

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**YOONA HA,
Plaintiff,**

v.

**NORTHWESTERN UNIVERSITY,
Defendant.**

No. 14 C 00895

Judge Harry D. Leinenweber

Magistrate Judge Daniel G. Martin

**DEFENDANT NORTHWESTERN UNIVERSITY'S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendant Northwestern University ("Northwestern" or "the University") hereby answers the Complaint of Plaintiff Yoona Ha ("Plaintiff") as follows:

Nature of Action

1. Plaintiff Yoona Ha ("Ha") brings this action under Title IX of the Education Amendments Act of 1972 to redress the unlawful discrimination and retaliation by Defendant Northwestern University ("Northwestern") after she reported sexual harassment committed by Northwestern's employee Peter Ludlow.

ANSWER: Northwestern admits that Plaintiff purports to bring this action under Title IX of the Education Amendments of 1972 ("Title IX") but denies that Northwestern has violated Title IX or engaged in unlawful discrimination or retaliation with regard to Plaintiff Yoona Ha and incorporates by reference its Answers to Paragraphs 27, 37, and 45. Northwestern admits that Plaintiff brought certain allegations of sexual harassment against Peter Ludlow, a Northwestern employee, to Northwestern's attention but denies that the allegations Plaintiff brought to the University's attention during the University's prompt and thorough investigation included all of the allegations now set forth in this Complaint. Northwestern admits that it conducted a prompt and

thorough investigation of the allegations that Plaintiff brought to its attention (“the University’s Investigation”); substantiated some, but not all, of those allegations; found that Ludlow had violated the University’s policy against sexual harassment; and imposed several disciplinary sanctions and other corrective actions against Ludlow. Northwestern denies any remaining allegations of Paragraph 1.

2. Specifically, Plaintiff seeks to be made whole for the damage caused by Northwestern University’s deliberate indifference and retaliation in handling her sexual assault complaint, including, but not limited to the full payment of her medical bills accrued and future medical bills; waiver and/or reimbursement of her tuition; compensation for her emotional distress; proper remedial actions regarding her claim, and attorney fees she has incurred.

ANSWER: Northwestern admits that Plaintiff seeks the relief identified in her Complaint in this action. Northwestern denies that it acted with “deliberate indifference and retaliation” in handling Plaintiff’s allegations of sexual harassment and denies the remaining allegations of Paragraph 2.

Jurisdiction and Venue

3. Plaintiff brings this action pursuant to Title IX of the Education Amendments Act of 1972, Section 901(a), as amended, U.S.C. Section 1681 (a) (“Title IX”). This Court has jurisdiction over Plaintiff’s federal claims pursuant to 28 U.S.C. § 1331.

ANSWER: Northwestern admits that Plaintiff purports to bring this action under Title IX and that this Court has jurisdiction over Plaintiff’s Title IX claim pursuant to 28 U.S.C. § 1331. Northwestern denies the remaining allegations of Paragraph 3.

4. Venue is proper under 28 U.S.C. 1391(b) because the events giving rise to the claims alleged herein occurred within the Northern District of Illinois.

ANSWER: Northwestern admits that venue is proper under 28 U.S.C. §1391(b) but lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 4.

General Factual Allegations

5. Plaintiff Yoona Ha is an adult female and is a junior majoring in journalism at Defendant Northwestern University. She also works for Defendant Northwestern University under a work-study program.

ANSWER: Northwestern admits the allegations of Paragraph 5.

6. Defendant Northwestern University is an institution of higher education duly organized and existing under the laws of the State of Illinois which received federal financial assistance for its education program.

ANSWER: Northwestern admits the allegations of Paragraph 6.

7. In the fall quarter of her freshman year, Plaintiff took “Philosophy of Cyberspace” taught by Peter Ludlow (“Ludlow”). He is a tenured professor at the Department of Philosophy and is employed by Defendant Northwestern.

ANSWER: Northwestern admits that Ludlow is a tenured professor working in the University’s Department of Philosophy and admits the remaining allegations of Paragraph 7.

8. Philosophy of Cyberspace was about ethical and moral considerations one in a virtual world and exploring the philosophical meanings of what is considered ‘real life’ and what is considered ‘virtual life’. To teach this class, Ludlow used “Second Life,” which is an internet based program where users can interact in a virtual world using a software based avatar. Ludlow would show videos of virtual characters having sex to the students during classes.

ANSWER: Northwestern admits the allegations of Paragraph 8 and admits that Ludlow has asserted that he had a pedagogical justification for showing the videos referenced in the third sentence of Paragraph 8.

9. Plaintiff always kept her interactions and communications with Ludlow professional.

ANSWER: Northwestern lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 9.

