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2 ***Pro Hac Vice Application Pending***

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10 UNITED STATES DISTRICT COURT
11 *for the*
12 DISTRICT OF ARIZONA

13 COURTNEY CONNOR,

14 Plaintiff,

15 vs.

16 ARIZONA STATE UNIVERSITY AND
17 ARIZONA BOARD OF REGENTS,

18 Defendants

Case No.: 2:21-CV-_____

19 **COMPLAINT**

20 THE PLAINTIFF, COURTNEY CONNOR, for her complaint against Arizona
21 State University and the Arizona Board of Regents, alleges upon information and
22 belief the following:

23 **THE PARTIES**

- 24
- 25 1. Plaintiff, Courtney Connor, is a citizen and resident of Arizona.
 - 26 2. Defendant Arizona State University (ASU) is a federally funded
27 educational institution in Maricopa County, Arizona.

1 7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because
2 a substantial part of the acts and omissions giving rise to Ms. Connor's claims
3 occurred in this District.

4 8. Ms. Connor has exhausted her administrative remedies with respect to
5 her Title VII claims by virtue of having filed a charge of discrimination and
6 retaliation with the United States Equal Employment Opportunity Commission and
7 commencing this action within ninety days of receipt of her Notice of Suit Rights.
8

9 **GENERAL ALLEGATIONS**

10 9. On November 14, 2015, ASU hired Ms. Connor to create and build its
11 women's lacrosse program from scratch.

12 10. At the time ASU hired Ms. Connor, ASU had no women's lacrosse
13 program and Ms. Connor was a nationally recognized leader in women's lacrosse.

14 11. As a women's lacrosse player, Ms. Connor was a five-time Division I
15 NCAA national champion and a member of the U.S. National Team.

16 12. As a head coach, Ms. Connor had 12 years of experience during which
17 Ms. Connor led two nationally recognized NCAA programs — Mount St. Mary's
18 University and the University of Maryland at Baltimore — to the most successful
19 period in the history of their respective programs. She won her conference's Coach
20 of the Year award at both schools. Her teams won their institution's first
21 conference championships and first NCAA Tournament appearances in program
22 history. Her players became All-Americans and won all-conference and academic
23 all-conference recognition.
24

25 13. Ms. Connor had also embarked on a wildly successful broadcasting
26 career as a women's lacrosse analyst and a men's lacrosse sideline reporter for
27 ESPN, the Big Ten Network, and Inside Lacrosse. She was being recognized as the
28

1 face and voice of women's lacrosse broadcasts. Then ASU called to ask Ms.
2 Connor to create a women's lacrosse program at ASU.

3 14. ASU had decided to create a women's lacrosse program in part to
4 remedy its failure to comply with Title IX's requirement of gender equity in its
5 athletics program.

6 15. ASU induced Ms. Connor to leave her successful broadcasting career by
7 promising her that the women's program would be supported by the University in
8 the same way that its other athletic programs were supported.

9 16. ASU would not keep these promises, but, in reliance upon them, Ms.
10 Connor accepted ASU's offer.

11 17. Ms. Connor's employment with ASU began in late 2015, and she was
12 assigned to report to Senior Associate Athletics Director Scottie Graham.

13 18. Early in her employment, Ms. Connor was interviewed by NCAA
14 investigators who were investigating complaints of gender inequity in ASU's
15 athletics programs.

16 19. Ms. Connor answered the NCAA investigators' questions truthfully, but
17 in many cases revealed gender inequity in the resources ASU provided to her
18 womens' lacrosse program including but not limited to disparate allocation of
19 budget, equipment, staff allocation, travel, facilities, staff, and salary.

20 20. Ms. Connor's supervisors, including Mr. Graham, made it clear to Ms.
21 Connor that they were angered by her truthful disclosures to the NCAA
22 investigators and, because of her truthful reports of gender inequity in violation of
23 Title IX in ASU's athletics department, they took steps to make the gender
24 inequities more entrenched and created a hostile work environment for Ms.
25 Connor.
26

27 21. Ms. Connor continued to complain about the University's violations of
28 Title IX in its athletics department and, when she was subjected to sexual

1 harassment in violation of Title VII, she complained to the University's officials
2 about that and the hostile work environment it created. Ms. Connor's complaints
3 included, for example:

