professors and at the school.

123. Bansak spoke to Plaintiff about these expectations. The campus culture at SLU is to portray a highly collegial atmosphere, and it is critical that faculty fulfill this expectation. In the written component of April 4, 2022 review, it stated that she should "sit in classes of other faculty in her department and other departments.... [as] these class visits can spur fruitful exchanges and possible collaborations in the future."

124. Plaintiff knew that Moralez was the primary professor outside of sociology who she was supposed to be engaging with as many faculty had already told her to do so. Moralez had already reviewed and approved Plaintiff's pedagogy, as Plaintiff's courses were being used to satisfy requirements in Public Health. Knowing she had failed to be a "buddy" with Moralez

as encouraged by superiors, and to “welcome” him, and that she had to personally attend and observe one of his classes as well as develop courses together that she had not yet done, Plaintiff felt pressured to meet with Morales in person.

125. Because of this, Plaintiff emailed Morales on April 7, 2022 to schedule a meeting in person.

## **VII. MORALEZ IS THE CO-CHAIR OF PUBLIC HEALTH**

126. Morales is the Co-Chair in Public Health at St. Lawrence.

127. Initially Co-Chair with Mindy Pitre, by the spring of 2021, Morales was Co-Chair with Leah Rohlfen (“Rohlfen”), who had been at the school since 2008 and was the former Chair of the Sociology department. Indeed, it was Rohlfen who was responsible for hiring Plaintiff.

128. Because he was Co-Chair of Public Health, Morales participated in the monthly meetings at the University held for department Chairs only. These meetings regularly met for purposes of coordinating courses across all university departments and university-wide advising and administrative norms, however, it was also an opportunity for Morales, to maintain the fast-track tenure course he was already on.

129. Because higher academia generally, and SLU included, fall outside of traditional corporate hierarchies in terms of direct lines of reporting, outside of the top tier of university executive functions held by a select few, such as presidents, vice presidents and deans, chairs and heads of departments function as the direct supervisors for all other professors in their respective departments.

130. As such, at any higher level of learning institution, and at SLU, being the Chair of a department was a prestigious and elevated role. This is especially true at a smaller university,

such as SLU, therefore, the influence and degree of power held by Chairs was increased relative to professors who were not heads of departments or the Chairs of degree specific majors and minors.

131. Chairs, as head of their respective departments and majors, have direct influence over the professors who are not Chairs, for such things as *inter alia*, hiring, firing, tenure decisions, transfers, responsibilities of professors, including levels that are increased or decreased and otherwise impact compensation and job security. Importantly, their opinions are critical in decisions about tenure. For the departments at SLU in which students can obtain dual or joint degrees, as well as cross-share the prerequisites for classes and requirements to fulfill majors and minors through departments jointly, the Chairs of such departments and majors and minors have substantial influence and authority over decisions about the professors who teach the respective courses that fall into such crossover major and minor degree programs.

132. Plaintiff was one such professor and Moralez held influence and economic power over her.

133. By way of example only, for a course from one department to be considered as satisfying a required course in another department, the Chair of the other department must evaluate and approve the course content. It is common sense that any such approval involves an acceptance by the other department Chair that the *professor* who is teaching the course performs acceptable work, and further, the evaluation provides a Chair with the opportunity to critique and weigh in on another professor's course development which is a critical part of a professor's performance.

134. Such evaluations and assessments directly impact a professor's tenure and promotional reviews despite affiliation with another department, as they did for Plaintiff.

135. As a professor in sociology, Plaintiff was told by Rohlfen that the University

wanted Plaintiff's courses to serve as prerequisites and required courses for the Public Health major and minor. In fact, as of April 2021, numerous courses taught by Plaintiff did in fact serve to satisfy required courses for students in a Public Health degree program.

136. Specifically, out of the twelve (12) courses Plaintiff taught from the fall of 2020 through spring 2022, ten (10) were courses that satisfied requirements in the Public Health major and minor program. Importantly, during these semesters, at times, all three courses taught by Plaintiff were crossed into Public Health as requisites for the major or minor.

137. Rohlfen also had told Plaintiff that she would be tasked with creating a Community Based Learning ("CBL") experience, and that she would do this with Moralez. The CBL would serve jointly to satisfy requirements in both Sociology and Public Health.<sup>14</sup>

138. In this regard, Plaintiff had been working on potential CBL ideas to present to Moralez for the purpose of offering the experience to students in the Fall of 2023 and going forward.

139. Primarily because of Covid-19 safety measures, Plaintiff's interactions with Moralez throughout 2020 and 2021 had been on zoom calls and email chains. This is why, because of the feedback on April 4, 2022 in her mid-probationary tenure track review, she was concerned that she had not made more of an effort to meet and communicate with Moralez in person, as he was the Co-Chair of Public Health and her courses were considered by SLU to meet requirements for the Public Health major/minor.

140. Additionally, she also was concerned because she had not yet attended one of

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<sup>14</sup> CBL essentially are classes with weekly volunteer experiences off-campus that coincide with weekly in-class components on campus where, under the supervision of department professors, students connect community service experiences to theories and reflection activities as a mode of learning.

Moralez's classes in person, as she was expected to, and reminded at her tenure track performance review that doing so was important.

141. Plaintiff's concerns were reasonable because professors hoping for tenure receive feedback from other professors. A review from a Co-Chair for whom she taught classes for, given the experience with course work and inter-departmental discussions with other professors, would greatly impact her odds of success, as compared to mere peers in other unrelated departments. The more experience a reviewing professor has with the person under review for tenure, the more impact it has on the person's ability to get tenure.

142. As such, Moralez's review of Plaintiff undeniably would have considerable influence in connection with her promotional potential and tenure application.

143. Unlike Plaintiff, whose tenure track was approximated at six years, Moralez had been fast-tracked when hired, to receive tenure before Plaintiff, likely in four years.