10. On or about February 8, 2012, Plaintiff learned of an art event in Chicago which was related to Ludlow's field of research and interest. Plaintiff emailed Ludlow information on the event and suggested he should attend.

ANSWER: Northwestern admits that, on or about February 8, 2012, Plaintiff e-mailed Ludlow information regarding an art event in Chicago, informed him that she was planning to attend, and suggested that he should attend as well. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 10.

11. The same day, Ludlow emailed Plaintiff back and then asked her to come to the event with him. Plaintiff agreed.

ANSWER: Northwestern admits that, on or about February 8, 2012, Ludlow sent Plaintiff an e-mail in response to the e-mail referenced in Paragraph 10 in which he offered to drive Plaintiff to the event referenced in Paragraph 10 and that Plaintiff accepted Ludlow's offer.

12. On or about February 10, 2012, Ludlow asked Plaintiff to meet with him at his office so that they could drive to the event together. Ludlow and Plaintiff drove in Ludlow's car to Columbia College in Chicago to see one of the exhibits which was part of the art event.

ANSWER: Northwestern admits that Ludlow suggested that Plaintiff come by his office after Plaintiff asked where she could meet him so that they could drive to the event together and admits that the University's Investigation found that Plaintiff and Ludlow drove in Ludlow's car to Chicago and attended one or more art events or exhibits. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 12.

13. Afterwards, they went to a restaurant. Ludlow ordered a wine for Plaintiff. Plaintiff repeatedly stated that she was underage and she did not want to drink, but Ludlow insisted that she drink. Ludlow said he would "cover for her" if the restaurant asked her ID.

ANSWER: Northwestern admits that the University's Investigation found that, on or about February 10, 2012, Plaintiff and Ludlow went to a restaurant at which either Plaintiff or

Ludlow ordered Plaintiff an alcoholic beverage. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 13.

14. Ludlow stated that he personally knew two of the women who were curating the exhibits that they were going to, and that he had a sexual relationship with both women and one of them used to be a prostitute.

ANSWER: Northwestern lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 14.

15. On the way to other exhibits of the art event, Ludlow told Plaintiff that he needed to go to a bar for more drinks. At the bar, Ludlow again insisted that Plaintiff drink and ordered a beer for her. At this point, Plaintiff was under the influence of alcohol, and asked Ludlow to take her back to Evanston, which he refused. Instead, he told Plaintiff that they should “party together.”

ANSWER: Northwestern admits that the University’s Investigation found that, on or about February 10-11, 2012, either Plaintiff or Ludlow ordered Plaintiff alcoholic beverages during the course of the evening. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 15.

16. Instead of taking Plaintiff to Evanston, Ludlow took her to a different exhibit. Then he started to take pictures of Plaintiff, which made her very uncomfortable, and she started to feel afraid.

ANSWER: Northwestern admits that the University’s Investigation found that, on or about February 10-11, 2012, Ludlow and Plaintiff attended one or more art events or exhibits together and that Ludlow took pictures of Plaintiff. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 16.

17. Plaintiff again reiterated that she needed to go back to Evanston when they got out of the exhibit. Ludlow instead took her to a warehouse for another art performance. At this point, Plaintiff was disoriented from the alcohol and did not know where she was. During the performance, Ludlow slouches in a way that his back was touching Plaintiff’s.

ANSWER: Northwestern admits that the University's Investigation found that, on or about February 10-11, 2012, Ludlow and Plaintiff attended one or more art events or exhibits and that either Plaintiff or Ludlow ordered Plaintiff alcoholic beverages during the course of the evening. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 17.

18. Afterward, Ludlow told Plaintiff that he needed to stop by his apartment to drop something off. He continued to disregard Plaintiff's renewed requests to take her to the Evanston Campus. He also insisted that Plaintiff go up to his apartment with him.

ANSWER: Northwestern admits that the University's Investigation found that, on or about February 10-11, 2012, Ludlow and Plaintiff visited Ludlow's apartment during the course of the evening. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 18.

19. When they were in Ludlow's apartment, he again insisted strongly that she drink, which Plaintiff did. Ludlow started to talk about his sex life and to inquire as to Plaintiff's sexual relationships. Plaintiff felt uncomfortable and requested to leave the apartment.

ANSWER: Northwestern admits that the University's Investigation found that, on or about February 10-11, 2012, Ludlow and Plaintiff visited Ludlow's apartment during the course of the evening. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 19.

20. Ludlow took her to a bar and again urged her to drink. It was now around midnight of February 11, 2012 and at this point, Plaintiff was already very drunk. Ludlow commented on how attractive Plaintiff was and started to rub her back and kiss her at the bar. Plaintiff was too intoxicated to put up any meaningful resistance to Ludlow's unwelcome advances. Ludlow also asked if Plaintiff wanted money and stated that they should continue to see each other.

