IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

DR. MUKUND VENGALATTORE,	:	
	:	No. : 3:18-CV-01124-GLS-TWD
Plaintiff,	:	
v.	:	JURY TRIAL DEMANDED
CORNELL UNIVERSITY,	:	
Defendants.	:	

SECOND AMENDED COMPLAINT

Plaintiff is filing this Second Amended Complaint at the direction of the Court. At the initial pretrial conference on August 30, 2022, Magistrate Judge Therese Wiley Danks directed Plaintiff to file an amended complaint by September 23, 2022, to focus the complaint on claims remaining following the Second Circuit's decision.

PARTIES

1. Plaintiff, Dr. Mukund Vengalattore, resided in New York State at the time this lawsuit was filed. He now resides in Virginia and is a lawful permanent resident of the United States.

2. At all relevant times herein, Dr. Vengalattore was a member of the faculty at Cornell University.

3. Defendant Cornell University is an educational corporation organized and existing under the laws of the State of New York with its principal place of business located in Ithaca, New York.

JURISDICTION AND VENUE

4. This Court has federal question and supplemental jurisdiction pursuant to 28 U.S.C.

§ 1331 and 28 U.S.C. § 1367 because: (i) the federal claim arises under the laws of the United States; and (ii) the state law claims are so closely related to the federal law claims as to form the same case or controversy under Article III of the United States Constitution.

5. Venue for this action properly lies in this district pursuant to 28 U.S.C. § 1391 because Dr. Vengalattore resided in this judicial district when suit was filed and a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

STATEMENT OF FACTS

I. TITLE IX

6. Title IX of the Educational Amendments of 1972 says, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a).

7. Cornell receives federal financial assistance and thus is subject to the requirements of Title IX.

8. On April 4, 2011, the U.S. Department of Education's (ED) Office of Civil Rights (OCR) published a "Dear Colleague Letter" on sexual harassment (2011 DCL).

9. The 2011 DCL stated that Title IX requires schools to conduct thorough investigations of sexual misconduct allegations involving either students or faculty. It declared that the procedures employed by many schools did not suffice to adequately protect victims of sexual misconduct, and it directed schools to "take immediate action to eliminate harassment, prevent its recurrence, and address its effects."

10. The 2011 DCL expressly required, as part of schools' mandated efforts to publish and implement procedures for the "prompt and equitable resolution" of sexual misconduct

claims, that schools adopt a preponderance-of-the-evidence standard of proof in their investigations of allegations of sexual misconduct.

11. The 2011 DCL "strongly discourage[d] schools from allowing the parties personally to question or cross-examine each other during the hearing," even though parties to federal civil rights lawsuits have that right.

12. The 2011 DCL also warned that "[w]hen OCR finds that a school has not taken prompt and effective steps to respond to sexual harassment or violence, OCR will seek appropriate remedies for both the complainant and the broader student population."

13. A 2014 OCR guidance document, "Questions and Answers on Title IX and Sexual Violence" (the 2014 Q & A), confirmed that OCR understood use of a preponderance of the evidence standard to be mandatory in sexual misconduct investigations.

14. The 2014 Q & A continued, "With respect to sexual activity in particular, OCR will always view as unwelcome and nonconsensual sexual activity between an adult school employee and an elementary school student or any student below the legal age of consent in his or her state. In cases involving a student who meets the legal age of consent in his or her state, there will still be a *strong presumption* that sexual activity between an adult school employee and a student is unwelcome and nonconsensual." (emphasis added).

15. The 2014 Q & A also warned that "even if a school was not on notice [of misconduct], the school is nonetheless responsible for remedying any effects of the sexual harassment on the student, as well as for ending the sexual harassment and preventing its recurrence, when the employee engaged in the sexual activity in the context of the employee's provision of aid, benefits, or services to students[.]"

16. In May 2015, OCR added Cornell to a public list of colleges and universities under investigation for potential violation of their obligation to comply with Title IX by implementing sexual misconduct grievance procedures meeting ED's standards.

17. Following the 2016 presidential election, OCR became quite critical of the 2011 DCL and the 2014 Q&A, concluding that those documents improperly short-changed the rights of those accused of sexual misconduct.

18. On September 7, 2017, in a prepared speech, Education Secretary Betsy DeVos said, "One person denied due process is one too many," and that "the system established by the prior administration has failed too many students."

19. Secretary DeVos explained the "current reality" of Title IX adjudications were "kangaroo courts" where "a school administrator [] will act as the judge and jury."

20. According to Secretary DeVos, "The accused may or may not be told of the allegations before a decision is rendered. If there is a hearing, both the survivor and the accused may or may not be allowed legal representation."

21. Secretary DeVos continued, "Whatever evidence is presented may or may not be shown to all parties. Whatever witnesses—if allowed to be called—may or may not be cross-examined. And Washington dictated that schools must use the lowest standard of proof."

22. Secretary DeVos explained that OCR had "terrified" schools and "run amok" by "weaponiz[ing] the Office of Civil Rights to work against schools and against students."

23. Secretary DeVos said that OCR had "exert[ed] improper pressure upon universities to adopt procedures that do not afford fundamental fairness."

24. Secretary DeVos said, "The failed system imposed policy by political letter, without even the most basic safeguards to test new ideas with those who know this issue all too well."

Secretary DeVos declared, "The era of 'rule by letter' is over."

25. On September 22, 2017, Secretary DeVos withdrew the 2011 DCL and the 2014 Q & A. In a press release, ED said, "The withdrawn documents ignored notice and comment requirements, created a system that lacked basic elements of due process and failed to ensure fundamental fairness."

26. In 2020, ED issued a final rule that corrects some of the worst features of the 2011 DCL and the 2014 Q&A. ED, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 85 Fed. Reg. 30,026 (May 19, 2020) codified at 34 C.F.R. pt. 106.

II. CORNELL'S POLICIES

A. Policies Related to Allegations of Bias, Discrimination, Harassment and Sexual and Related Misconduct

27. Prior to 2012, Cornell's Campus Code of Conduct governed all complaints of sexual harassment and related misconduct made against students, and all such complaints against faculty not deemed employment-related misconduct.

28. The Code of Conduct provided many of the procedural protections set out in the United States Constitution.

29. Generally, the Code of Conduct limited investigations to complaints alleging misconduct occurring within one year of the complaint being filed.