144. Plaintiff experienced a first-hand account of how Moralez enjoyed greater power and influence among faculty and because he was a Co-Chair as compared to her. He had access to department heads during the monthly department Chair meetings and related committees. Specifically, Plaintiff, in compliance with University procedure had in March 2022 reported a student, who happened to be a top player on a popular sports team, who she believed had plagiarized. The matter, understandably, was highly confidential and was to be kept within a small group. However, without any idea of how he knew, on April 12, 2022, Moralez told Plaintiff that he had privileged access to the case, and offered his unsolicited opinion to Plaintiff that she had handled the situation well.



145. Plaintiff was shocked, but realized that as a Co-Chair, Moralez was privy to information, including about her own work and individual matters, especially given her courses that he had to approve for the Public Health degrees.

### **VIII. MORALEZ BRUTALLY RAPES PLAINTIFF**

146. Following the April 4, 2022 tenure review meeting and written review that she should “sit in classes of other faculty in her department and other departments,” Plaintiff reached out to Moralez. Moralez already had reviewed and approved her classes, as her courses were being used to satisfy requirements in Public Health but knowing she had failed to be a “buddy” with Moralez as encouraged, and to “welcome” him, and that she had to personally attend and observe one of his classes that she had not yet done, Plaintiff felt pressured to meet with Moralez in person.<sup>15</sup>

147. She emailed Moralez to ask if he wanted to meet for coffee or a meal to discuss working together on projects.

148. In response, Moralez proposed dinner. He mentioned his excitement to meet and talk with Plaintiff, given their shared interests surrounding sociology and public health. He suggested moving from email to private text messaging.

149. Plaintiff suggested they meet at a restaurant or pick up takeout food to eat at a well-known public dining space adjacent to campus.

150. Instead Moralez texted back that he would pick up Indian takeout, and that they should meet at his house instead.

151. Plaintiff then remembered that she had a meeting on the night of April 12 from 7:00

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<sup>15</sup> Of course, Plaintiff and Moralez had been on numerous group zooms together since he had started in the fall of 2020, and had communicated with him during these video calls, as well as over emails.

pm to 8:00 pm with a student group. Plaintiff told Morales about her conflict and offered to reschedule, but Morales said that after 8:00 pm was not a problem and they should not reschedule.

152. Worried about how long she had waited to meet him in person, she did not press the issue to reschedule.

153. In their exchanges leading up to the meeting, Morales mentioned that he was cleaning his house. Plaintiff found this odd, and again offered to meet at a public spot. Morales rejected this offer.

154. Morales's home is not technically a St. Lawrence "building," although the University underwrote his mortgage for the purchase of the house and in fact paid for the housing for his entire first year, if not longer, while he worked there. Regardless, the administration of SLU regularly encouraged faculty to meet regarding work collaboration at their homes and often with alcohol.

155. Plaintiff did not agree to meet Morales for the first time in person at his residence because it was a social visit. To the contrary, the entire purpose of the meeting was to discuss work that she had been encouraged by leadership to do. Specifically, they met to talk about the joint courses to be taught by both Plaintiff and Morales that would be approved by the University as satisfying requisites for the Public Health degrees offered and the sociology degrees.

156. Additionally, Plaintiff reached out to schedule the meeting specifically because of her April 4, 2022 mid-year tenure track review in which it was made clear to her that she was not being viewed as a professor who was actively interacting with other faculty to the degree the University wanted her to and expected her to. This was especially true when it came to interacting with the Co-Chair of Public Health, Morales, who had to approve of the courses she taught that would count towards Public Health degrees and with whom the former Chair of the Sociology

department, Rohlfesen, was the Co-Chair with Moralez.

157. In multiple email exchanges, Rohlfesen had made clear to Plaintiff that she expected Plaintiff to engage and work with Moralez.

158. Plaintiff and Moralez remained in the kitchen area where they ate across from one another at the island in the middle of the kitchen. Moralez had picked up Indian food for dinner and Plaintiff brought the six pack of IPA beer.

159. Moralez did not sit down once throughout their conversation in the kitchen. In fact, Moralez continued to stand even as he ate his meal directly across from Plaintiff. While this made Plaintiff uncomfortable, she tried to relax without reading into Moralez's strange behavior.

160. Moralez complained that he had no one to date. Plaintiff tried to change the conversation. They talked about potential work collaborations, and thinking about her tenure track review, they talked about Plaintiff observing some of Moralez's classes.

161. Moralez continued to interject odd subjects in the conversation, such as commenting on a female colleague's weight and telling Plaintiff that he was going on a date with another faculty member. Such comments are textbook attempts to interject sexualized topics into the conversation and "test the waters," to see whether he could manipulate the conversation in this direction. Plaintiff, uncomfortable by the conversation, politely said that she felt some of the conversation was inappropriate.

162. Over the course of dinner and their discussion which lasted almost two hours, Plaintiff drank two of the IPAs she brought.

163. As their conversation continued in the kitchen, Plaintiff saw the clock and noticed that it was getting late, and she said, "It is getting late, I should go." Moralez objected and said, "But you haven't tried my mixed drink."

164. Plaintiff was tired and felt pressured but wanted to be respectful to Morales who acted offended that he could not show off his bartending skills. She relented and said that she would try one of his drinks.

165. Morales kept his alcohol in a corner kitchen cabinet and went there to make Plaintiff's drink. From the refrigerator, Morales removed a Tupperware container that looked to Plaintiff like it contained grapefruit slices and returned to the corner countertop area, with his back to her, to mix her drink. Strangely, he then handed her a glass with grapefruit and clear alcohol and then placed the Tupperware container, ice and alcohol on the island because he said, she could make herself another drink when she was done.<sup>16</sup> Again, politely she said there would not be a second drink and she needed to leave because it was late.