ANSWER: Northwestern admits that the University's Investigation found that, during the evening of February 10-11, 2012, either Plaintiff or Ludlow ordered Plaintiff alcoholic

beverages during the course of the evening and that Ludlow engaged in unwelcome and inappropriate sexual advances toward Plaintiff by initiating rubbing her back and kissing her. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 20.

21. Plaintiff's degree of intoxication by this time caused her memory of events to fade in and out, it is likely that at around this time, she went in and out of consciousness as well. At some point she found herself outside of the bar and sitting down in the snow. Ludlow tried to drag her into another bar.

ANSWER: Northwestern admits that the University's Investigation found that Plaintiff became intoxicated but lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 21.

22. When Plaintiff gained her consciousness again, she was in an elevator going up to Ludlow's apartment, with Ludlow furiously making out with Plaintiff.

ANSWER: Northwestern admits that the University's Investigation found that, on or about February 10-11, 2012, Ludlow and Plaintiff visited Ludlow's apartment during the course of the evening and that Ludlow initiated kissing Plaintiff. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 22.

23. Plaintiff begged Ludlow to stop, but he groped her breast and buttocks, and told Plaintiff that it was "inevitable" that they would have sex. Plaintiff's next recollection was when she woke up at around 4:00 am in Ludlow's bed. Ludlow was in bed with her, and his arms were around her. She panicked and blacked out.

ANSWER: The University's Investigation did not find that Ludlow groped Plaintiff's breast and buttocks but admits that the University's Investigation found that Plaintiff woke up in Ludlow's bed at approximately 4:30 a.m. with Ludlow's arms around her. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 23.

24. Ludlow dropped Plaintiff off at Evanston around noon on February 11, 2012 and told her that he was looking forward to seeing her again and kissed her again.

ANSWER: Northwestern lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 24.

25. On or about February 12, 2012 Plaintiff told one of her professors about the incident with Ludlow.

ANSWER: Northwestern admits the allegations of Paragraph 25.

26. After reporting the sexual assault by Ludlow to the professor, Plaintiff confronted Ludlow and Ludlow begged Plaintiff not to tell anyone, and told her that he could mentor her academically or pay her money.

ANSWER: Northwestern lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 26.

27. The Director of Sexual Harassment Prevention Joan Slavin was informed by a faculty member that Plaintiff had complained about Ludlow's conduct and began an investigation.

ANSWER: Northwestern admits that a University faculty member first notified the University's Director of Sexual Harassment Prevention Joan Slavin of Plaintiff's allegations about Ludlow's conduct on February 13, 2012 and that Ms. Slavin immediately began an investigation on behalf of the University of the particular allegations that Plaintiff brought to the University's attention ("the University's Investigation"), during which Ms. Slavin (a) directed Ludlow to have no further contact by any means with Plaintiff and informed Plaintiff of this directive; (b) reviewed documents and other information; (c) interviewed Plaintiff, Ludlow, and several other witnesses; and (d) summarized the information reviewed and her findings and recommendations in a 21-page memorandum to the Dean of the Weinberg College of Arts & Sciences dated April 10, 2012.

28. On or about February 13, 2012, Plaintiff was hospitalized after attempting to commit a suicide as a result of the stress and trauma of the events with Ludlow. She was diagnosed with Post Traumatic Stress Disorder (PTSD), which requires ongoing psychiatric care. She was released from the hospital on or about February 16, 2012.

ANSWER: Northwestern admits that Plaintiff was hospitalized on February 13, 2012 but lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 28.

29. On or about April 11, 2012, Ms. Slavin, the Director of Sexual Harassment Prevention emailed Plaintiff regarding the findings of the investigation. Based on the totality of the evidence, Ms. Slavin concluded that Ludlow engaged in unwelcome and inappropriate sexual advances toward Plaintiff on the evening of February 10-11, 2012. In particular, Ms. Slavin found that Ludlow initiated kissing, French kissing, rubbing Plaintiff's back, and sleeping with his arms on and around Plaintiff on the night of February 10-11, 2012. She also found that "you [Ms. Ha] were incapacitated due to heavy consumption of alcohol purchased for you by Respondent [Ludlow], and were therefore unable to offer meaningful consent to this physical touching that night". I also find that Respondent told you he thought you were attractive, discussed his desire to have a romantic and sexual relationship with you, and shared other personal information of a sexual nature, all of which was unwelcome to you."