4 22. Ms. Connor engaged in protected activity under Title VII by reporting,
5 opposing and complaining of ASU's employment practices that she reasonably
6 believed were unlawful employment practices prohibited under Title VII,
7 including, for example:

- 8 a. Ms. Connor's male supervisor's persistent sexual overtures in the
9 workplace, including but not limited to his comment to Ms. Connor
10 that she "makes [his] dick hard";
- 11 b. Ms. Connor's male supervisor's persistent sexual comments to Ms.
12 Connor about his sexual arousal and gratification from seeing her and
13 other female employees in the ASU athletic department wearing form-
14 fitting clothing, citing particular body parts of Ms. Connor's female
15 colleagues;
- 16 c. The University's Athletics Director's and Ms. Connor's male
17 supervisor's approval of, participation in, and ratification of the
18 severe, pervasive sexual harassment (sexual touching, comments, and
19 propositioning) engaged in by Mr. Ware; including their requirement
20 that Ms. Connor appear in the suites at athletic events that Mr. Ware
21 would be in attendance so that he could gratify his sexual desires with
22 her and subject her to further sexual harassment and sexual assault;
- 23 d. Gross disparities between the resources the University afforded to
24 Defendants' men's and women's athletic programs – and between
25 male and female head coaches -- including the facilities, equipment,
26 training, staff, travel, lodging, food, promotion and other resources
27 that were made available to female and male coaches and teams; and
28

1 e. Responding truthfully about Defendants' failures to provide essential
2 resources and support to her women's lacrosse program to NCAA
3 investigators who interviewed her in connection with an NCAA
4 investigation into Defendants' failure to meet Title IX gender equity
5 requirements.

6 23. Immediately after and because of Ms. Connor's complaints of gender
7 inequity, gender discrimination, sexual harassment, and the hostile environment
8 engendered by it in violation of Title VII and Title IX, ASU subjected Ms. Connor
9 to a campaign of retaliatory adverse actions, culminating in her termination
10 without cause on or about April 29, 2019.

11 24. On May 3, 2019, Ms. Connor appealed and reported her termination to
12 ASU's human resources officer as discriminatory and in retaliation against her for
13 engaging in protected conduct.

14 25. ASU responded to Ms. Connor's May 3, 2019 complaint of
15 discrimination, harassment, and retaliation in the same way it responded to her
16 prior reports of discrimination, harassment, and retaliation: with deliberate
17 indifference. For example:

- 18
- 19 a. The University failed to take prompt action on Ms. Connor's
20 complaint.
 - 21 b. The University failed to appropriately investigate or collect relevant
22 evidence supporting Ms. Connor's allegations in the University's
23 possession, custody, or control or otherwise readily available to the
24 University.
 - 25 c. The University failed to make a determination on Ms. Connor's
26 complaint until March 5, 2020 — over 10 months after Ms. Connor
27 made her complaint.
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1 d. The University’s determination amounted to little more than the
2 conclusory assertion that “no violations of ACD 401: Prohibition on
3 Discrimination, Harassment, and Retaliation” (the ASU policy that
4 incorporates the prohibitions of Title VII and Title IX) occurred in
5 connection with Ms. Connor’s employment.

6 e. The University’s determination of “no violation” in connection with
7 Ms. Connor’s employment was contradicted by the University’s prior
8 determination that a prominent ASU athletics booster, Bart Wear, had
9 serially sexually harassed ASU employees, their spouses, and others
10 and Ms. Connor was one of them.

11 26. The Defendants’ March 5, 2020 determination of Ms. Connor’s
12 complaint of retaliatory discharge was a final decision made by Defendants’
13 employees with final policymaking authority over Ms. Connor’s employment and
14 Defendant’s employees unlawful conduct. The Defendants’ March 5, 2020
15 “determination” condoned and ratified the discrimination, harassment, and
16 retaliation Ms. Connor was subjected to during her employment at the University,
17 up to and including the retaliatory termination of Ms. Connor’s employment.

18 27. Ms. Connor timely filed a complaint of discrimination and retaliation in
19 violation of Title VII to the Equal Employment Opportunity Commission and fully
20 participated in the EEOC’s procedures until she finally received the EEOC’s
21 Notice of Suit Rights on or about October 5, 2021.

