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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

DAROLD PALMORE	:	Jury Trial Demanded
Plaintiff,	:	
v.	:	Civil Action No. 3:21-cv-106
	:	
CLARION UNIVERSITY OF	:	
PENNSYLVANIA; CLARION	:	
UNIVERSITY POLICE DEPARTMENT;	:	
CLARION COUNTY DISTRICT	:	
ATTORNEY'S OFFICE;	:	
KAREN WHITNEY, CLARION	:	
UNIVERSITY PRESIDENT;	:	
MATTHEW SHAFFER, COODINATOR	:	
OF JUDICIAL AFFAIRS AND	:	
RESIDENCE LIFE;	:	
SHANE WHITE, CORPORAL OF	:	
CLARION UNIVERSITY POLICE DEPARTMENT; and		
DREW WELSH, CLARION COUNTY	:	
DISTRICT ATTORNEY	:	
Defendants.	:	

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JUN 14 2021

CLERK, U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT
OF PENNSYLVANIACOMPLAINT

The Plaintiff, Darold Palmore, by and through his counsel, files this Complaint against the Defendants: Clarion University of Pennsylvania, Clarion University Police Department, Clarion County District Attorney's Office, Clarion University President ("Karen Whitney"), Clarion University Coordinator of Judicial Affairs and Residence Life ("Matthew Shaffer,"), Corporal of Clarion University Police ("Shane White"), and Clarion County District Attorney ("Drew Welsh"), and in support, therefore, makes the following allegations.

PARTIES

1. Plaintiff, Darold Palmore (hereinafter "Plaintiff"), is an adult, black male resident in the Commonwealth of Pennsylvania. During the events described herein, Plaintiff was a student at Clarion University of Pennsylvania.
2. Defendant, Clarion University of Pennsylvania (hereinafter "Clarion" or "the University"), is a public college and/or university with its principal address of 840 Wood Street, Clarion, Pennsylvania 16214. It is one of fourteen universities that are part of the Pennsylvania State System of Higher Education ("PASSHE").
3. Defendant, Clarion University Police Department (hereinafter "University Police"), is comprised of four divisions responsible of the overall Public Safety of the campus community and surrounding areas. Its principal address is 1001-1099 E. Wood Street, Clarion, Pennsylvania 16214.
4. Defendant, Karen Whitney, was the President of "Clarion," during the events described herein.

5. Defendant, Matthew Shaffer, was the Coordinator of Judicial Affairs and Residence Life of “Clarion,” during the events described herein.
6. Defendant, Shane White, was a Corporal at the University Police Department with over ten (10) years of experience as an officer, during the events described herein.
7. At all relevant times hereto, “Clarion” and “the University Police” were acting through its agents, servants, workmen, employees, contractors, and representatives, who were acting in the course and scope of their respective agency and/or employment and/or in the promotion of Clarion’s business interest.
8. Additionally, Defendant, Clarion County District Attorney’s Office (hereinafter “District Attorney Office”), is a governmental entity with its principal address of 330 Main Street, Clarion, Pennsylvania 16214.
9. Defendant, Drew Welsh, was employed by the District Attorney of Clarion County, during the events described herein.
10. At all relevant times hereto, Clarion County District Attorney’s Office was acting through its agents, servants, workmen, employees, contractors, and representatives, who were acting in the course and scope of their respective agency and/or employment and/or in the promotion of the District Attorney Office’s interest.

11. **All Defendants are named in their Personal and Professional capacity**

JURISDICTION AND VENUE

12. Plaintiff invokes this Court’s original jurisdiction under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, et seq. and 28 U.S.C. 1331.
13. Pursuant to 28 U.S.C. § 1331, venue is proper in this Court because a substantial part of the events or omissions giving rise to the claims set forth below occurred in this judicial district.
14. Plaintiff also invokes this Court’s jurisdiction over related state common law and statutory claims under the principles of ancillary and/or pendent jurisdiction pursuant to 28 U.S.C. § 1337.
15. Venue is also proper in this Court by reason of 28 U.S.C. § 1391(b) because a substantial number of the acts and omissions that give rise to this complaint occurred in this judicial district.

16. Plaintiff also asserts and invokes §1983 in support of Plaintiff's Constitutional & other violations

FACTUAL ALLEGATION

17. Plaintiff became a fulltime matriculating student at Clarion in August 2015.

18. At all times relevant hereto, Plaintiff remained in good academic and financial standing at Clarion.

19. On November 6, 2015, Clarion demanded that Plaintiff vacate the University pending the University Conduct Board Hearing to determine if Plaintiff was in violation of the *Students Rights, Regulations, and Procedures*, barring him from being in class and on campus.