ANSWER: Northwestern admits that the allegations in Paragraph 29 repeat some of the information set forth in the April 11, 2012 e-mail referenced in Paragraph 29. Northwestern denies that the allegations that Plaintiff brought to the University's attention during the University's Investigation included all of the allegations now set forth in this Complaint and denies that the allegations of Paragraph 29 comprise all of Ms. Slavin's findings or reasoning, which are detailed in Ms. Slavin's April 10, 2012 memorandum to the Dean of the University's Weinberg College of Arts & Sciences and summarized in an April 11, 2012 e-mail from Ms. Slavin to Plaintiff.

30. However, Ms. Slavin, for some reason, did not find that Ludlow touched Plaintiff's breasts and buttocks.

ANSWER: Northwestern admits that the University's Investigation did not find that Ludlow touched Plaintiff's breasts and buttocks because the information revealed during the

University's Investigation did not support a finding that this had occurred. Northwestern denies any remaining allegations of Paragraph 30.

31. Ms. Slavin said that she made the Weinberg Dean's Office aware of her findings, and would work with that office on implementing needed corrective and remedial actions. However, she told Plaintiff that Northwestern would not share details of disciplinary and corrective actions taken against Ludlow because of its confidential personnel nature.

ANSWER: Northwestern admits that Ms. Slavin included the information set forth in Paragraph 31 in her April 11, 2012 e-mail to Plaintiff but denies that the allegations of Paragraph 31 are a complete statement of the contents of Ms. Slavin's April 11, 2012 e-mail to Plaintiff. Northwestern denies any remaining allegations in Paragraph 31.

32. In or around April 2012, Plaintiff retained attorneys to represent her with the matters related to Ludlow's sexual assault on her. Plaintiff was referred to her attorneys by one of Northwestern's employees who had been working with her regarding Plaintiff's sexual harassment incident.

ANSWER: Northwestern admits that Plaintiff has been represented by multiple attorneys but lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 32.

33. After the investigation was concluded, Plaintiff found out that Ludlow was still on campus and was informed by a faculty member that Ludlow's name was on the syllabus of the courses for next quarter.

ANSWER: Northwestern admits that Ludlow is employed by the University but lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 33.

34. When the next quarter started, Plaintiff kept running into Ludlow in hallways and outside of the campus buildings. After knowing that Ludlow was not removed from the campus, Plaintiff felt extremely unsafe and experienced panic attacks, difficulty breathing, and nausea. Her attacks were so severe that Plaintiff could not even leave her house. Plaintiff reported the attacks she experienced to faculty members at numerous times.

ANSWER: Northwestern lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 34.

35. In one instance, Plaintiff encountered Ludlow on the way to a discussion section meeting of a political science course in the beginning of the quarter. After running into Ludlow the first time, Plaintiff missed three discussion meetings for that course to avoid the possibility of running into Ludlow again. Her anxiety became severe when the teaching assistant of the course warned Plaintiff that she needed documentation to have her absences excused. Plaintiff either had to be forced to reveal the sexual assault she experienced or had to have unexcused absences for the course which would negatively impact her academic record.

ANSWER: Northwestern denies that it required Plaintiff to choose between revealing the circumstances that led to her allegations against Ludlow and having unexcused absences for any of her courses. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 35.

36. After these encounters with Ludlow, Plaintiff, through her attorney at that time, inquired as to whether Ludlow would be removed from the campus based on the findings of the investigation. The attorney also asked Northwestern to provide Plaintiff all the information possible so that she could at least engage in safety planning and determine the best way to fulfill her academic requirements.

ANSWER: Northwestern admits that it received a letter from an attorney representing Plaintiff after the conclusion of the University's Investigation, in which Plaintiff's attorney inquired about the subjects referenced in the allegations of Paragraph 36. Northwestern denies any remaining allegations in Paragraph 36.

37. Northwestern, through its counsel, confirmed that Ludlow had not been removed from the campus and reiterated that it would not disclose the details of any disciplinary actions taken against Ludlow.

ANSWER: Northwestern denies that it did not disclose any of the details of any disciplinary actions taken against Ludlow and incorporates by reference its Answer to Paragraph 45. Northwestern admits that it imposed the following disciplinary sanctions and corrective action

short of removal from campus: (a) precluding him from receiving a raise for the 2012-2013 academic year; (b) rescinding his appointment to an endowed professor position (*i.e.*, the John Evans Professor of Philosophy); (c) strongly advising him to avoid one-on-one social contact with any undergraduates; (d) prohibiting him from engaging or attempting to engage in a dating, romantic, or sexual relationship with any Northwestern student in the future; (e) prohibiting him from providing alcohol to underage students; (f) requiring him to complete a multi-session, individualized sensitivity/harassment-prevention training program with an outside consultant; (g) directing him not to have any contact, whether in person or by any other means, with Plaintiff, including but not limited to personal contact or contact by phone, email, text, Facebook or social media, as well as making electronic outreaches to or statements about Plaintiff through blogs, Second Life, or other social media, “tagging” Plaintiff in comments or through online message boards or other internet sites; (h) directing him that University policy prohibits retaliation of any sort against Plaintiff or any witness who participated in the University’s Investigation and that any retaliatory conduct would subject him to additional sanctions; and (i) officially warning him that any similar behavior in the future or failure to comply with the specified disciplinary sanctions or other corrective actions would subject him to further sanctions, up to and including separation from the faculty. Northwestern denies any remaining allegations of Paragraph 37.