166. Plaintiff, still sitting at the kitchen island, drank some of it.

167. This drink, as compared to the beer made her feel very different. In what seemed a very short time to Plaintiff, she suddenly felt a wave of dizziness and unsteadiness wash over her as she sat there talking to Morales.<sup>17</sup> She recalls looking at the clock and the time appearing

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<sup>16</sup> Incredibly, Morales "volunteered" to investigators that the reason he made sure to put the drink and ingredients in front of Plaintiff was so "she would know that he had not drugged her."

<sup>17</sup> The most common substances ("rape drugs") used to diminish another person's reflexes, awareness and speech are Rohypnol, GHB (gamma hydroxybutyric acid), and Ketamine. Of these, GHB comes in a liquid form that is odorless and colorless. Because it is known to have a salty taste, often fruit juices and fruits, like grapefruit, are used as mixers with alcohol to mask the salty taste. Notably, GHB is one of the fastest acting substances that can take effect in as little as fifteen minutes and last up to three or four hours. An extremely small amount of GHB causes the following: drowsiness, dizziness, vision problems, loss of consciousness, tremors and sweating, slowed heart rate and what people describe as a "dream-like feeling." Ketamine, also available in liquid or powder form, can take effect just *one minute after digestion*. The most common effects from ketamine are: distorted perceptions of sight and sound, out of body or "dream-like" sensations, loss of coordination, numbness, high blood pressure and even violent behavior and convulsions. Ketamine is described as having a bitter flavor. The bitterness of grapefruit helps to mask the bitterness of Ketamine. Collectively, substances used to reduce a victim's ability to call for help, move, much less fight back, are sometimes called "paralyzing substances."

blurred.

168. Plaintiff began to feel unwell and instinctively went over to the water cooler. She lacked the coordination to locate the water dispensing button on the cooler.

169. Moralez walked over himself to press it for her.

170. Even if Plaintiff had not metabolized each beer in 60-90 minutes which is the average time for an adult to metabolize one alcoholic drink, three hours with only two beers never would have caused such physical and mental reactions as she experienced.

171. Plaintiff then returned to the island and Moralez, standing on the opposite side, shockingly leaned over and kissed Plaintiff. He then stood back and crossed his arms across his chest and stared at Plaintiff.

172. Plaintiff was confused and upset and attempted to walk towards his back door where her car was located.

173. Moralez blocked Plaintiff's exit route and stepped in between her and the door, proceeding to kiss Plaintiff again. She remembers using both her hands to try to push him away so she could get to the door.

174. Moralez put his arm around Plaintiff and pulled her away from the door and back into his house while proclaiming, "we're gonna have sex tonight."

175. Over the next few hours, Plaintiff came in and out of consciousness.

176. She experienced intermittent flashes of memory (both "flashbulb memories" and "fragmented memories") that are consistent with rape trauma, as well as a number of substances commonly referred to as date rape drugs.<sup>18</sup> For example, there are distinct traumatic moments that

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<sup>18</sup> See <https://www.justice.gc.ca/eng/rp-pr/jr/trauma/p4.html>; <https://www.womenshealth.gov/a-z-topics/date-rape-drugs>.

Plaintiff recalls vividly. Plaintiff particularly recalls laying on her back and feeling her body jerk because Morales was pulling her pants off. Plaintiff was in pain because Morales did not unbutton her pants. The pants remained buttoned up as Morales yanked them off Plaintiff.

177. Plaintiff's next memory involves hearing bottles of lubricant clicking and then feeling Morales put multiple fingers with lubricant inside of her vagina. Plaintiff's recalls an intense pain that caused her to flinch.

178. Morales removed his fingers and proceeded to put his hand on Plaintiff's head, pushing her face down his body and forcing her to give him oral sex.

179. Plaintiff was overcome with terror. She was scared and desperate to get out of there safely. She felt as if she could not move her body of her own volition. She was willing herself to move but could not make it happen – again, physical experiences consistent with the most common rape date drugs, most of which can be purchased online and some concocted using over-the-counter substances.

180. Morales then pulled Plaintiff back up to the top of the bed and mentioned something involving a woman or man's bottom, indicating that he had never engaged in anal sex before. Morales then flipped Plaintiff over and penetrated her anally. Plaintiff begged Morales to stop. Under the straightforward definition of incapacitation, Plaintiff was unable to physically fight back.

181. Under New York State Penal Law Article 130, "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling their conduct owing to the influence of a narcotic or intoxicating substance administered to them without their consent, or to any other act committed upon them without their consent. Further, "physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate

unwillingness to an act. Without question, Plaintiff was physically helpless as that is defined in Article 130.

182. Moralez proceeded to flip Plaintiff frontwards, and then penetrated her vaginally. Moralez ejaculated inside of her, unprotected.

183. When Plaintiff eventually came back into consciousness, she quickly gathered her clothes and got dressed so she could escape. Plaintiff was so frightened that she rushed out of his room before she could even find her tank top.

184. She was terrified of Moralez. Like many professors at SLU, Moralez knew she stayed at the B&B, he knew the person who operated it, and he knew the location of the master key for the B&B. Plaintiff did not know what Moralez was capable of and feared that he would try to hurt or even kill her. Like many victims, her best defense was to not challenge him, and act towards him as if everything was “fine.”

185. At approximately 2 a.m., or later, when she arrived back at the B&B Plaintiff unsuccessfully tried to contact her husband. She vomited violently at least twice and experienced diarrhea the rest of the night. She slept no more than a few hours and still felt sick the next day.

186. These reactions are common in the 4-8 hours after many of the most widely used date rape drugs. Certainly, two beers over the course of three hours would not cause the average adult to be this sick, much less this sick hours after she last ingested alcohol.