20. Subsequently on November 23, 2015, while false allegations pertaining to sexual misconduct were pending against Plaintiff, Clarion notified him of a hearing for disciplinary misconduct and the charges for sexual assault and related conducts scheduled for December 4, 2015.

21. Clarion violated Plaintiff's rights when it learned and knew that the alleged conduct which was subject of the disciplinary hearing was patently false and failed to make a final determination as to the status of the hearing.

22. On November 5, 2015, Ms. Katelyn Hosler, a white female student at Clarion, intentionally and falsely reported to Clarion and the University Police ("Shane White") that Plaintiff sexually assaulted her in her dorm room in Wilkinson Hall.

23. Shortly after this false report, Shane White confronted Plaintiff in his dorm room, in Nair Hall, with another white male officer present, under the pretense of a different alleged misconduct.

24. Plaintiff never had any sexual relations with Ms. Hosler or been inside her dorm room, however, Plaintiff had prior knowledge of Ms. Hosler engaging in sexual conduct with another male within his dorm room in Nair Hall. Plaintiff shared this information with Ms. Hosler's former partner Jarrett Boxley on November 5, 2015.

25. On December 3, 2015, Plaintiff requested video footage of Nair and Wilkinson Hall from Clarion and the University Police that would contradict Ms. Hosler's false allegations and exonerate him. Clarion and the University Police acknowledged Plaintiff's request, however, later ignored it.

26. Based on Ms. Hosler's false allegations against Plaintiff, he was wrongfully charged and convicted by the Clarion County District Attorney's Office for sexual assault in 2016. Plaintiff remained imprisoned until his bond was reinstated after appealing the conviction on September 4, 2018.

27. As a result of Clarion action's and inactions, Plaintiff received failing grades in all of the classes that he had enrolled in that semester.

28. Plaintiff expected that Clarion's Handbook and policies related to students and alleged student conduct would not violate his constitutionally protected rights.

29. The Clarion University Handbook sets forth Clarion's policies and procedures for the investigation, adjudication, or mediation of alleged disciplinary violations, including alleged violations of the University's sexual misconduct policy.¹

30. The Student Handbook broadly states:

It is the policy of Clarion University of Pennsylvania that there shall be equal opportunity in all of its educational programs, services and benefits, and there shall be no discrimination with regard to a student's or prospective student's race, color, religion, sex, national origin, disability, age, sexual orientation/affection, gender identity, veteran status or any other factors that are protected under local, state, and federal laws.

(See Student Right's policy, attached hereto as Exhibit "A", at 32).

31. Clarion's Student Handbook has a waiver clause which states that a University Conduct Board hearing may not be waived, including all cases of sexual violence; however, Clarion never held the Conduct Board Hearing and fails to respond to Plaintiff's request to proceed with the hearing and make a final determination on the false allegations against him to reflect his exoneration and innocence.

32. In addition to these purported procedural protections afforded to the accused student, Clarion's Student Bill of Rights includes several significant limitations on rights afforded to those accused of misconduct.

33. Clarion's "Sexual Violence and/or Sexual Assault" Policy provides the accuser the right to an advisor at any administrative hearing or related proceedings. According to the Student Handbook, an advisor may include legal counsel at the expense of the accused. When the allegations giving rise for alleged disciplinary misconduct form the basis of pending criminal charges, the student handbook does not afford an accused student the right to counsel or legal representation at the administrative hearing in a manner that protects his constitutional rights.

34. Clarion's "Sexual Violence and/or Sexual Assault" Policy prohibits those accused of sexual misconduct from challenging the accuser with the method of cross-examination at the hearing. (Id. at 35) ("The complaint and accused student(s) will not directly ask questions of each other as to not perpetuate a hostile environment any further.").

35. Clarion's "Sexual Violence and/or Sexual Assault" Policy requires that "the impartial... committee, board, panel, or individual appointed, base all decisions on 'whether it is more likely than not' that the student has violated the Student Code" ... thereby applying the low "preponderance of the evidence" standard, even for the most serious of charges with the most serious charges with the most severe potential punishments (Id. at 24).

36. Clarion's "Sexual Violence and/or Sexual Assault" Policy, specifically its "Notice of Nondiscrimination" provides:

Clarion University of Pennsylvania is committed to equal opportunity in all of its educational programs, services and benefits, and there shall be no discrimination with regard to a student's or prospective student's race, color, religion, sex, national origin, disability, age, sexual orientation/affection, gender identity, veteran status or any other factors that are protected under local, state, and federal laws.

(See Exhibit A at 5).

37. Clarion knew that the criminal charges against Plaintiff would not be resolved by December 4, 2015, as the District Attorney did not formally file a complaint against Plaintiff until December 11, 2015, and that scheduling the hearing about the false charges, Plaintiff would not be able to fully and completely defend himself against Ms. Hosler's false allegations of sexual assault.