38. On or about April 24, 2012, Plaintiff, through her counsels, sent out a demand letter to Ludlow setting forth his legal liabilities and requesting Ludlow pay Plaintiff’s damages caused by his sexual assault. On or about May 4, 2012, Ludlow, through his attorney, denied the allegation of sexual assault, and accused Plaintiff of making false statements about Ludlow. Ludlow threatened to sue Plaintiff for defamation per se and “ordered” plaintiff immediately cease and desist from making any further “false” statements about Ludlow.

ANSWER: Northwestern denies that either of the letters referenced in Paragraph 38 used the term “sexual assault.” Northwestern admits that, in a letter dated April 24, 2012, Plaintiff’s

attorneys sent a letter to Ludlow that identified potential civil legal claims against him and invited Ludlow to engage in pre-litigation settlement discussions if he was interested in avoiding litigation. Northwestern also admits that, in a response letter dated May 4, 2012, Ludlow's attorney denied the allegations set forth in the April 24, 2012 letter from Plaintiff's attorneys, alleged that Plaintiff's accusations regarding Ludlow were false and defamatory, and ordered that Plaintiff immediately cease and desist from making any further false statements about Ludlow. Northwestern denies any remaining allegations in Paragraph 38.

39. Plaintiff reported this incident to Ms. Slavin because in the email she sent to Plaintiff in April 11, 2012, she had advised Ludlow "to avoid any behavior whatsoever that could be construed as retaliation against Plaintiff, now or in the future, for bringing the complaint," and Plaintiff believed that the threat of lawsuit was retaliatory and was being used to silence her from raising her legitimate concerns regarding Ludlow.

ANSWER: Northwestern admits that the University repeatedly directed Ludlow to refrain from engaging in any conduct that could be construed as retaliation against Plaintiff and that Plaintiff raised a question about whether the May 4, 2012 letter sent by Ludlow's attorney could constitute retaliation, which Ms. Slavin promptly investigated on the University's behalf. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 39.

40. Plaintiff was told that it was not retaliation and Northwestern did not take any action regarding the threatening letter Ludlow sent to Plaintiff.

ANSWER: Northwestern admits that, after conducting another prompt and thorough investigation, the University found and informed Plaintiff that the May 4, 2012 letter from Ludlow's attorney did not violate the University's policy against retaliation because (a) both attorney letters were legal position letters setting forth possible claims and (b) the May 4, 2012

letter from Ludlow's attorney was written in direct response to the April 24, 2012 letter from Plaintiff's attorneys, threatening suit.

41. On or about March 4, 2013, Plaintiff was put on early release because her mother in California had health problems that needed immediate medical attention. The health problems were caused by extreme emotional distress she had experienced due to her daughter's incident with Ludlow and the subsequent mishandling of the incident by Defendant Northwestern. Plaintiff's mother felt helpless and depressed with the situation her daughter was in, and the fact that nothing was resolved at Northwestern. Plaintiff continued to see a psychiatrist while staying in California.

ANSWER: Northwestern does not use the term "early release" and therefore lacks knowledge or information sufficient to admit or deny the allegations in the first sentence of Paragraph 41. Northwestern denies that it mishandled Plaintiff's allegations against Ludlow and incorporates by reference its Answers to Paragraphs 27, 37, and 45. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 41.

42. Even after coming back to school after the leave, Plaintiff could not handle the full-time course load.

ANSWER: Northwestern lacks knowledge or information sufficient to admit or deny the allegations of Paragraph 42.

43. During fall quarter of 2012-2013 academic year, Plaintiff applied for a research fellowship. The fellowship committee was very impressed with Plaintiff. However after revealing her incident with Ludlow and her ongoing battle with anxiety and panic attacks to an employee working in the President's Office, she was denied of the fellowship without any explanation. A tenured professor inquired on Plaintiff's behalf for the reason of the denial, but the inquiry was ignored.