#### **IX. MORALEZ DOWNPLAYS HIS RAPE AS “CARNAL SEX”**

187. The next morning, April 13, 2022, Plaintiff was consumed with trauma-induced shame and unable to fully confront what she had experienced. She sent a voice memo to a close friend and said that she had been sexually “propositioned by a colleague” and “then blacked out.” She could not say the word “rape” that she had suffered only hours before.

188. Later that day, Plaintiff began to remember some things that had happened the night before, but not everything. Missing large chunks of time and experiences was extremely unsettling and frightening. Plaintiff continued to feel scared, embarrassed, shocked, and terrified.

189. Never before had she lost consciousness from alcohol, which would require substantially more than two beers consumed over a three-hour period.

190. Plaintiff wanted to talk to Moralez to see if she would remember more about what had happened. When they met in his office, he seemed carefree, which was unsettling to Plaintiff and caused her to be even more confused and upset. Despite his playful behavior and seemingly happy attitude, Moralez avoided eye contact with Plaintiff.

191. Moralez continued to perpetuate his sexual harassing behavior towards Plaintiff. For example, he told Plaintiff that she was a “lucky” woman because he would continue to have sex with her and he would not tell anyone. Moralez said that they could “bone any time” and that they had “great, carnal sex.” Such outrageous statements standing alone constitute sexual harassment. But when combined with what Moralez had done to her the night before, the words and his motives openly communicated to her, threatened her physical safety and her job.

192. At this meeting, he told her that they do not have to have a “relationship,” and he repeated that “no one has to know,” and said that he knows that “he really likes her.” Given Moralez’s relationship to Plaintiff, he was Co-Chair in Public Health and his views of her directly impacted her success at SLU, including tenure, such conduct was unlawful and discriminatory.

193. Horrified and in shock, Plaintiff was in disbelief that Moralez described the night before as “carnal sex,” and offered to “bone any time.” Disgusted, Plaintiff’s anger increased and she feared for the safety of others on campus.

194. Terrified about what Moralez was capable of and no longer capable of



compartmentalizing the rape that had occurred the night before, Plaintiff texted a friend, who is faculty at a different institution to tell her that she was “raped.”

195. Plaintiff’s friend urged her to go to the hospital and to the police.

196. At approximately 4:00 p.m. on April 13, 2022, Plaintiff arrived at the emergency room of Canton-Potsdam Hospital where she had a rape kit performed. Plaintiff was prescribed HIV PEP and several STI prophylaxis.<sup>19</sup>

**X. SLU FAILS TO PROMPTLY REMOVE AN ALLEGED RAPIST FROM THEIR STAFF AND CONDUCTS A SHAM INVESTIGATION SUBJECTING PLAINTIFF TO RETALIATION**

197. On April 15, 2022, after obtaining support from her family and a few close friends, but still extremely distraught, Plaintiff mustered up the strength to write down the details that she remembered at that point because she believed it was important to tell SLU as soon as possible about the propensities of Morales.

198. Sadly, little did Plaintiff understand that by being honest and transparent about the moments she remembered and not trying to fill in missing information that she was incapable of remembering, that SLU would twist her words and heartbreaking account of the rape, during its “investigation,” to label Plaintiff’s recounting of events as inconsistent and therefore, lacking in credibility.

199. No greater harm after the fact can be done to a rape victim other than to discredit

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<sup>19</sup> Commonly misunderstood, testing for the date rape drugs is ineffective unless conducted within the immediate hours after ingesting. Of course, excessive vomiting can impact the results, and medical professionals regularly opine that existing methods for detecting these substances are extremely unreliable. The use of these designer drugs is so prevalent that countless police departments across the country post online warnings and FAQs about the drugs, and more than 20 years ago, the U.S. Department of Justice published information about the warnings and seriousness of these drugs. See <https://www.ojp.gov/ncjrs/virtual-library/abstracts/date-rape-drugs>.

and discount her experiences. That is exactly what SLU has done. In effect, SLU's conduct sends a message to all victims of sexual assault at SLU that it is better to remain silent than to speak truthfully about what you remember.

200. Nevertheless, naïve and having never been through such an ordeal, Plaintiff wrote a brutally honest and descriptive account of what she remembered from April 12 and sent an email with this information to Human Resources and to her department head and the Associate Dean for Faculty Affairs. For example, Plaintiff's email began by stating:

....Dr. Ernesto Moralez, Assistant Professor and co-Chair in Public Health, has committed sexual harassment, sexual assault, and rape against me.... This includes Moralez expressing sexually harassing verbal comments and initiating several forms of unwanted, nonconsensual sexual acts with me, including: kissing, touching, inserting fingers into my vagina, initiating anal sex, initiating vaginal sex, and reaching ejaculation inside of me without my consent or use of sexual protection. This occurred on Tuesday, April 12, 2022, between the hours of 8 pm and 2 am.

201. Rather than treating Plaintiff, a rape victim, with sensitivity and taking swift actions to protect SLU's faculty, staff and students, SLU required Plaintiff to coordinate coverage of her classes and the meetings that she would miss due to her need to receive medical care and emotional support related to the rape that she experienced only a few days earlier.

202. Shockingly, SLU also failed to immediately remove Moralez from campus, where he remained teaching classes and holding office hours with students.

203. Worse, and critically, SLU failed to immediately seize his SLU owned devices and subject them to forensic review of websites he had visited in the past months, including any in which date rape drugs can be purchased, where they are often obtained.

204. Not only did the University have the right to seize and inspect his devices, but it could have also done so without warning. Yet SLU failed to even ask Moralez for access to his

SLU owned devices during these critical hours and continued to fail to ask for months throughout the investigation.