30. The Code established a judicial process for adjudicating such complaints. The many procedural protections afforded those accused of misconduct included: investigators were permitted to interview the subject of the investigation only after providing written notice of the matters being investigated; the right to a hearing on charges before an impartial tribunal

(consisting of three faculty members, a student, and a nonfaculty employee); advance notice of the names and written statements of any witness to be called at the hearing, and copies of exhibits to be introduced; the right to question witnesses and confront his accuser; and the burden was on the complainant to demonstrate misconduct by "clear and convincing evidence."

31. As set forth in Section 4.3 of the Faculty Handbook, faculty members facing potential dismissal or suspension were entitled to additional procedural protections, including the right to a hearing before a tribunal consisting of five faculty members.

32. In response to OCR's 2011 DCL, Cornell promulgated new Policy 6.4 in April 2012. Policy 6.4 substantially reduced procedural protections for faculty and students facing sexual misconduct charges. It displaced procedures outlined in the Code of Conduct for allegations falling under the new policy, explaining that Policy 6.4 would henceforth be the exclusive means of adjudicating allegations of bias, discrimination, harassment and sexual and related misconduct. Cornell officials explained that the new policy was necessary to ensure Cornell's compliance with Title IX.

33. Policy 6.4 abandoned the Code of Conduct's adversarial model. Instead, it authorized a single investigator to serve as prosecutor, judge, and jury—it empowered the investigator first to conduct a "formal investigation" into allegations and then make findings of fact and recommend any appropriate sanction.

34. Provisions of Policy 6.4 that reduced the accused's procedural rights included: a ban on questioning witnesses and cross-examining opposing parties; a ban on active advocacy by attorneys; and directing investigators to apply a preponderance-of-the-evidence standard in deciding factual issues.

35. If the accused was a faculty member, Policy 6.4 directed the Dean of the appropriate school to decide whether to adopt the investigator's findings. The Dean did not hear live testimony or question witnesses before making her decision.

36. As did the Code of Conduct, Policy 6.4 imposed a one-year statute of limitations—(sexual misconduct complaints had to be filed within one year of the alleged misconduct. But it relaxed the rule somewhat for complaints against faculty in the context of a subordinate-supervisory relationship between the faculty member and the student: "a student may file a complaint one year after no longer under the faculty's supervision or three years from the date of the alleged behavior, ... whichever is earlier."

B. Policies for Adjudication of Other Issues

37. Cornell's Policy 6.4 only applied to allegations of bias, discrimination, harassment and sexual and related misconduct. Other allegations against faculty that might lead to discipline were to be investigated by the Standing Committee on Academic Freedom & Professional Status of the Faculty (the "Standing Committee"), a body created by the Faculty Handbook.

38. The Faculty Handbook states that the Standing Committee must "Receive and review written complaints brought by or against a Faculty member with respect to matters involving academic freedom and responsibility and freedom of teaching and learning and any other matters that might affect his or her professional reputation, impair the execution of his or her professional and University responsibilities, adversely affect his or her economic status, lead to his or her dismissal, or otherwise alter terms or conditions of his or her employment." Faculty Handbook § 2.2.

39. The Standing Committee's review procedures provide faculty members with considerably more procedural protections than those provided by Policy 6.4. For example, its procedures "must comport with the basic requirements of due process." § 2.2(E)(1).

40. Faculty Handbook § 4.3 sets out procedures governing cases in which a faculty member faces suspension or dismissal. If a complaint against a faculty member might lead to dismissal or suspension for a period of one semester or more, the dean of his or her college is charged with investigating the complaint. The dean reports to the provost the results of that investigation together with his or her recommendations. § 2.3(A).

41. If the provost determines that further proceedings are warranted, he or she shall provide the faculty member with a detailed statement of the charges and suggested disciplinary action. *Ibid.*

42. The faculty member may then request a hearing on the charges—before a board consisting of five faculty members. § 2.3(B).

43. The Faculty Handbook provides the accused faculty member with many procedural protections at the hearing, including the right to "present witnesses in his or her own behalf and to confront and question the witnesses against him or her." § 2.3(C). The board presents its finding and recommendations to Cornell's president, whose decision as to any suspension is final. *Ibid.*

44. In cases involving suspensions of less than one semester, "a dean's determination to suspend a faculty member shall be subject to existing grievance procedures." § 2.3(E).

III. FACTS SPECIFIC TO DR. VENGALATTORE

A. Dr. Vengalattore Begins Work at Cornell

45. Dr. Vengalattore obtained his Ph.D. from the Massachusetts Institute of Technology and completed a postdoctoral research fellowship at the University of California, Berkeley.

46. Dr. Vengalattore became a tenure-track Assistant Professor of Physics at Cornell in 2009.

47. Dr. Vengalattore was heavily recruited for the position at Cornell, because Cornell had been unsuccessfully searching for an expert in his field—atomic, molecular and orbital physics.

48. Once at Cornell, Dr. Vengalattore began work in his lab on an experiment related to ultracold atomic gases. In the years that followed, he recruited a number of graduate student assistants to work in the lab. A Cornell graduate student, "Jane Roe," was the first such assistant, hired in the spring of 2009.

49. Roe worked in the lab for three years, but she continually struggled with the workload, refused to work long hours, had difficulty working with other graduate assistants, made inappropriate comments about the racial composition of the lab (many of those working in the lab were of Indian descent, Roe was not), and expressed that she was feeling "overwhelmed" by her work in the lab.

50. Dr. Vengalattore eventually concluded that Roe needed assistance in performing her work. In 2012, he assigned another graduate student, Srivatsan Chakram, to oversee Roe's work.

51. Two days later, Roe informed Dr. Vengalattore that she would leave his project. She formally withdrew from Dr. Vengalattore's project in November 2012.

52. Roe was embittered by her experience in the lab and her working relationship with Dr. Vengalattore. In April 2013, she told another professor, "If I have my way, he will have a hard time getting tenure."

B. Dr. Vengalattore Is Considered for Tenure

53. In the Spring of 2014, Dr. Vengalattore was set to be considered for promotion to tenured professor.

54. Since joining Cornell in 2009, Dr. Vengalattore had built three lab experiments, two of which had produced scientific results by 2014. By 2014 Dr. Vengalattore had also published six academic papers from his time at Cornell and had attracted nearly $4 million of funding for his research at Cornell.

55. In February 2014, Roe approached Professor Ritchie Patterson, a member of the Physics faculty who would be reviewing Dr. Vengalattore's tenure application, and asked to discuss a "situation." Roe told Professor Patterson that Dr. Vengalattore had thrown a power supply at her while they had been working together in the lab.