ANSWER: Northwestern denies that Plaintiff was denied the "Mellon Mays Undergraduate Fellowship" ("MMUF") without any explanation. Northwestern admits that, during the 2012-2013 academic year, Plaintiff applied for a MMUF; that Plaintiff asserted in her application materials that she had been sexually assaulted by an unnamed member of the University

community; that Plaintiff was applauded for her achievements and was selected as a finalist but did not receive a MMUF; that Plaintiff was selected as an alternate who could receive a MMUF if one of the recipients did not complete the MMUF; and that Plaintiff was eligible to participate in many MMUF programs and activities throughout her time at Northwestern and to apply for other research funding available exclusively to MMUF finalists. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 43.

44. Frustrated by Northwestern's inaction to and its refusal to discuss any aspects of disciplinary action against Ludlow, Plaintiff retained different attorneys to represent her in May 2013.

ANSWER: Northwestern admits that Plaintiff has been represented by different attorneys. Incorporating its Answers to Paragraphs 27 and 45, Northwestern denies that its response to Plaintiff's allegations of sexual harassment against Ludlow constituted "inaction" or that Northwestern refused to discuss any aspects of the disciplinary sanctions and other corrective action that the University took against Ludlow based upon the findings of the University's Investigation. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 44.

45. Plaintiff, through her attorneys, again inquired as to the disciplinary and remedial action taken against Ludlow, but Northwestern refused to discuss the matter because it is a "private" matter and insisted that it did "everything" it could do.

ANSWER: Northwestern denies that it refused to discuss the matter with Plaintiff's attorneys, admitting that the University (a) informed Plaintiff's previous counsel that Ludlow had been directed not to have any further contact with Plaintiff after the University's Investigation concluded and (b) informed Plaintiff's current counsel in a letter dated August 15, 2013 of the numerous other corrective actions that the University took in response to Plaintiff's allegations of

sexual harassment against Ludlow and to address the finding that Ludlow had violated the University's policy against sexual harassment, including the following:

- On February 13, 2012, Director of Sexual Harassment Prevention Joan Slavin was informed by a faculty member that Plaintiff had complained about Ludlow's conduct and began an investigation immediately.
- Pending the results of the investigation, Ms. Slavin directed Ludlow to have no further contact by any means with Plaintiff and advised Plaintiff of this directive. Ms. Slavin also directed Ludlow to immediately remove any photos or mentions of Plaintiff from his Facebook page, as requested by Plaintiff, and informed Plaintiff that this was in fact done. In addition, Plaintiff was referred to the University's CARE (Center for Awareness, Response & Education) office, which provides support services to students who report allegations of sexual harassment or other sexual misconduct. Plaintiff was supported in a variety of additional ways during this time by administrators in both the Medill School of Journalism, Media, & Integrated Marketing Communications and the Dean of Students Office.
- Between February 13 and March 26, 2013, Ms. Slavin conducted a thorough investigation of the allegations that Plaintiff had brought to the University's attention.
- During the University's Investigation, Ms. Slavin interviewed several witnesses, including Plaintiff and Ludlow. Ms. Slavin also reviewed documentation relating to Plaintiff's allegations.
- On April 11, 2012, as required by Title IX, Ms. Slavin informed both Plaintiff and Ludlow of the outcome of the University's Investigation. Ms. Slavin found that Ludlow had violated the University's Policy on Sexual Harassment. In addition to reporting the outcome, Ms. Slavin explicitly admonished Ludlow not to retaliate against Plaintiff in any way and informed him that the Dean of the Weinberg College of Arts and Sciences would determine appropriate corrective action.
- On May 15, 2012, the Dean of the Weinberg College of Arts and Sciences informed Professor Ludlow in writing of the various corrective actions that she decided to impose upon Ludlow.
- The University paid Plaintiff's out-of-pocket medical bills that were forwarded to the University's Office of Risk Management.
- After the investigation was concluded, the University promptly and thoroughly investigated a retaliation concern raised by Plaintiff and determined that it was not substantiated.
- The University provided Plaintiff with extensive, ongoing support through its Dean of Students Office, including, but not limited to, assisting with obtaining incompletes in classes so that Plaintiff could return to San Francisco early to receive treatment, securing

extensions on assignments from professors, coordinating care and managing crises, assisting with late withdrawals from classes, and identifying and referring Plaintiff to recommended medical care providers and services.

- The University provided a retroactive “drop” for Plaintiff in the Spring Quarter 2012, allowing her to drop classes after the add/drop deadline with no financial penalty. The University also processed or offered to process retroactive drops for the Winter and Spring Quarters 2013, again allowing Plaintiff to drop classes after the add/drop deadline with no financial penalty.
- The assistance of the University’s Counseling and Psychological Services office was made available to Plaintiff.
- The University facilitated Plaintiff’s withdrawal from study abroad for this Fall 2013.

Northwestern denies any remaining allegations in Paragraph 45.