205. Rather than impartially investigating Plaintiff's complaints, SLU's leadership kicked into defense mode to shield the university from potential liability. The fact that SLU is not alone among higher academic institutions in this regard is no excuse for its failure to protect Plaintiff from further gender discrimination and retaliation.<sup>20</sup>

206. By way of example only, without advising Plaintiff of her rights under Title IX or significantly, of her right to obtain legal counsel, members of SLU's leadership began questioning Plaintiff and soliciting information from her in what was a blatant effort to engage in unfettered pre-discovery before litigation. To be clear, on not a single occasion, despite numerous back and forths and discussions about what she experienced, was Plaintiff told by anyone at SLU that the information she was providing (without the guidance of counsel or the well-settled safeguards a lawyer on her behalf would have insisted be provided) could and would be used against her in future litigation, as well as in SLU's own Title IX process.

207. Improperly, SLU and its administrators, as well as retained outside counsel, solicited evidence and information from Plaintiff, while she remained shaken and in a vulnerable state, without counsel, knowing that such information could and would be used against her at any

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<sup>20</sup> See generally Erased: Why faculty sexual misconduct is prevalent and how we could prevent it. Sarah L. Young and Kimberly K. Wiley, 19 Feb 2021, <https://www.tandfonline.com/doi/full/10.1080/15236803.2021.1877983> (discussing the inherent conflict of interest and bias issues when it comes to investigating an institution's own faculty member accused of sexual misconduct "while decision-makers determine sanctions and remedies, they do not make those decisions in a vacuum. Commonly, someone from the perpetrator's academic unit, either the department head or college dean, is consulted on what remedies should be recommended. By involving from the department or college in deciding the reprimands, they are asking the unit to balance the remedies and sanctions against the needs of the department, creating a conflict of interest. As a result, bias is introduced into the remedies and sanctions.")

time, including in the civil action commenced herein.

208. The University issued a no contact order to Moralez as to Plaintiff only because of Plaintiff's relentless pursuit that it do so.

209. On April 17, 2022, Plaintiff filed a police report with the Canton Police Department, by phone, that detailed Moralez's rape of her. The following morning, on April 18, 2022, Plaintiff went to the Canton Police Department for an in-person interview.

210. That same day, SLU's Interim Title IX Coordinator, Kimberly Flint-Hamilton ("Flint-Hamilton") emailed Plaintiff to inform her that a formal Title IX investigation had been opened.

211. The University falsely told Plaintiff that she was prohibited from retaining her own legal counsel to assist her during the investigation process. As such, Plaintiff blindly drafted emails about her best recollections and provided detailed information, despite still being in shock and traumatized, without any of the legal assistance and support that she needed.

212. Negligently, SLU still permitted Moralez to remain on campus. In fact, it was not until April 20, 2022, that Moralez was required to teach his classes remotely.

213. Despite a no contact order being issued, Plaintiff continued to be copied on communications from her department with Moralez.

214. Plaintiff was forced to take disability leave due to physical and mental health symptoms that she was experiencing as a result of the sexual assault and related trauma and her need for continued medical care.

215. Outrageously and unlawfully, on May 9, 2022, knowing that it had told Plaintiff that she was not entitled to her own lawyer, SLU further confirmed that it was preparing a defense for the school rather than truly investigating Plaintiff's complaints. SLU replaced its internal

counsel with an outside law firm that regularly defends universities from the very types of claims that Plaintiff is asserting in this litigation, and widely markets its extensive history *representing* universities.<sup>21</sup>

216. On May 16, 2022, while obtaining information and evidence from Plaintiff, one of SLU's defense attorneys again falsely told Plaintiff that she was not entitled to have an attorney in the Title IX process. Such blatant unlawfulness and deliberate indifference, showing the clear attempts to ensure a biased investigation in favor of the University, could not be more apparent.

217. That same day, Plaintiff, who on her own had obtained copies of SLU policies that explicitly state that a sexual assault complainant is entitled to have legal counsel, emailed the Title IX coordinator and SLU's outside law firm to provide them with the policy – thereby giving them notice that their ongoing discrimination, retaliation and deliberate indifference was being called out.

218. Without responding to her email, and again displaying recklessness or deliberate indifference to her legal rights, SLU lawyers invited Plaintiff to a zoom for the next day where, upon information and belief, the lawyers intended to continue SLU's questioning of Plaintiff without Plaintiff having the legal counsel that she was entitled to have under SLU's own policies. This was either gross negligence or intentional wrongdoing by the University to help create a biased investigation paper trail intended to protect SLU.

219. The University's intentional failure to play by the Title IX rules, as well as its own internal policies, all to gain a legal advantage over an unrepresented professor still undergoing rape trauma, is appalling. It also eliminates the University's ability to hide behind the Title IX protections it claims it is entitled to.

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<sup>21</sup> See <https://hselaw.com/practice-areas/higher-education/>

220. Plaintiff responded to the meeting invite by asking to reschedule and directing the Title IX lawyer to Plaintiff's email earlier that day.

221. On May 19, 2022, over a month after Plaintiff reported the sexual assault to SLU, the schools Title IX coordinator gave Plaintiff SLU's Sexual Misconduct Prevention and Response booklet.

222. The next day, SLU's outside counsel gave Plaintiff the guidelines concerning Plaintiff's right to have an advisor during the investigation process. Notably, the guidelines confirmed that Plaintiff was entitled to have an attorney advisor.

223. On May 23, 2022, Plaintiff met with these lawyers and once again gave a complete recounting of the sexual assault and related incidents, following her lengthy and detailed written account submitted in April.

224. On June 9, 2022, while Plaintiff was out on disability leave, Rohlfen, Co-Chair in Public Health with Moralez, sent Plaintiff a work-related email that Rohlfen jointly signed with Moralez. For obvious reasons, Plaintiff was immediately traumatized by this.

225. Moreover, this violated the no-contact order that SLU claimed to have put in place, but clearly failed to enforce, negligently or intentionally.

226. That same day, Flint-Hamilton sent Plaintiff an email admitting that mistakenly, she had told her that she was not entitled to her own legal counsel during the investigation.