38. At the purported hearing, Plaintiff would be allowed to have an advisor present, but said advisor would not litigate in the manner that protects his constitutional rights at the hearing, as the letter stated, "... you will be the person talking with the Board yourself."

39. Clarion afforded Plaintiff no constitutional or procedural protections to allow him to present a defense to the false allegations.

40. On November 6, 2015, because of Clarion's wrongful conduct, Plaintiff was wrongfully placed on "Interim Suspension" and forcibly removed from campus.

41. A unanimous jury exonerated Plaintiff in 2019 for the intentional and false allegations by Ms. Hosler.

42. Despite knowing that Plaintiff has been exonerated of the false allegations, Clarion has failed to correct Plaintiff's academic transcript to reflect their errors and Constitutional violations.

43. Clarion's conduct and its failure to correct its violations of Plaintiff's rights have specifically impaired his ability to enroll in a similarly ranked and esteemed college or university and stigmatized Plaintiff as he currently has an unresolved Conduct Hearing for a sexual misconduct that he did not commit, as evidenced by a finding of Not Guilty.

44. In fact, Clarion has once again acknowledged and repeatedly ignored Plaintiff's request to resolve the false sexual misconduct allegations against him.

COUNT I

Violation of Title IX of Education Amendments of 1972, 20 U.S.C. § 1681, et seq.

Plaintiff v. Clarion University of Pennsylvania, Clarion University Police Department, Karen Whitney, Matthew Shaffer, and Shane White.

45. Plaintiff incorporates by reference each of the paragraphs above as if fully set forth herein.

46. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1981, et seq., provides in relevant part that “[n]o person in the United States shall, on the basis of **race, color, and sex**, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

47. Title IX is enforceable through an implied right of action affording an individual discriminated against due to his or her **race, color, and sex**, pecuniary damages and equitable relief.

48. Clarion is a public college receiving federal funding in various forms, including but not limited to grants and federal student loans provided to Clarion by its students or by the federal government directly.

49. Clarion has discriminated against Plaintiff, on the basis of his **race, color, and sex**, through discriminatory biased implementation of Clarion's policies, procedures, and actions during the described events.

On November 26, 2015, Clarion notified Plaintiff that Ms. Hosler made reports to Clarion and the University Police ("Shane White") that Plaintiff sexually assaulted her (which never occurred), in her dorm room in Wilkinson Hall around October 6-8, 2015. Upon notice, on December 3, 2015, Plaintiff contacted Clarion and the University Police requesting the recorded footage of Nair and Wilkinson Hall that would clearly contradict Ms. Hosler's false claims and exonerate him.

50. Instead of conducting an impartial investigation or any investigation, Clarion and the University Police ignored Plaintiff's request, as Ms. Hosler, a white female student already "testified" to the identity and conduct of the black male student.
51. Clarion and the University Policed failed to conduct an impartial investigation of the false accusations by Ms. Hosler, a white female student, despite Plaintiff's best effort requesting an impartial investigation. Instead, Plaintiff was confronted by two white male officers from the University Police in his dorm room.
52. Plaintiff expected Clarion and the University Police to conduct an impartial investigation as to review, collect, and preserve all relevant information for a "prompt and equitable resolution" pursuant to the Student Handbook. (See Handbook Attached hereto Exhibit A pg. 32, 34).
53. According to Clarion's policy, hearsay "shall not be used as the sole evidence" to establish whether or not a student violated the policy set forth by Clarion. However, hearsay was the sole evidence used to falsely condemn Plaintiff, as Clarion University Police Department and the University refused to conduct an impartial investigation and solely relied on Ms. Hosler's intentional and false allegations.
54. Clarion denied Plaintiff the right to legal counsel at the hearing by prohibiting anyone from speaking on his behalf.
55. Clarion scheduled a hearing to illicit and compel Plaintiff's testimony while false criminal allegations were pending against him.
56. Plaintiff did not present his side, as Clarion did not provide Plaintiff an opportunity to present in a manner that would not jeopardize his constitutional rights in the pending criminal case.
57. To compel Plaintiff to testify at the disciplinary hearing for his alleged misconduct, such conduct never having occurred, with pending criminal charges hovering over

the proceeding in which he faced a harsh sentence if convicted, violated Plaintiff's due process rights. All of these actions violate the student Handbook policies and procedures and demonstrate the Panel's discriminatory bias against the accused based on his **race, color, and gender.**

58. Even assuming arguendo that Clarion had compiled with its policies and procedures, such rules afford varying rights to women and mean as in virtually all cases of alleged sexual misconduct at Clarion, the accused is a male and the accusing student is a female. In this particular case, the accused student is also a white female and the accuser a black male.

59. Furthermore, the policies set forth in the Student Handbook violate Title IX by forcing an individual facing criminal charges and disciplinary proceeding arising from the same facts to choose between diminished educational opportunities based on disciplinary sanctions and criminal conviction with the possibility of imprisonment.