56. In April 2014, Roe became enraged by the manner in which she was to be listed in a forthcoming scientific publication. Roe believed that she deserved to be listed as the lead author of the publication, but Dr. Vengalattore concluded that his other students had contributed a significant amount of work on the project following Roe's departure from the lab and deserved to be listed above her. Roe at first demanded that her name be removed entirely from the author list if she could not be first. When the article was published in September 2014, Roe was listed as the third author.

57. In May 2014 Roe sent a letter to the physics department's tenure review committee, which had been formed to consider Dr. Vengalattore's promotion. In the letter Roe wrote that at

one point while working in the lab, "Prof. Vengalattore became so impatient with my position that he picked up the power supply in dispute—a metal box weighing five pounds—and threw it at me."

58. Roe's charge was totally fabricated. Indeed, in a conversation with another professor, Roe changed her story and stated that Dr. Vengalattore had "slid" a "piece of equipment" in her direction across a table. When Dr. Vengalattore first learned about the power-supply allegation several months later, he vehemently denied the allegation. On August 11, 2014, he formally responded to the accusation, submitting a written denial and several letters of support to the tenure review committee.

59. In September 2014 the faculty committee voted to recommend that Dr. Vengalattore be granted tenure. The recommendation was forwarded to Gretchen Ritter, Dean of the College of Arts and Sciences, for her final determination.

C. Roe Makes Her Accusation of Sexual Misconduct

60. On September 22, 2014, Professor Jeevak Parpia, the Chair of the Physics Department, sent an e-mail to Roe informing her of the tenure review committee's recommendation.

61. On or around September 24, 2014, Roe contacted Professor Patterson and, for the first time, accused Dr. Vengalattore of having engaged in sexual misconduct. She alleged that Dr. Vengalattore had forced her to engage in sexual intercourse in December 2010 and that the two thereafter maintained a sexual relationship until late 2011.

62. The allegation was totally false. Dr. Vengalattore never engaged in sexual relations with Roe.

63. Patterson shared this accusation with two other professors. The three professors then contacted Alan Mittman, Director of Cornell's Office of Workplace Policy and Labor Relations, and repeated the accusation. In the following month, Mittman contacted Roe, and the two engaged in a series of unrecorded conversations regarding her sexual misconduct accusation.

64. Mittman thereafter contacted Dr. Vengalattore. Mittman told Dr. Vengalattore that the sole reason for contacting him was to discuss an allegation that he had improperly listed Roe's name on a website concerning her authorship of a paper. He failed to disclose that he had spoken repeatedly with Roe about her sexual misconduct accusation, an accusation of which Dr. Vengalattore was wholly unaware.

65. Mittman explained that Roe's name had been listed without a middle initial, which could be construed as sexually suggestive. Dr. Vengalattore responded that Roe had requested her name to be listed in this fashion.

66. Mittman responded that he considered the matter "closed," but warned Dr. Vengalattore that it would have been "inappropriate" for Dr. Vengalattore to have intentionally listed Roe's name in that fashion.

67. Mittman shared Roe's allegations with Dean Ritter, who was still reviewing the recommendation that Dr. Vengalattore be granted tenure. Dean Ritter immediately credited the allegations; in an October 29, 2014 letter to the Chair of the Physics Department, she described Dr. Vengalattore's "disturbing ... treatment" of Roe.

68. Mittman remained in constant contact with Roe. He told her that Cornell was working "very aggressively to address issues of access, prevention and culture change" "under Title IX."

69. Based in substantial part on Roe's new allegation, Dean Ritter recommended denying Dr. Vengalattore tenure.

70. Because her recommendation conflicted with the recommendation of Dr. Vengalattore's physics department colleagues, Dean Ritter convened another faculty committee, the Faculty Advisory Committee on Tenure Appointments (FACTA), to review the tenure application. The FACTA committee issued a report agreeing with Dean Ritter's recommendation.

71. In February 2015, Mittman shared with Dean Ritter the substance of his conversations with Roe regarding her sexual misconduct accusation.

72. On February 13, 2015, Dean Ritter overruled the original faculty vote and denied Dr. Vengalattore's promotion to tenured professor.

D. The Policy 6.4 Investigation Formally Begins

73. On February 16, 2015, Mittman and Sarah Affel, Cornell's Title IX Coordinator, conducted a formal phone interview with Roe. During this interview, Roe repeated her allegation that she and Dr. Vengalattore had sex during the final week of the Fall 2010 semester.

74. Roe claimed that on one day during that week, Dr. Vengalattore had been absent from the lab all day and she went to his house that evening to check up on him. She claimed that Dr. Vengalattore invited her inside and then began kissing her.

75. Roe said that she initially resisted but then agreed to have sex with him. Roe said she considered this to be rape.

76. Roe admitted that she had not disclosed the alleged sexual assault or romantic relationship to any faculty, even when she attempted to derail Dr. Vengalattore's tenure review,

and had only made her allegations "when Jeevak Parpia … informed her that the department voted to give [Dr. Vengalattore] tenure."

77. On February 27, 2015, Dr. Vengalattore appealed the denial of tenure, still unaware of Roe's new allegations.

78. On March 2, 2015, Mittman demanded that Dr. Vengalattore appear at the Title IX office the following day. Mittman informed Dr. Vengalattore that Dean Ritter had authorized him to "review [an] alleged romantic sexual relationship with a student under [Dr. Vengalattore's] supervision in or around the 2011 calendar year."

79. The following day Dr. Vengalattore appeared at Mittman and Affel's office for a formal interview, which lasted more than three hours.

80. Dr. Vengalattore denied having had any romantic or sexual relationship with Roe. It was not until near the end of the interview that Mittman and Affel informed Dr. Vengalattore that Roe had accused him of raping her.

81. Dr. Vengalattore responded by asking for the assistance of counsel. Mittman and Affel responded that counsel was unnecessary and continued the interview.

82. Over the next six months Mittman and Affel conducted an investigation of Roe's accusations, an investigation they purported to be conducting under Policy 6.4. At Dean Rittter's direction, they investigated: (1) whether Dr. Vengalattore raped Roe in December 2010; and (2) whether Dr. Vengalattore violated Cornell's policy governing Romantic and Sexual Relationships Between Students and Staff ("the "Sexual Relationships Policy") by engaging in a sexual relationship with Roe throughout much of 2011.

83. Because Roe did not report the alleged December 2010 rape and the alleged 2011 sexual relationship until late 2014, Mittman and Affel were well aware that an investigation

could not proceed under Policy 6.4, which barred consideration of claims arising more than one year after a student is no longer under the faculty member's supervision. They nonetheless proceeded with both aspects of their investigation because Dean Ritter directed them to do so.