227. On June 17, 2022, Flint-Hamilton confirmed to Plaintiff that Moralez was still being permitted to instruct students through remote classes, which was deeply troubling and upsetting to Plaintiff.

228. On July 6, 2022, almost three months after Plaintiff reported what had happened to her, SLU finally recognized that it was inappropriate to allow a professor that was accused of

raping another colleague to continue teaching classes to students. As such, SLU finally placed Moralez on paid administrative leave.

229. On November 7, 2022, Plaintiff, who already knew that all information and questioning of witnesses was complete in September, was told that SLU's investigators had prepared a summary report about the investigation. Unsurprisingly, the summary of the investigation read like a litigation defense memo on behalf of SLU. Key witnesses were not interviewed by SLU. Information from witnesses was strategically excluded to shield SLU from admitting to anything that would make them liable for hiring, retaining and failing to supervise a rapist. For example, no information concerning an interview of Gagnon, the SLU official that failed to adequately investigate the previous allegations of sexual misconduct that were made against Moralez, was contained in the summary.

230. Too many examples of harmful and retaliatory questioning of Plaintiff by SLU as part of the sham investigation process occurred to include herein. However, some of the outrageous claims made by Moralez to deflect attention from his own conduct onto his victim, that the investigators proceed to credit and thus force Plaintiff to respond to questioning about are below:

- Moralez said that Plaintiff told him that she had “marriage problems,” although he had no explanation as to undisputed fact that she had been married 18 years and in April 2022 she and her husband bought a home in Canton to permanently relocate from Vermont with their two children over the summer of 2022 –
  - the investigation failed to include a single witness who was asked whether Plaintiff had ever spoken about purported marriage problems (which of course, she had not).
- Confoundingly, Moralez also told the investigators that Plaintiff said she was in an “open marriage,” perhaps not understanding that such a lie was not the same as a “marriage problems,” but further to her detriment, not a single witness was questioned about whether Plaintiff was in an open marriage (which she was not, and the suggestion was offensive).

- Perhaps most telling of Morales’s feigned account of what happened was his story to the investigators that it was Plaintiff who was hurting him during sex, and he gave investigators lurid “details” about the physical pain of a sexual nature that Plaintiff purportedly inflicted on him.
  - Plaintiff weighs 125 pounds and is 5’5” -- it is incredulous that Morales, given his superior size and strength could proffer such a ridiculous assertion.
- Worse, falling for this absurd ruse, the outside lawyers insisted on questioning Plaintiff about the alleged physical harm she inflicted on him, despite common sense illuminating the falsity of it all, but also because they knew she had limited memory of what happened outside of flashbacks, and further, asked such harmful questions to a rape victim without allowing her to have a lawyer interject or be involved.
- Morales had no explanation for the severe rip in the crotch of her jeans or her ripped sweater outside of his feigned explanation that Plaintiff was the sexual aggressor.

231. The above examples of things Morales claims happened, as he knows Plaintiff has limited memory, all are age-old attempts to cast a sexual assault victim in a poor light, relying on misogynistic stereotypes. Moreover, his suggestion that she was physically attracted to him is baseless – she had seen and spoken to Morales over zoom calls for *more than 18 months* by this time. Had she been so “interested” in Morales, surely, she would have made a point to at least meet him in person before she was told to do so at her mid-year tenure review in April 2022.

232. In short, by that time the “investigation,” which Plaintiff had promptly and immediately commenced thinking it would cause the school to take action against Morales swiftly, was nothing short of a biased, deficient and sham investigation.

233. Although all witnesses had been interviewed and evidence obtained well before November 7, 2022, when the “summary” was issued, as of the filing of this Complaint, the University has failed to issue any findings as it is required to do under Title IX.

234. Believing it is entitled to unreasonably delay the process, the University never



bothered to reach out to Plaintiff or offer any explanation about the dilatory process. It serves as proof that the school is opting to condone Morales's conduct and it continues to shamelessly refuse to release its "findings," despite knowing the ongoing trauma to Plaintiff.

235. At all times, regardless of keeping the "findings" secret, the University has and continues to represent that Morales will continue to be Co-Chair of Public Health and teaching full-time at SLU.

236. While out on leave, he has been paid his full salary while doing no teaching as SLU does everything it can to protect the man it hired to use the \$15 million donation to develop Public Health into a popular program.

237. As of March 15, 2023, the University published in its course offerings which shows that Morales is scheduled to teach a full load of courses in Fall 2023, including "Intro to Public Health," course PH-216, on campus in a lecture room located in Atwood Hall. This leaves no doubt about SLU's failure to act lawfully, thereby making clear to Plaintiff that unless she quits, she will be teaching on campus in the fall while Morales is nearby, and continues to exercise the supervisory control over her and the courses she must get his approval for that serve as credits for a major or minor in Public Health.

238. Knowing that Plaintiff faced an impending statute of limitations deadline of one year in connection with certain of her legal claims herein, the University shamelessly and intentionally has opted to withhold its Title IX "findings" until Plaintiff was forced to commence the action herein, without benefit of those findings.<sup>22</sup>

239. Because of SLU's improper handling of Plaintiff's Title IX complaint that was

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<sup>22</sup> Plaintiff reserves, and has the right, to amend this Complaint upon dissemination of the "findings" that could have been issued in November 2022 or earlier, yet remain hidden from Plaintiff and the public.

clearly focused on shielding SLU from legal liability, Plaintiff has been denied a fair and impartial investigative process. As a result, Plaintiff has been left with no choice but to seek justice through this action.

240. Because Plaintiff engaged in protected complaints, the University is prohibited from retaliating against her for engaging in the process. Nevertheless, that is exactly what SLU has done, and continues to do to this day.

241. Aware of her impending statutory deadlines, SLU knowingly refused to disclose its “findings” from the Title IX investigation to Plaintiff. Of course, given the improprieties engaged in by the school and the lawyers hired by the school, the process is undeniably tainted and biased.