22
23 **RESPONDEAT SUPERIOR**

24 28. All of the conduct complained of herein was engaged in by individuals
25 acting in their capacity as employees and agents of ASU and in furtherance of
26 ASU’s interests; and such conduct was participated in, authorized, condoned,
27 and/or ratified by ASU employees with supervisory and final policymaking
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1 authority over the employees and their conduct. As a result, all of the conduct
2 complained of herein is imputed to ASU and the ABOR pursuant to the doctrine of
3 *respondeat superior*. Therefore, ASU and the ABOR are liable for all of the
4 damages Ms. Connor suffered as a result of the conduct giving rise to the following
5 claims.

6
7 **FIRST CAUSE OF ACTION**

8 Retaliation in Violation of Title VII (42 USC § 2000e, *et seq.*)
9 (Against All Defendants)

10 29. ASU and ABOR are employers as that term is used in Title VII of the
11 Civil Rights Act of 1964, 42 USC §2000e(b).

12 30. Title VII prohibits retaliation against any person by discriminating,
13 threatening, coercing, or intimidating for the purpose of interfering with any right
14 or privilege secured by Title VII or because s/he has made a complaint, testified,
15 assisted, or participated in any manner in an investigation, proceeding or hearing
16 concerning a report of employment practices that are made unlawful by Title VII.

17 31. Ms. Connor made numerous reports and complaints of unlawful
18 employment practices that are made unlawful by Title VII to University officials,
19 and Ms. Connor reasonably believed them to be unlawful employment practices
20 under Title VII. As such, Ms. Connor's complaints and reports were protected
21 conduct under Title VII.

22 32. Ms. Connor engaged in protected activity under Title VII by reporting,
23 opposing and complaining of ASU's employment practices that she reasonably
24 believed were unlawful employment practices prohibited under Title VII,
25 including, for example:

- 26 a. Ms. Connor's male supervisor's persistent sexual overtures in the
27 workplace, including but not limited to his comment to Ms. Connor
28 that she "makes [his] dick hard."

1 b. Ms. Connor's male supervisor's persistent sexual comments to Ms.
2 Connor about his sexual arousal and gratification from seeing her and
3 other female employees in the ASU athletic department wearing form-
4 fitting clothing, citing particular body parts of Ms. Connor's female
5 colleagues.

6 c. The University's Athletics Director's and Ms. Connor's male
7 supervisor's approval of, participation in, and ratification of the
8 severe, pervasive sexual harassment (sexual touching, comments, and
9 propositioning) engaged in by Mr. Ware; including their requirement
10 that Ms. Connor appear in the suites at athletic events that Mr. Ware
11 would be in attendance so that he could gratify his sexual desires with
12 her and subject her to further sexual harassment and sexual assault.

13 33. Because of and immediately after Ms. Connor engaged in protected
14 activity, Defendants employees began a campaign of taking adverse employment
15 actions against Ms. Connor, which continued throughout the remainder of her
16 employment and culminated in the approval and ratification of the retaliatory
17 termination of Ms. Connor by Defendants' employees with final policymaking
18 authority over the decision.

19 34. The Defendants ratified and condoned their employees' retaliatory
20 conduct and retaliatory discharge in their March 5, 2020 determination that their
21 employees' retaliatory conduct constituted no violation of Title VII or ASU's
22 "Prohibition on Discrimination, Harassment, and Retaliation" policy (the ASU
23 policy that incorporates the prohibitions of Title VII) occurred in connection with
24 Ms. Connor's employment.

25 35. Defendants' retaliatory conduct persisted throughout Ms. Connor's
26 remaining employment up to and including the May 5, 2020 determination in
27
28

1 which Defendants' employees with final policymaking authority approved,
2 condoned, and ratified it.

3 36. Defendants' campaign of adverse treatment of Ms. Connor because of
4 her protected activity and the approval and ratification of it by Defendants' senior
5 officials is reasonably likely to deter other employees from engaging in protected
6 activity.

7 37. As a proximate result of Defendants' unlawful conduct, Ms. Connor
8 suffered and continues to suffer irreparable injury.

9 38. As a further proximate result of Defendant's unlawful conduct, Ms.
10 Connor suffered damages and other compensable harms to be shown at trial,
11 including emotional distress, past and future lost wages and benefits, the costs of
12 bringing Defendants' unlawful conduct to the attention of Defendants' officials
13 with final policymaking authority over the university's compliance with Title IX
14 and Defendants' federal regulators, and the costs of bringing this action.

15 39. Plaintiff is therefore entitled to equitable relief and damages in an
16 amount to be determined by a jury.