84. As noted above, investigative procedures under Policy 6.4 deny those accused of sexual misconduct (a group that is overwhelmingly male) many of the procedural protections commonly associated with due process of law. Those procedures greatly impaired Dr. Vengalattore's ability to defend against the false sexual misconduct charges.

85. In particular, Policy 6.4 authorized Mittman and Affel to serve as both the prosecutors and the judges: they were empowered to both conduct a formal investigation into allegations and then make findings of fact and recommend appropriate sanctions. Those at Cornell facing charges not related to sexual misconduct—a group that includes roughly equal numbers of men and women—are not judged by their prosecutors. Instead, under the Campus Code of Conduct, charges are adjudicated by an impartial panel.

86. A strong inference of sex discrimination arises from Cornell's decision to reduce procedural rights for individuals accused of sexual misconduct but not for other types of misconduct. In the overwhelming majority of sexual misconduct cases, the accused is male and the complainant is female; 50 out of 54 Policy 6.4 cases resolved by Cornell between 2014 and 2017 fit that description. One of Cornell's principal purposes in adopting Policy 6.4 was to increase the likelihood that males accused of sexual misconduct would be found responsible.

87. While Policy 6.4 procedures greatly disadvantaged Dr. Vengalattore, his defense was made even more difficult because Cornell simply ignored Policy 6.4's requirements (as well as other existing university rules) whenever it served Cornell's purposes to do so.

88. Among the many procedural irregularities was Cornell's provision of legal assistance for Roe without providing similar assistance for Dr. Vengalattore. On information and belief, Mittman and Affel arranged for M. Karns, an attorney and Senior Lecturer at Cornell, to serve as Roe's personal representative and victim advocate during the investigation.

89. On information and belief, Karns was provided at Cornell's expense to assist and advocate for Roe during the investigation. No advisory assistance was provided to Dr. Vengalattore by Cornell at any point during the investigation.

90. Throughout the investigation, Dr. Vengalattore provided Mittman and Affel with the names of witnesses with first-hand knowledge of Roe's character and behavior and her relationship with Dr. Vengalattore; he asked that they be interviewed in connection with the investigation. Many of those individuals were never interviewed.

91. Mittman and Affel permitted Roe to review the testimony of other witnesses both before and after her various interviews with them. They refused Dr. Vengalattore's requests to conduct a similar review.

92. On April 20, 2015, Mittman and Affel interviewed Dr. Vengalattore regarding Roe's allegation that he raped her. Dr. Vengalattore asked Mittman and Affel to inform him of the date Roe had alleged the initial sexual assault had occurred.

93. Mittman and Affel refused, and instead told Dr. Vengalattore to look at a blank December 2010 calendar and mark off all days during that month he was in Ithaca.

94. Dr. Vengalattore asked if that was so the investigators could find a date that they could report back to Roe as a possibility, and the investigators did not respond.

95. Dr. Vengalattore noted that Policy 6.4 required that the Dean of Faculty designate a faculty member to serve as a co-investigator. He demanded that a faculty co-investigator be appointed and asked why one had not been appointed yet. The investigators refused to answer.

96. Dr. Vengalattore noted that Policy 6.4 required that he be presented with "all of the charges under investigation along with the evidence supporting them," and he asked the investigators why that policy had not been followed. They refused to answer.

97. Dr. Vengalattore demanded to know why the Policy 6.4 investigation was continuing, given that, as Mittman had previously acknowledged, it was time-barred by an explicit provision of Policy 6.4. The investigators refused to answer.

98. Dr. Vengalattore emailed Mittman and Affel on April 20, 2015, memorializing his previously expressed objections to the procedurally improper manner in which the investigation was being conducted. They did not respond to his email.

99. Mittman and Affel agreed to inform Roe and Karns of the precise dates on which they would be contacting Dr. Vengalattore, an agreement memorialized in an April 27, 2015 email from Roe and Karns to Mittman and Affel. On information and belief, Mittman and Affel carried out that agreement.

100. Mittman and Affel conducted one of their interviews of Roe on April 28, 2015. In advance of the interview, they disclosed the substance of the questions they would ask. At the beginning of the interview, they reviewed the names of witnesses interviewed to date and the nature of their statements.

E. The Investigators' Final Report

101. On September 25, 2015, Mittman and Affel issued a final written report from the investigation.

102. Mittman and Affel wrote, "the investigators recommend that the Dean find that a preponderance of the credible evidence supports the conclusion that the Respondent, a faculty member, had a romantic or sexual relationship with the Complainant, a student he directly supervised. For the reasons set forth herein, the investigators further recommend that no specific finding be made as to whether the first sexual encounter rises to the level of sexual assault as defined by Policy 6.4."

103. In the report, the investigators premised their authority to conduct the investigation on Cornell's Sexual Relationships Policy, "set forth in the Cornell University Faculty Handbook, effective September 18, 1996," and Policy 6.4.

104. The investigators also wrote that their decisions were "guid[ed]" by the Department of Education's 2011 DCL and the 2014 Q & A, and those documents' suggested presumption that any relationship between faculty and a student constitutes sexual harassment.

105. The investigators wrote that Roe's allegation of sexual assault "was time-barred by Policy 6.4" and that they had reached that conclusion by February 16, 2015. They stated that they nonetheless had proceeded for the next seven months to investigate the rape allegation "[a]t the request of the Dean."

106. The report did not respond to any of Dr. Vengalattore's objections to the procedures used in the investigation, including his questions about Dean Ritter's partiality in the investigation and his request that a faculty co-investigator be appointed as required by Policy 6.4.

107. The investigators concluded that Dr. Vengalattore had sexual relations with Roe on December 30, 2010. They based that conclusion on their finding that Roe had sexual relations with someone on or about that date, and that Dr. Vengalattore's failure to prove that Roe "could

have had sex with anyone else on that date" made Roe's testimony "more plausible." In other words, in the investigators' view, Dr. Vengalattore bore a burden of proving the identity of Roe's other sexual partner.

108. Although conceding that Roe did not mention to anyone a sexual relationship with Dr. Vengalattore until three years after the end of the alleged relationship, the investigators concluded that this delay did not suggest that Roe was fabricating her accusation because she had "no reason to lie" about her sexual activity in 2011. The investigators did not consider whether a desire to prevent Dr. Vengalattore from getting tenure might have provided a motive to lie about the identity of her sexual partners.