242. This bias is exacerbated by the undeniable fact that SLU can use the pleadings herein, and the allegations about the process, to its best tactical advantage given its ability to make decisions about the “findings” post-commencement of this action.

243. Regardless of the findings, the one-year delay in issuing a decision in a case filed by a single individual just days after the incident is inexcusable and on its face unlawful, especially since the investigation was completed by October 2022.

244. Further suggesting the nefarious motives of the University, as of the commencement of this action, SLU willfully has failed to respond to the subpoena issued by the District Attorney’s Office in connection with Plaintiff’s report to the police of rape by Morales. The subpoena was issued more than ten (10) months ago, but SLU has done nothing to comply, knowing the ongoing harm this is causing Plaintiff.

245. Absolutely no basis for such a delay exists, except that SLU is doing everything possible to position itself in the best possible defense legally – at the expense of Plaintiff’s rights, including her ability to see Morales subject to potential criminal charges.

**FIRST CAUSE OF ACTION**  
**(Discrimination in Violation of Title VII)**  
***Against Defendant St. Lawrence***

246. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation as contained in each of the preceding paragraphs as if fully set forth herein.

247. Defendant St. Lawrence has discriminated against Plaintiff on the basis of her gender in violation of the Title VII by subjecting Plaintiff to disparate treatment based upon her gender including, but not limited to, subjecting her to sexual assault, harassment, *quid pro quo* and hostile work environment discrimination.

248. As a direct and proximate result of Defendant's unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

249. As a direct and proximate result of Defendant St. Lawrence's unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

250. St. Lawrence's unlawful discriminatory actions constitute malicious, willful and wanton violations of Title VII for which Plaintiff is entitled to an award of punitive damages.

**SECOND CAUSE OF ACTION**  
**(Retaliation in Violation of Title VII)**  
***Against Defendant St. Lawrence***

251. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

252. By the above described conduct, Defendant St. Lawrence has retaliated against Plaintiff in violation of Title VII by, *inter alia*, failing to properly investigate her claims of

discrimination and sexual assault in retaliation of her protected activity, refusing to comply with its own policies and practices and by instigating retaliatory investigation practices.

253. As a direct and proximate result of Defendant's unlawful and retaliatory conduct in violation of Title VII, Plaintiff has suffered and continues to suffer harm for which she is entitled to an award of damages, to the greatest extent permitted under law, in addition to reasonable attorneys' fees and expenses.

**THIRD CAUSE OF ACTION**  
**(Gender Discrimination, including Hostile Work Environment**  
**in Violation of the NYSHRL)**  
***Against All Defendants***

254. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

255. Defendants have discriminated against Plaintiff on the basis of her sex/gender in violation of the NYSHRL by, *inter alia*, subjecting her to a hostile work environment.

256. Defendant St. Lawrence was on notice or reasonably should have been on notice of Defendant Moralez's past sexual misconduct but failed to take reasonable steps to prevent the harm to Plaintiff.

257. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of damages, as well as an award for her reasonable attorneys' fees and litigation costs.

258. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, mental anguish and severe emotional distress for which she is entitled to an award of damages.

259. Defendants' unlawful and discriminatory actions were done with willful negligence, or recklessness, or a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard of Plaintiff's protected rights under the NYSHRL, for which Plaintiff is entitled to an award of punitive damages.

**FOURTH CAUSE OF ACTION**  
**(Retaliation in Violation of the NYSHRL)**  
***Against All Defendants***

260. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

261. As set forth above, Defendants have retaliated against Plaintiff in violation of the NYSHRL by engaging in conduct intended to dissuade Plaintiff from engaging in protected activity, and continuing to engage in protected activity.

262. In addition, Defendant St. Lawrence has retaliated by *inter alia*, failing to properly investigate Plaintiff's claims of discrimination and sexual assault in retaliation of her protected activity, refusing to comply with its own policies and practices and by instigating retaliatory investigation practices.

263. As a direct and proximate result of Defendants' unlawful and retaliatory conduct in violation of the NYSHRL, Plaintiff is entitled to an award of monetary damages to the greatest extent permitted under law.

**FIFTH CAUSE OF ACTION**  
**(Aiding and Abetting in Violation of the NYSHRL)**  
***Against Defendant Ernesto Morales***

264. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in each of the preceding paragraphs as if fully set forth herein.

265. Defendant Moralez knowingly and maliciously aided and abetted the unlawful employment practices and discrimination against Plaintiff in violation of the NYSHRL.

266. As a direct and proximate result of the unlawful conduct of Defendant Moralez in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of damages, in addition to reasonable attorneys' fees and costs.

267. As a direct and proximate result of the unlawful conduct of Defendant Moralez in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, mental anguish and emotional distress, for which she is entitled to an award of damages.

268. The unlawful actions of Defendant Moralez were done with willful negligence, or recklessness, or a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard of Plaintiff's protected rights under the NYSHRL, for which Plaintiff is entitled to an award of punitive damages.

**SIXTH CAUSE OF ACTION**  
**(Discrimination in Violation of Title IX of the Education**  
**Amendments Act of 1972, 20 U.S.C. § 1681, *et seq.*)**  
***Against Defendant St. Lawrence***

269. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in each of the preceding paragraphs as if fully set forth herein.

270. 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."

271. By the above-described conduct, Plaintiff was discriminated against on the basis of her sex at Defendant St. Lawrence, including but not limited to by sexual misconduct, sexual harassment and sexual assaults by Defendant Moralez.

272. By the above-described conduct, Defendant St. Lawrence was on notice of the discriminatory conduct. Defendant St. Lawrence failed to carry out its duties and obligations pursuant to Title IX to investigate and take corrective action.

273. By the above-described conduct, Defendant St. Lawrence tolerated, condoned, ratified and/or engaged in the sexually abusive educational environment, or, in the alternative, knew, or should have known, of its existence, yet failed to conduct proper investigations and failed to take remedial action.