17
18 **SECOND CAUSE OF ACTION**

19 **Retaliation in Violation of Title IX (20 USC § 1681)**
20 **(Against All Defendants)**

21 40. Plaintiff incorporates by reference all of the allegations set out in this
22 complaint as though fully set forth here.

23 41. ASU and ABOR own and operate education programs receiving Federal
24 financial assistance as that phrase is used in Title IX of the Education Amendments
25 of 1972, 20 U.S.C. § 1681.

26 42. Title IX and its implementing regulations prohibit retaliation against any
27 person by discriminating, threatening, coercing, or intimidating for the purpose of
28 interfering with any right or privilege secured by Title IX or because s/he has made

1 a complaint, testified, assisted, or participated in any manner in an investigation,
2 proceeding or hearing concerning a report of sex discrimination, including gender
3 inequality, in education programs receiving Federal financial assistance. 20 U.S.C.
4 § 1681; 34 C.F.R. § 100.7(e).

5 43. Ms. Connor made numerous reports and complaints of sex
6 discrimination and gender inequality in Defendants' educational programs and
7 activities to University officials and NCAA officials investigating complaints of
8 gender inequities in Defendants' athletics program, including, for example:

- 9 a. Gross disparities between the resources the University afforded to
10 Defendants' men's and women's athletic programs, including
11 facilities, equipment, training, staff, travel, lodging, food, promotion
12 and other resources.
- 13 b. Responding truthfully about Defendants' failures to provide essential
14 resources and support to her women's lacrosse program to NCAA
15 investigators who interviewed her in connection with an NCAA
16 investigation into Defendants' failure to meet Title IX gender equity
17 requirements.
- 18 c. Ms. Connor's male supervisor's persistent sexual overtures in the
19 workplace, including but not limited to his comment to Ms. Connor
20 that she "makes [his] dick hard."
- 21 d. Ms. Connor's male supervisor's persistent sexual comments to Ms.
22 Connor about his sexual arousal and gratification from seeing her and
23 other female employees in the ASU athletic department wearing form-
24 fitting clothing, citing particular body parts of Ms. Connor's female
25 colleagues.
- 26 e. The University's Athletics Director's and Ms. Connor's male
27 supervisor's approval of, participation in, and ratification of the
28

1 severe, pervasive sexual harassment (sexual touching, comments, and
2 propositioning) engaged in by Mr. Ware; including their requirement
3 that Ms. Connor appear in the suites at athletic events that Mr. Ware
4 would be in attendance so that he could gratify his sexual desires with
5 her and subject her to further sexual harassment and sexual assault.

6 44. The sex discrimination and gender inequality in Defendants' educational
7 programs and activities that Ms. Connor reported and complained of to the
8 Defendants constituted violations of Title IX and Ms. Connor reasonably believed
9 them to be violations of Title IX. As such, Ms. Connor's complaints and reports
10 were protected conduct under Title IX.

11 45. Immediately after and because of Ms. Connor's protected conduct,
12 Defendants immediately began a campaign of retaliation against Ms. Connor by
13 taking adverse actions against her.

14 46. Defendants' retaliatory conduct persisted throughout Ms. Connor's
15 remaining employment up to and including the Defendants' March 5, 2020
16 determination of Ms. Connor's complaint of retaliation in which Defendants'
17 employees with final policymaking authority approved, condoned, and ratified it.

18 47. Defendants acted intentionally in retaliating against Ms. Connor because
19 she reported illegal sexual discrimination in the form of sexual harassment and
20 gender inequality in the Defendants' educational programs and activities.

21 48. Defendants' campaign of retaliation against Ms. Connor is reasonably
22 likely to deter other employees from engaging in protected activity.

23 49. As a proximate result of Defendants' unlawful conduct, Ms. Connor
24 suffered and continues to suffer irreparable injury.

25 50. As a further proximate result of Defendant's unlawful conduct, Ms.
26 Connor suffered damages and other compensable harms to be shown at trial,
27 including emotional distress, past and future lost wages and benefits, the costs of
28

1 bringing Defendants’ unlawful conduct to the attention of Defendants’ officials
2 with final policymaking authority over the university’s compliance with Title IX
3 and Defendants’ federal regulators, and the costs of bringing this action.

4 51. Plaintiff is therefore entitled to equitable relief and damages in an
5 amount to be determined by a jury.