109. The investigators conceded that they reviewed years of emails exchanged between Dr. Vengalattore and Roe and that none referenced any romantic relationship at all.

110. The investigators determined that the lack of evidence supporting a year-long romantic relationship actually supported Roe's allegations, because "[c]ommon sense experience is that secretive relationships carried out by faculty members and students can be carried out without others, including other students and colleagues, becoming aware." The investigators did not address why a desire to keep a relationship secret would extend to making no mention of the relationship in private emails.

111. The investigators expressly disregarded any evidence suggesting that Roe struggled academically in the lab, concluding that was "not the issue in this investigation."

D. Dean Ritter Adopts the Report While the Tenure Battle Continues

112. Dr. Vengalattore objected to the procedures Cornell planned to use following completion of Mittman's and Affel's report. Cornell was intent on forwarding the report to Dean Ritter for her approval or disapproval of the report's findings.

113. Dr. Vengalattore objected that Dean Ritter was not an objective judge who would be viewing the evidence in the report for the first time. Rather, she had immersed herself in facts surrounding Roe's rape and sexual-relationship allegations soon after they were first made in 2014, in connection with her consideration of Dr. Vengalattore's tenure application.

114. Dean Ritter spoke repeatedly with Mittman about the allegations, both before the start of the formal investigation and while it was proceeding.

115. In an October 29, 2014 letter to the Chair of the Physics Department, Ritter described Dr. Vengalattore's "disturbing ... treatment" of Roe.

116. In a July 7, 2015 email to Professor John Gluckenheimer, a member of the tenure appeals committee, Dean Ritter stated that "a series of complaints were raised by [Roe] including an accusation that there had been an inappropriate sexual relationship between the two of them," and that "p]reliminary evidence indicates that these complaints are not frivolous."

117. Those comments indicate that: (1) Ritter had already investigated the complaint sufficiently that she had reached a judgment as to their strength; and (2) she was urging the tenure appeals committee to uphold her decision to deny tenure to Dr. Vengalattore, based at least in part on Roe's accusations.

118. Despite Dean Ritter's entreaties, the tenure appeals committee issued a decision on December 16, 2015 upholding Dr. Vengalattore's grounds for appeal from her denial of tenure. A new committee convened by Dean Ritter recommended that Dr. Vengalattore be granted tenure. Dean Ritter overruled that newest recommendation and again denied tenure on February 16, 2016. On May 3, 2016, the Provost upheld Dean Ritter's denial of tenure. The tenure decision is not at issue in this lawsuit, except to the extent that it supports Dr. Vengalattore's claim that Dean Ritter was biased against him.

119. Dr. Vengalattore also objected to Cornell's planned procedure because it violated Cornell's own procedural rules. The investigators recommended that Dr. Vengalattore be found to have violated Cornell's Sexual Relationship Policy.

120. If, as the investigators suggested, the alleged violation should be deemed "sexual harassment in the educational environment" or "sexual violence," then it was subject to Policy 6.4. As such, the alleged violation of the Sexual Relationship Policy would be time-barred under Policy 6.4.

121. Moreover, Policy 6.4 provided that Dr. Vengalattore was entitled to appointment of a special faculty co-investigator (something that was never done); and Appendix C to Policy 6.4 entitled faculty members to contest an investigator's recommended findings through a formal hearing before an independent board (complete with live questioning of witnesses and application of a clear-and-convincing-evidence standard to any charges) whenever (as here) the charges arose in the context of a subordinate-supervisory relationship.

122. If, one the other hand, the alleged violation of the Sexual Relationship Policy should be deemed not subject to Rule 6.4, then it was subject to the policies set out in Sections 2.2 and 2.3 of the Faculty Handbook. Those sections entitled Dr. Vengalattore to a hearing before the Standing Committee—particularly when the charges are characterized as "significant" (as Dean Ritter characterized them).

123. Cornell has taken the position that no statute of limitations applies to alleged violations of the Sexual Relations Policy. But it has never explained why, if extremely serious charges such as rape are subject to a one-year-following-the-end-of-faculty-supervision limitations period, a similar limitations period should not also apply to violations of the Sexual Relations Policy.

124. Despite Dr. Vengalattore's objections to her review of the investigators' report, Dean Ritter adopted the report's recommendations on October 6, 2015.

125. In a letter addressed to Dr. Vengalattore, Dean Ritter wrote:

> I find that a preponderance of evidence supports the claim that you were involved in a sexual relationship with your former graduate student over a period of several months while also serving as her graduate advisor. As a result, I find that you have violated the university's 'Romantic and Sexual Relationships' policy by engaging in such conduct. I also find that there is not significant evidence to support the claim that the initial sexual encounter between you and the graduate student involved a sexual assault. … Given the finding of an inappropriate sexual relationship, I also find that in your denial of a sexual relationship you have lied to the investigators in this case.

126. Dean Ritter also wrote that she "intend[ed] to impose significant sanctions on" Dr. Vengalattore, which would be "suspend[ed]" "pending the outcome of [Dr. Vengalattore's] tenure appeal."

127. On February 6, 2017, Dean Ritter issued a letter informing Dr. Vengalattore that his "internal [tenure] appeal has concluded," and that "it [wa]s time to follow through o[n] [her] earlier commitment to impose additional sanctions," based on her October 6, 2015, findings.

128. Dean Ritter imposed a sanction of "suspension without pay for a period of two weeks," effective June 1, 2017.

129. Dr. Vengalattore repeatedly sought to initiate a grievance proceeding to contest Dean Ritter's flawed findings and sanctions. Such proceedings are expressly authorized by Section 2.3 of the Faculty Handbook, but Cornell officials simply ignored Dr. Vengalattore's entreaties.

130. On May 8, 2017, Professor Kevin Clermont (a Cornell law professor with no direct connection with Dr. Vengalattore's case) wrote a letter to Cornell's University Counsel,

describing the investigation against Dr. Vengalattore as a "miscarriage of justice" "so outrageous as to leave [him] ashamed of Cornell."

131. Professor Clermont wrote, "Although I know that rearguing the merits is hopeless, I cannot resist saying that a reasonable person would not find guilt, even by a preponderance, unless that person made the amateurish mistake of ignoring the probative value of the absence of direct evidence after an incredibly exhaustive investigation."

132. Professor Clermont wrote that the investigation's "procedural path" raised it to "the stratosphere of injustice," because it "followed no procedure at all."

133. Professor Clermont explained that the investigators had not followed Policy 6.4 "due to a time bar," and "thus concluded that the professor had no procedural rights at all."