274. As a direct and proximate result of Defendant St. Lawrence's unlawful actions or inactions, Plaintiff has suffered, and will continue to suffer, harm, including, but not limited to, loss of future educational and employment opportunities, humiliation, embarrassment, reputational harm, emotional and physical distress, mental anguish and other economic damages and non-economic damages.

275. Plaintiff is entitled to all legal and equitable remedies available for violations of Title IX, including compensatory damages, attorneys' fees and costs and other appropriate relief.

**SEVENTH CAUSE OF ACTION**  
**(Retaliation in Violation of Title IX of the Education**  
**Amendments Act of 1972, 20 U.S.C. § 1681, *et seq.*)**  
***Against Defendant St. Lawrence***

276. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in all of the preceding paragraphs as if fully set forth herein.

277. By the above-described conduct, Defendant St. Lawrence has retaliated against Plaintiff in violation of Title IX by, *inter alia*, failing to properly investigate her claims of discrimination and sexual assault in retaliation of her protected activity and by instigating retaliatory investigation practices.

278. As a direct and proximate result of Defendant St. Lawrence's unlawful conduct in violation of Title IX, Plaintiff has suffered, and continues to suffer, harm for which she is entitled to an award of damages to the greatest extent permitted by law, including, but not limited to, monetary and/or economic harm, for which she is entitled to an award of monetary damages.

279. As a direct and proximate result of Defendant St. Lawrence's unlawful actions, Plaintiff has suffered, and will continue to suffer, harm, including, but not limited to, loss of future educational and employment opportunities, humiliation, embarrassment, reputational harm, emotional and physical distress, mental anguish and other economic damages and noneconomic damages.

280. Plaintiff is entitled to all legal and equitable remedies available for violations of Title IX, including compensatory damages, attorneys' fees and costs and other appropriate relief.

**EIGHTH CAUSE OF ACTION**  
**(Negligence, Negligent Supervision and Negligent Retention)**  
***Against Defendant St. Lawrence***

281. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in each of the preceding paragraphs as if fully set forth herein.

282. Defendant St. Lawrence owed Plaintiff a duty of reasonable care in the hiring, supervision and retention of its employees.

283. Defendant St. Lawrence did breach that duty of care in the hiring, retention and/or supervision of Defendant Moralez who was unfit to be employed and who was not adequately supervised during his employment.

284. Defendant St. Lawrence knew, or should have known, that Defendant Moralez had previously been alleged to have sexually harassed or assaulted other female employees during the course of his employment.



285. Defendant St. Lawrence failed to take any remedial action against Defendant Moralez, allowing his conduct to continue unabated, which directly allowed his rape of Plaintiff to occur.

286. Defendant St. Lawrence knew or reasonably should have known that Defendant Moralez was unfit and a potential danger to other female employees, yet Defendant St. Lawrence continued to employ, including through the present, Defendant Moralez with a conscious disregard of the rights or safety of others, including Plaintiff, to warrant the imposition of punitive damages.

287. Defendant St. Lawrence knew or should have known that its negligence and breach of duty of care would cause or had a substantial probability of causing severe emotional distress to Plaintiff, and in fact did cause her severe emotional distress.

288. Accordingly, Plaintiff is entitled to recovery against Defendant St. Lawrence in an amount to be determined at trial.

**NINTH CAUSE OF ACTION**  
**(Sexual Assault)**  
***Against Defendant Ernesto Moralez***

289. Plaintiff hereby repeats, reiterates and re-alleges each and every allegation in each of the preceding paragraphs as if fully set forth herein.

290. The violent sexual acts committed intentionally by Defendant Moralez against Plaintiff and without her consent, including, but not limited to, his sexual assault of Plaintiff, created a reasonable apprehension in Plaintiff of immediate harmful or offensive contact to Plaintiff's person.

291. As a direct and proximate result of the aforementioned assault, Plaintiff has sustained in the past, and will continue to sustain, *inter alia*, physical injury, monetary damages, pain and suffering, psychological and emotional distress, humiliation and loss of career

fulfillment.

292. Defendant Morales's conduct was wanton, malicious, willful and/or cruel, entitling Plaintiff to an award of punitive damages.

**TENTH CAUSE OF ACTION**  
**(Sexual Battery)**  
***Against Defendant Ernesto Morales***

293. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

294. The violent sexual acts committed intentionally by Defendant Morales against Plaintiff and without her consent, including, but not limited to, his sexual assault of Plaintiff, constitutes a harmful and offensive contact to Plaintiff's person.

295. As a direct and proximate result of the aforementioned assault, Plaintiff has sustained in the past, and will sustain in the future, inter alia, physical injury, monetary damages, pain and suffering, psychological and emotional distress, mental anguish, embarrassment, humiliation and loss of career fulfillment.

296. Defendant Morales's conduct was wanton, malicious, willful and/or cruel, entitling Plaintiff to an award of punitive damages.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that the Court enter judgment in her favor and against Defendants for the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violate the laws of the State of New York;

B. An order that Defendants engage in injunctive measures aimed at remedying the unlawful conduct described herein so that other women will not be subject to the same unlawful

conduct;

C. An award of damages against Defendants, in an amount to be determined at trial, plus interest, to compensate Plaintiff for all monetary and/or economic damages;

D. An award of damages against Defendants, in an amount to be determined at trial, plus interest, to compensate for all non-monetary and/or compensatory damages, including, but not limited to, compensation for Plaintiff's emotional distress;

E. An award of punitive damages in an amount to be determined at trial;

F. Prejudgment interest on all amounts due;


G. An award of Plaintiff's reasonable attorneys' fees and costs; and

Such other and further relief as the Court may deem just and proper.

Dated: February 18, 2025  
New York, New York

Respectfully submitted,

**WIGDOR LLP**

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