46. Plaintiff had initially required psychological care after being sexually assaulted by Ludlow. Her medical condition became more severe after encountering Ludlow on campus. Because of Northwestern’s failure to take preventative and remedial measures after the assault, Plaintiff’s condition continued to worsen. She needs psychiatric care and prescription medication to control her severe PTSD, and still must face daily the possibility that Ludlow may be near her at any moment.

ANSWER: Northwestern denies that it failed to take preventative and remedial measures in response to Plaintiff’s allegations of sexual harassment against Ludlow and admits that it imposed the disciplinary sanctions and corrective actions outlined in the University’s Answers to Paragraphs 37 and 45. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 46.

47. Plaintiff’s medical conditions were/are so severe and pervasive that they interfered with her ability to be successful academically. She had to withdraw from most of classes she had enrolled and even had to cancel a study abroad program she intended to participate in due to the need of continued psychiatric support.

ANSWER: Northwestern admits that Plaintiff withdrew from some classes in which she had enrolled and decided not to participate in a study abroad program and that the University

supported Plaintiff in connection with these matters as outlined in the University's Answer to Paragraph 45. Northwestern denies any remaining allegations in Paragraph 47.

48. When Plaintiff dropped out of the study abroad program, she was informed by Defendant Northwestern that she did not need to pay any money for the study abroad program. However, contrary to Defendant's assurance, the company in charge of study abroad program sent Plaintiff an invoice and continues to attempt to collect on it to this date.

ANSWER: Northwestern denies the allegations in the first sentence of Paragraph 48 and denies that it assured her that she "did not need to pay any money for the study abroad program." Northwestern admits that Plaintiff decided not to participate in a study abroad program for which she had paid a non-refundable \$300 "Participation Confirmation" fee charged by a third-party organization and that Plaintiff was given the option of applying the \$300 "Participation Confirmation" payment toward another study abroad program in accordance with the third-party organization's "Withdrawal or Deferral Refund Policy" that was available on the organization's web site. Northwestern lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 48.

49. On or about April 24, 2012, Plaintiff registered for a disability service so that she does not need to explain her absences from classes.

ANSWER: Northwestern admits that Plaintiff completed an Office of Services for Students with Disabilities "Student Intake Form" in April of 2012 and requested that she not be required to explain the details of her situation to any teaching staff if she is late for class or misses class. Northwestern lacks knowledge or information sufficient to admit or deny any remaining allegations of Paragraph 49.

COUNT I: Violation of Title IX of the Education Amendments Act of 1972

50. Paragraphs 1 through 49 are hereby restated and realleged as if fully set forth in Count I.

ANSWER: Northwestern incorporates its Answers to Paragraphs 1 through 49 as if fully set forth herein.

51. Defendant Northwestern University receives federal financial assistance for its education program. Therefore, Northwestern is subject to the provisions of Title IX of the Education Act of 1972, 20 U.S.C. § 1681 (a), *et seq.*

ANSWER: Northwestern admits the allegations of Paragraph 51.

52. Defendant owes a duty to Plaintiff to provide and ensure an educational environment free of sex discrimination and sexual harassment, and to enforce the regulations, rules, and laws necessary to protect Plaintiff from acts of sex discrimination and sexual harassment.

ANSWER: Northwestern admits that it is subject to Title IX; that sexual harassment is a form of sex discrimination prohibited by Title IX; that Title IX prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance; that Title IX imposes a number of requirements including that institutions identify a Title IX coordinator, investigate alleged violations of Title IX, and take remedial action necessary to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination on the basis of sex; that it has complied with Title IX in relation to Plaintiff's allegations in this lawsuit; and that it is committed to complying with Title IX in all respects. Northwestern denies any remaining allegations of Paragraph 52.

53. Ludlow, an employee of Defendant, willfully subjected Plaintiff to unwanted and unwelcomed sexual advances, intimidation, statements, and other conduct that was of a sexual nature. Plaintiff was subjected to this treatment because of her sex.

ANSWER: Northwestern admits that Ludlow is employed by the University and that the University's Investigation found that Ludlow engaged in unwelcome and inappropriate sexual advances toward Plaintiff by making unwelcome comments and by initiating rubbing her back and kissing her. Northwestern lacks knowledge or information sufficient to admit or deny Ludlow's state of mind and lacks knowledge or information sufficient to admit or deny the remaining allegations of Paragraph 53.

54. Defendant's own investigation yielded a finding that Ludlow's conduct toward Plaintiff violated Defendant's Policy on Sexual Harassment.