134. Professor Clermont wrote that this was "such a preposterous position that at first I could not believe that Cornell was relying on it. I still cannot believe that anyone but ideologues who have lost their bearings would defend it."

135. Professor Clermont also described a "litany of procedural abuses by the investigators: their refusal to give [Dr. Vengalattore] basic information, to allow him to supplement the record or to challenge credibility, to afford him any rights at all. (Incidentally, the professor waived no rights, as he strenuously objected to the farce all along.)"

F. Dr. Vengalattore Suffers Continued Harms from the Dean's Decision

136. Dr. Vengalattore has not been able to continue his research since leaving Cornell.

137. Dr. Vengalattore has obtained several million dollars of grant money from a variety of sources to fund his research projects.

138. Cornell has locked Dr. Vengalattore out of his lab and has not allowed his research to continue.

139. Since leaving Cornell, Dr. Vengalattore has attempted to secure lab support from a number of other institutions so that he can continue his grant-funded research. Dr. Vengalattore has also sought academic employment at a number of universities so that he can continue his grant-funded research.

140. Because of his significant academic and scientific contributions, Dr. Vengalattore is well-qualified for appointments at any of these colleges and universities.

141. On information and belief, Cornell has communicated to each of these colleges and universities the substance of Dean Ritter's finding that Dr. Vengalattore was involved in a sexual relationship with his former graduate student over a period of several months while also serving as her graduate advisor, and that he lied to the investigators about that relationship.

142. These assertions are false.

143. Cornell knows that it has no legitimate basis for making those statements because its only basis for making them is a disciplinary proceeding that it knows was conducted in a biased fashion and in knowing violation of Cornell's own procedural rules.

144. As a result of Cornell's communications, none of these colleges or universities have offered employment to Dr. Vengalattore or allowed him to conduct his research at their facilities.

COUNT I—VIOLATION OF TITLE IX

145. Plaintiff repeats and realleges each and every allegation hereinabove as if fully set forth herein.

146. Title IX provides, in relevant part, that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a).

147. Title IX applies to all public and private educational institutions that receive federal funding, which includes Defendant Cornell.

148. Title IX prohibits any covered entity from discriminating on the basis of sex in employment. *North Haven Bd. of Education v. Bell*, 456 U.S. 512 (1982).

149. Title IX requires a school to "adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by" Title IX or regulations thereunder. 34 C.F.R. § 106.8(b). Cornell violated that requirement by adopting grievance procedures that are inequitable for those charged with sexual misconduct, a group that consists largely of men.

150. Defendant Cornell discriminated against Plaintiff Dr. Vengalattore because of his sex by applying its inequitable procedures to the sexual-misconduct claims asserted against him by Roe.

151. Defendant Cornell further discriminated against Dr. Vengalattore because of his sex by ignoring its own procedural rules when necessary to achieve its desired result: imposition of sanctions on a male professor for inappropriate sexual conduct toward a female student.

152. Cornell was under pressure from the U.S. Department of Education (which was threatening a cut-off of federal funding) to demonstrate that it was taking a hard line against sexual misconduct directed at female students. Cornell also, as explained by Mittman, was working "very aggressively to address issues of access, prevention and culture change." Imposing sanctions for sexual misconduct on a male professor in a high-profile case involving a physics professor served both of those purposes. Cornell was not going to let issues like procedural rules and uncorroborated evidence stand in the way of its desired goal.

153. The result of Cornell's discrimination against Dr. Vengalattore on the basis of sex was that he was found guilty of sexual misconduct when, in fact, he did not have a sexual relationship with Roe and he violated no Cornell policies.

154. Defendant Cornell's discriminatory process deprived Plaintiff Dr. Vengalattore, a male, of employment opportunities and imposed discipline on him on the basis of his sex.

155. Many circumstances suggest that the outcome was erroneous, and include, without limitation:

a. Cornell's Policy 6.4 is an unreliable method of determining fault because it:

i. Empowers the same investigators with the power to find facts as well as to prosecute the case;

ii. Does not require a preliminary determination that a complaint is well-founded before allowing an investigation;

iii. Does not require investigators to inform the target of the investigation about the nature of the charges or his right to an advisor before commencing an interview;

iv. Allows investigators to draw an adverse inference from a target's silence, lack of cooperation, or use of an advisor in the investigation;

v. Does not require investigators to tell the target the nature of the evidence against him;

vi. Does not guarantee that a target will be provided an advisor;

vii. Does not allow active participation by the target's advisor in the investigation;

viii. Does not allow a participant to directly question any witness;

ix. Does not provide the target with the right to confront his accuser;

x. Does not provide a live hearing to resolve factual disputes;

xi. Does not require that any witness interview be recorded;

xii. Does not require that any witness provide sworn testimony;

xiii. Does not require investigators to disclose exculpatory or other favorable evidence to the target of the investigation;

xiv. Does not place a burden of proof on the accuser; and

xv. Premises a finding of responsibility on a mere preponderance of the evidence.

b. The investigation against Plaintiff Dr. Vengalattore was unreliable because it disregarded many of the few procedural protections Policy 6.4 does provide, including, without limitation:

i. Policy 6.4 requires investigations to be completed within 60 days, but the investigation lasted almost a full calendar year;

ii. Policy 6.4's limitations period barred the entire investigation, yet the investigators continued pursuing the matter outside of their jurisdiction;

iii. The investigators had no authority under Policy 6.4 to investigate the alleged violation of the romantic and sexual relationship policy because it was not an allegation of bias, discrimination, harassment or sexual and related misconduct;

iv. The investigators allowed Roe to reveal information about the investigation to others in violation of Policy 6.4;

v. During the first interview, the investigators did not inform Dr. Vengalattore of the precise nature of the charges against him, or the evidence against him, as required;

vi. The investigators did not allow Dr. Vengalattore to have the assistance of an advisor during his interviews;

vii. The investigators provided Roe with an advisor but not Dr. Vengalattore;

viii. The investigators allowed Roe's advisor, Karns, to actively participate in the investigation, including allowing her to communicate on Roe's behalf with the investigators, object to questions posed by the investigators, and work with the investigators to explain evidence that was inconsistent with Roe's allegations;

ix. The investigators did not draw any adverse inferences when Roe refused to participate in aspects of the investigation or answer certain of their questions;

x. The investigators did not interview all of Dr. Vengalattore's proposed witnesses, or ask his proposed questions of Roe;

xi. The investigators did not prevent Roe from coordinating with potential witnesses on their witness statements;

xii. The Dean of Faculty did not designate a faculty member to serve as a co-investigator, nor state in writing to all concerned parties the reason for this; and

xiii. The investigation into the alleged violation of the romantic and sexual relationship policy was neither conducted by the Standing Committee on Academic Freedom & Professional Status of the Faculty, nor in compliance with Article XVI, Section 10, of the Cornell University Bylaws.