6 **THIRD CAUSE OF ACTION**
7 **Wrongful Termination**
8 **(Against All Defendants)**

9 52. Plaintiff incorporates by reference all of the allegations set out in this
10 complaint as though fully set forth here.

11 53. The Arizona Employment Protection Act (ARS § 23-1501(A)(3)(c))
12 prohibits actions in retaliation for an employee’s disclosure that the employee has
13 information or reasonably believes that the employer or an employee of the
14 employer violated or will violate a state statute or the Arizona Constitution.

15 54. The Arizona Civil Rights Act (ARS §§ 41-1461 – 41-1468) prohibits
16 “an employer” from engaging in discrimination, harassment and retaliation based
17 on sex.

18 55. Arizona State University is “an employer” as that term is used in the
19 ACRA. ARS § 41-1461(7)(a).

20 56. The Arizona Board of Regents is “an employer” as that term is used in
21 the ACRA. ARS § 41-1465(7)(a).

22 57. Ms. Connor was “an employee” of Arizona State University as that term
23 is used in the ACRA. ARS § 41-1461(6)(a).

24 58. Ms. Connor was an “an employee” of the Arizona Board of Regents as
25 that term is used in the ACRA. ARS § 41-1461(6)(a).

26 59. As alleged herein, Ms. Connor reported and complained of
27 discrimination, harassment, and retaliation based on sex and gross gender
28

1 inequities in the Defendants' workplace and in the Defendants' educational
2 programs and activities as alleged more particularly above.

3 60. Defendants were aware of the discrimination, harassment, retaliation,
4 and gross gender inequities reported by Ms. Connor.

5 61. Yet, Defendants failed and refused to promptly investigate, take any
6 corrective action, or respond appropriately to address the discrimination,
7 harassment, retaliation, and gross gender inequity in Defendants' workplace and
8 in their educational programs and activities.

9 62. Instead, Defendants retaliated against Ms. Connor for making her reports
10 and complaints by waging a persistent, severe, and pervasive campaign of adverse
11 treatment, adverse employment actions, and other retaliatory conduct.

12 63. Defendants likewise retaliated against another employee who, like Ms.
13 Connor, made reports and complaints of severe and pervasive sexual harassment in
14 Defendants' workplace and educational programs and activities. Specifically,
15 Defendants responded to David Cohen's reports and complaints of severe and
16 pervasive sexual harassment by placing Mr. Cohen on administrative leave,
17 changing the terms and conditions of his employment, stripping him of benefits,
18 and terminating him, all in violation of the ACRA. Defendants' unlawful
19 retaliation against employees for reporting Defendants' discrimination based on
20 sex was widespread, severe, and pervasive.

21 64. The wrongful termination of Ms. Connor and Defendants' ratification of
22 it were willful and malicious.

23 65. As a direct and proximate result of Defendants' wrongful termination in
24 violation of the public policy of this State, Ms. Connor has suffered damages in an
25 amount to be determined by a jury.

26 66. Further, due to the willful and malicious conduct of the Defendants,
27 Plaintiff is entitled to punitive damages in an amount to be determined by a jury.
28

1 **PRAYER FOR RELIEF**

2 67. Plaintiff demands entry of judgment against Defendant awarding
3 Plaintiff:

- 4 a. A declaration that Defendants violated Ms. Connor’s rights under
5 federal and state law;
- 6 b. A permanent injunction restraining Defendants from acting upon or
7 reporting their retaliatory termination of Ms. Connor or Defendants’ March
8 5, 2020 “determination” ratifying it;
- 9 c. All other and further appropriate equitable relief necessary to remedy
10 Defendants’ deprivation of Ms. Connor’s federally protected rights;
- 11 d. Lost past and future wages, bonuses, compensation and other
employee benefits;
- 12 e. Compensatory damages in an amount to be determined by a jury;
- 13 f. Reasonable attorneys’ fees and costs to the extent allowed by law;
- 14 g. Pre-judgment and post-judgment interest to the extent allowed by law;
15 and
- 16 h. All such other and further relief at law or in equity as the Court deems
17 proper.

18 Respectfully submitted on this the 3rd day of January 2022.

19
20 /s/ Robert C. Ekstrand
21 Robert C. Ekstrand
22 N.C. Bar No. 26673
23 ***Motion for Admission Pro Hac Vice pending***
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