ANSWER: Northwestern admits that the allegations that Plaintiff brought to the University's attention during the University's Investigation resulted in a finding that Ludlow had violated the University's policy against sexual harassment but denies that those allegations included all of the allegations now set forth in this Complaint. Northwestern denies any remaining allegations in Paragraph 54.

55. Defendant knew that Plaintiff's symptoms caused by PTSD became more severe after Plaintiff continued to encounter Ludlow on campus, and that the possibility of such continued encounters in the future put Plaintiff under severe distress, anxiety, and panic attack.

ANSWER: Northwestern denies the allegations of Paragraph 55.

56. Ludlow's assault on Plaintiff, Ludlow's presence on campus, her encounter with him after the assault, and the accompanying risk that she would encounter Ludlow in the future created a hostile environment that effectively deprived her of the educational opportunities and benefits provided by the school.

ANSWER: Northwestern denies the allegations of Paragraph 56.

57. Despite Plaintiff's repeated requests to discuss remedial actions against Ludlow so that she could conduct herself safely while on campus and so that she could finish her education without any disruption, Defendant refused to discuss the matter with Plaintiff and just parroted back that it 'did comply with the requirements of Title IX.

ANSWER: Northwestern denies the allegations of Paragraph 57 and incorporates by reference its Answers to Paragraphs 27, 37, and 45 herein.

58. While Plaintiff continuously suffered from anxiety and distress due to Ludlow's presence on campus, which compromised her education at Northwestern, Defendant did not take any meaningful action to remedy the situation.

ANSWER: Northwestern denies the allegations of Paragraph 58 and admits that it implemented the disciplinary sanctions and other corrective actions described in the University's Answers to Paragraphs 27, 37, and 45.

59. Upon information and belief, at one point, a committee was established to determine what action should be taken against Ludlow for his sexual assault against Plaintiff. The committee determined that Ludlow should be terminated. Defendant Northwestern ignored its own committee's decision and recommendation and continues to employ Ludlow as a professor.

ANSWER: Northwestern denies that any University committee ever determined that Ludlow should be terminated or that the University ever ignored such a decision or recommendation. The University admits that Ludlow is employed by the University; that Ludlow appealed the multiple disciplinary sanctions and other corrective actions that the University imposed against Ludlow as a result of the University's finding that Ludlow had violated the University's policy against sexual harassment; that a six-person faculty Committee on Cause unanimously approved the disciplinary sanctions and corrective actions imposed against Ludlow; and that the Committee on Cause could have suggested additional sanctions against Ludlow but did not do so. Northwestern denies any remaining allegations in Paragraph 59.

60. Defendant failed to take sufficient and meaningful corrective and remedial action and as a result of Defendant's deliberate indifference, Plaintiff has been subject to an intimidating, hostile, offensive, and intolerable educational environment.

ANSWER: Defendant denies the allegations of Paragraph 60 and admits that it implemented the disciplinary sanctions and other corrective actions described in the University's Answers to Paragraphs 37 and 45.

61. By the actions described above, Defendant Northwestern University acted to deprive Plaintiff of her rights to be free from discrimination in education on the basis of her sex as provided by Title IX.

ANSWER: Northwestern denies the allegations of Paragraph 61.

62. By the actions described above, Defendant Northwestern University retaliated and further discriminated against Plaintiff after she brought sexual harassment complaint against Ludlow and repeatedly requested Defendant to take more meaningful action.

ANSWER: Northwestern denies the allegations of Paragraph 62.

63. Plaintiff has suffered and will continue to suffer humiliation, mental and emotional anguish, anxiety, and distress as a result of the hostile educational environment created by Defendant and its deliberate indifference.

ANSWER: Northwestern denies the allegations of Paragraph 63.

AFFIRMATIVE DEFENSES

1. Northwestern is not subject to liability under Title IX because it has an effective policy for reporting and redressing sexual harassment and other types of sex discrimination, pursuant to which the University conducted a prompt and thorough investigation of Plaintiff's allegations and implemented appropriate disciplinary sanctions and other corrective actions to address Ludlow's violation of the University's policy against sexual harassment and to remediate the effects of that conduct on Plaintiff.

2. Plaintiff's claim in Count I is barred, in whole or in part, by the applicable statute of limitations.

3. Plaintiff has failed to mitigate her damages, if any.

WHEREFORE, Defendant Northwestern University denies that Plaintiff Yoona Ha is entitled to judgment against it in any amount or to any legal or equitable relief or remedy whatsoever, and asks that Plaintiff's Complaint be dismissed.

Respectfully submitted,

s/Scott L. Warner
An Attorney for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that, on February 21, 2014, I electronically filed the foregoing ANSWER AND AFFIRMATIVE DEFFESNSES TO PLAINTIFF'S COMPLAINT with the Clerk of the Court using the CM/ECF system to the following:

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