xiv. The investigators continued their investigation into alleged Policy 6.4 violations for seven months, despite their acknowledged recognition that an investigation into any such violations was barred by Policy 6.4's statute of limitations.

c. The Investigators' Determinations Were Biased and Unreliable because the Investigators:

i. Disregarded Roe's false allegations that Dr. Vengalattore had thrown a power supply at her;

ii. Disregarded Roe's academic struggles in Dr. Vengalattore's lab as a motive to lie;

iii. Ignored Roe's other efforts to derail Dr. Vengalattore's tenure prospects;

iv. Disregarded Roe's own admission that she only made these allegations in September 2014 after learning that Dr. Vengalattore had been recommended for tenure;

v. Disregarded multiple witness reports of Roe's lack of professionalism in the lab;

vi. Disregarded multiple witness reports of Roe's use of unwanted and unprofessional language in the lab;

vii. Disregarded witness reports of Roe's use of racially-charged language in the lab;

viii. Disregarded multiple witnesses who directly contradicted Roe's account of Dr. Vengalattore's having yelled at her and other students in the lab;

ix. Disregarded multiple witnesses who directly contradicted Roe's account of Dr. Vengalattore's having punished and "sidelined" other students in the lab;

x. Presumed Roe's account was true, and assured her an aggressive response;

xi. Conducted numerous unrecorded conversations with Roe in advance of all formal interviews;

xii. Collaborated with Roe on her account, and helped her revise her story to fit with documentary evidence;

xiii. Did not require Roe to specify any particular date that Dr. Vengalattore had allegedly raped her;

xiv. Collaborated with Dean Ritter during the investigation, even though she was the ultimate factfinder;

xv. Submitted the report to Dean Ritter, who was biased, and had already predetermined Dr. Vengalattore's guilt before the investigation had been completed;

xvi. Relied extensively on gossip, rumor, and other hearsay as substantive evidence;

xvii. Did not attempt to interview Roe's high school boyfriend, despite Roe's own statement that she was romantically interested in him at the time of the alleged assault;

xviii. Refused to ask Roe and other witnesses the questions proposed by Dr. Vengalattore;

xix. Created inaccurate and misleading notes of witness interviews;

xx. Ignored evidence that Roe told Hamidian that she was not in a relationship in early 2011;

xxi. Ignored evidence that Roe told Saha that she had no romantic interest in Dr. Vengalattore;

xxii. Ignored evidence from Harvey that "a relationship was clearly not happening;"

xxiii. Ignored multiple first-hand witnesses who stated that they had never witnessed Dr. Vengalattore behave in an inappropriate manner towards Roe or any other student;

xxiv. Allowed Roe and Karns exclusive access to the investigation files and materials during the course of the investigation;

xxv. Applied a presumption of guilt against Dr. Vengalattore;

xxvi. Presumed that Roe was truthful, and relied on the work of Dr. Rebecca Campbell and other "Start by Believing" materials;

xxvii. Faulted Plaintiff Dr. Vengalattore for not being able to disprove Roe's allegations with evidence related to her sexual conduct;

xxix. Redacted evidence before it was shared with Dr. Vengalattore;

xxx. Ignored witness accounts that Roe had previously made false accusations that another student was a "stalker";

xxxi Falsely described Dr. Vengalattore in the final investigation report as having been represented by counsel during the investigation;

xxxii. Disregarded lab records conclusively proving that Roe's account could not have happened as she claimed;

xxxiii. Improperly gave credibility to Roe because her story was too convoluted and incredible to have been manufactured; and

xxxiv. Disregarded the lack of any objective evidence of a year-long relationship between Roe and Dr. Vengalattore.

156. Evidence that Cornell decision-makers arrived at implausible factual findings, adopted procedural rules that systematically disadvantaged males, and ignored many of its own procedural rules when adjudicating Dr. Vengalattore's case is strong evidence that Cornell intended to discriminate against him because he is male.

157. Many circumstances suggest that gender bias was a motivating factor in the erroneous outcome, and include, without limitation:

a. Circumstances suggest that Cornell adopted Policy 6.4 in an effort to lower the protections for males accused of sexual misconduct, and include, without limitation:

i. Before the U.S. Department of Education (ED) issued the 2011 DCL, Cornell's Campus Code of Conduct provided many more procedural protections to those accused sexual misconduct;

ii. Cornell adopted Policy 6.4 under pressure from ED's Office of Civil Rights, which was demanding that Cornell crack down on those (predominantly males) accused of sexual misconduct;

iii. Cornell adopted Policy 6.4 to avoid rescission of federal funds by ED;

iv. Even after the adoption of Policy 6.4, the Campus Code of Conduct was used for other investigations not related to sexual misconduct—i.e., misconduct claims that involved a roughly equal number of males and females;

v. Statistically the overwhelming majority of investigations that have ever been conducted by Cornell into an alleged violation of Policy 6.4 have involved male respondents;

vi. Of the 34 formal complaints resolved under Policy 6.4 between 2014 and 2016, only three respondents were female;

vii. Of the 18 people charged under Policy 6.4 whose charges were resolved during the 2016-2017 academic year, only one was female; and

viii. Cornell's use of Policy 6.4 was designed to make it more likely that male respondents would be found responsible for alleged sexual misconduct by removing procedural protections for the accused;

b. The investigators refused to follow the more protective procedures set out in the Faculty Handbook and the Campus Bylaws while investigating Dr. Vengalattore for allegedly violating the Sexual Relationships Policy because he was male;

c. The investigators disregarded certain provisions of Policy 6.4 as set forth above because of anti-male bias against Dr. Vengalattore;

d. The investigators have a history of anti-male bias, and both Mittman and Affel have been accused of anti-male bias in prior lawsuits against Defendant Cornell;

e. The investigators displayed gender bias in the investigation by:

i. Ignoring witness complaints that Roe had used unwelcome and sexually inappropriate terms and unwelcome touching in a professional setting toward male students and Dr. Vengalattore;

ii. Ignoring witness complaints that Roe had continued to use these inappropriate terms even after being directed to stop and having been informed that they were unwelcome;

iii. Failing to institute an investigation under Policy 6.4 for Roe's use of inappropriate language and unwanted touching;

iv. Failing to institute an investigation under Policy 6.4 after Shaffer-Moag reported that Roe professed she was "sexist against men," and had attempted to deny two male students opportunities in Dr. Vengalattore's lab;

v. Failing to interview Shaffer-Moag, despite her written report concerning Roe's misconduct and ant-male bias, because Shaffer-Moag's account was inconsistent with the investigator's perceptions toward Roe;

vi. Giving inadequate weight to witness statements made by male witnesses that had accused Roe of being dishonest and unreliable;

vii. Improperly defending inconsistencies in Roe's account as the product of trauma, despite the lack of evidence that any traumatic event had occurred;

viii. Promising Roe that Defendant Cornell would take an aggressive stance on accusations related to sexual misconduct;

ix. Applying a presumption that a female complainant was reliable, and suggesting to Roe that the investigators would adhere to Dr. Rebecca Campbell's training materials;

x. Appointing Karns to assist Roe and deferring to Karns' advocacy on behalf of Roe with no corresponding efforts taken for Dr. Vengalattore;

xi. Placing the burden of proof on Dr. Vengalattore to disprove Roe's allegations;

xii. Allowing Roe special access to the investigation file, and allowing her to prepare her witnesses in advance of any interviews; and

xiii. Applying a much more stringent credibility standard on Dr. Vengalattore and male witnesses who supported his account, while dismissing or disregarding the incredibility of Roe and female witnesses who supported her account.

158. Based on the foregoing, Dr. Vengalattore was subjected to a biased, prejudiced and explicitly unfair process that discriminated against him on the basis of his sex, in violation of Title IX.

159. As a direct and proximate result of the above conduct, Plaintiff sustained damages, including, without limitation, loss of career opportunities, reputational damages, economic injuries, and other direct and consequential damages.

160. As a result of the foregoing, Plaintiff is entitled to damages in an amount to be determined at trial, plus prejudgment interest, attorneys' fees, expenses, costs and disbursements.

COUNT II—DEFAMATION

161. Plaintiff repeats and realleges each and every allegation hereinabove as if fully set forth herein.

162. At the conclusion of the investigation into Dr. Vengalattore, Dean Ritter wrote:

> I find that a preponderance of evidence supports the claim that you were involved in a sexual relationship with your former graduate student over a period of several months while also serving as her graduate advisor. As a result, I find that you have violated the university's 'Romantic and Sexual Relationships' policy by engaging in such conduct. I also find that there is not significant evidence to support the claim that the initial sexual encounter between you and the graduate student involved a sexual assault. … Given the finding of an inappropriate sexual relationship, I also find that in your denial of a sexual relationship you have lied to the investigators in this case.

163. On information and belief, Defendant Cornell re-published Dean Ritter's statements to third parties, including but not limited to:

a. Boston University;
b. The California Institute of Technology;
c. Rice University;
d. The University of Arizona;
e. The University of Chicago;
f. The University of Colorado—Boulder;
g. The University of Maryland—College Park;
h. The University of Rochester;
i. The University of Washington—Seattle; and
j. Yale University.

164. Cornell's statement to the third parties was false, because Dr. Vengalattore was not involved in a sexual relationship with his former graduate student over a period of several months while also serving as her graduate advisor, did not violate Defendant Cornell's "Romantic and Sexual Relationships" policy, and did not lie to the investigators in his case.

165. Defendant Cornell acted with actual malice concerning the truth or falsity of these statements.

166. Defendant Cornell acted without due regard and in a grossly irresponsible manner concerning the truth or falsity of these statements.

167. Defendant Cornell acted in a negligent manner concerning the truth or falsity of these statements.

168. Defendant Cornell knew of or recklessly disregarded the falsity of these statements, acted without due regard and in a grossly irresponsible manner, and acted negligently when it made them because it was aware of the inadequacy of the investigation leading up to Dean Ritter's findings.

169. Defendant Cornell's statements were defamatory per se because they tended to injure Plaintiff Dr. Vengalattore in his trade, business and profession.

170. As a direct and proximate result of the above conduct, Plaintiff sustained damages, including without limitation lost employment and research opportunities that were denied to him by the recipients of Defendant's statements.

171. As a direct and proximate result of the above conduct, Plaintiff sustained damages, including, without limitation, loss of career opportunities, reputational damages, economic injuries and other direct and consequential damages.

172. As a result of the foregoing, Plaintiff is entitled to damages in an amount to be determined at trial, plus prejudgment interest, attorneys' fees, expenses, costs and disbursements.

PRAYER FOR RELIEF

WHEREFORE, for the foregoing reasons, Plaintiff Dr. Vengalattore demands judgment against Defendant Cornell as follows:

(i) on the first cause of action for violation of Title IX of the Education Amendments of 1972, a judgment awarding Plaintiff damages in an amount to be determined at trial, including, without limitation, damages to reputation, past and future economic losses, loss of career opportunities, and loss of future career prospects, plus prejudgment interest, attorneys' fees, expenses, costs, and disbursements;

(ii) on the second cause of action for defamation, a judgment awarding Plaintiff damages in an amount to be determined at trial, including, without limitation, damages to reputation, past and future economic losses, loss of career opportunities, and loss of future career prospects, plus prejudgment interest, attorneys' fees, expenses, costs, and disbursements;

(iii) a declaratory judgment, pursuant to 28 U.S.C. § 2201, declaring that: (i) the outcome and findings made by Defendant should be reversed; (ii) Plaintiff's reputation should be restored; (iii) Plaintiff's disciplinary record be expunged; (iv) the record of Plaintiff's suspension and discipline be removed from his employment file; and (v) any record of the complaint against Plaintiff be permanently destroyed;

(iv) an injunction directing Defendant to: (i) reverse the outcome and findings regarding Roe's complaint; (ii) expunge Plaintiff's disciplinary record; (iii) remove any

record of Plaintiff's suspension from his employment file; and (iv) permanently destroy any record of Roe's complaint;

(v) awarding Dr. Vengalattore such other and further relief as the Court deems just, equitable, and proper.

JURY DEMAND

Plaintiff herein demands a trial by jury of all triable issues in the present matter.

September 23, 2022

Respectfully,

/s/ Richard A. Samp
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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2022, I electronically filed the Second Amended Complaint of Plaintiff Mukund Vengalattore with the Clerk of the Court for the U.S. District Court for the Northern District of New York by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Richard A. Samp

Richard A. Samp