60. Clarion's policies and procedures have deprived Plaintiff, on the basis of his race, color, and sex, of basic due process and equal protection rights as they do not allow for the presence of legal counsel to aid in the defense of sexual misconduct charges and deny a student accused of sexual misconduct the right to confront and/or cross-examine the accuser.

61. Clarion's policies and procedures have deprived Plaintiff, on the basis of his race, color, and sex, of basic due process and equal protection rights because the Student Handbook does not state when the UCB Panel decision becomes final.

62. Plaintiff, based on race, color, and sex, was discriminated against by Clarion in violation of Title IX and, as a result, Plaintiff has been seriously and irreparably damaged.

COUNT II

Violation of Due Process

Plaintiff v. All Defendants

63. Plaintiff incorporates each of the above paragraphs as if fully set forth herein.

64. Initially, Clarion and the University Police, informed Plaintiff that he was allegedly involved in a sexual misconduct around October 6-8, 2015. However, Plaintiff later found

out the date range was modified to the following week, long after his request was made to Clarion and the University Police to preserve and furnish him the recorded footage, that would have exonerated him, for the week of October 6-8, 2015.

65. Clarion and the University Police was aware of the modification in the date range, as they had knowledge of a possible criminal charge by the District Attorney's Office against Plaintiff, yet never informed him of the modification in the date range by Ms. Hosler. Unfortunately, Plaintiff's requested footage was erased before its preservation, as recorded footages, at the University Police possession, are erased after a 30 to 60-day cycle.

66. Nevertheless, the date range is not as pertinent because Clarion and the University Police had no intention to remain impartial and collect the would-be exonerated footage for preservation to give the Plaintiff. Instead, on the same day that Plaintiff made the request for the exonerated evidence via email, Clarion and the University Police, through its acting agents Matthew Shaffer and Shane White, acknowledged and ignored Plaintiff's request.

67. Furthermore, Clarion and the University Police, through its agent, Shane White, forwarded Plaintiff's email to the District Attorney's Office showing clear hostility against Plaintiff stating in his writing to the District Attorney that "he is not getting anything from me." (See Letter to District Attorney Office Exhibit B).

68. On December 3, 2015, the District Attorney's Office was placed on notice by Clarion and the University Police, through its agent, Shane White that Plaintiff requested a copy of the recorded footage for his defense against the false allegations by Ms. Hosler. At that point, no charges were filed against Plaintiff and no effort was made by the District Attorney's Office to review and preserve the requested evidence.

69. The District Attorney filed the original complaint against Plaintiff on December 11, 2015, on or about the day the recorded footage would have been erased, failing to preserve the evidence and barring Plaintiff from presenting the exonerated footage to prove his alibi at the initial trial.

70. As a result, Plaintiff was wrongfully removed from Clarion, spent two years in jail, and labeled as a sex offender because of the Defendants' wrongful actions against him.

COUNT III

Breach of Contract

Plaintiff v. Clarion University of Pennsylvania, Karen Whitney, and Matthew Shaffer

71. Plaintiff incorporates each of the above paragraphs as if fully set forth herein.
72. At all times relevant hereto, a contractual relationship existed between Clarion and Plaintiff through, *inter alia*, Clarion's Student Handbook.
73. Clarion was required to act in accordance with the Student Handbook in addressing complaints of sexual misconduct, conducting investigations of such complaints, adjudicating sexual misconduct charges, and deciding requests for appeal.
74. For all the reasons set forth above, Clarion has materially breached its contracts with Plaintiff by failing to comply with the policies and procedures governing sexual misconduct proceedings set forth in the Student Handbook.
75. As a direct, proximate and readily foreseeable consequence of Clarion's and the University Police's numerous material breaches, Plaintiff has sustained significant damages, including but not limited to, having a pending academic and/or disciplinary record(s) that improperly includes a notation indicating he was committed in a sexual misconduct, harassment, and/or other related offenses.
76. This negative mark on Plaintiff's record inhibited his ability to enroll in a similarly ranked and esteemed college or university and stigmatizes Plaintiff as he maintains a pending notation on his record for a conduct he did not commit. Plaintiff has also suffered monetary damages, loss of education opportunities, and other direct and consequential damages.
77. Plaintiff is entitled to recover damages for Clarion's breach of its contractual obligations and duties.

COUNT IV

Promissory Estoppel

Plaintiff v. Clarion University of Pennsylvania, Karen Whitney, and Matthew Shaffer

78. Plaintiff incorporates each of the above paragraphs as if fully set forth herein.
79. Plaintiff believes that Clarion's Student Handbook serves as a binding contract that Clarion has materially breached multiple provisions therein relating to the sexual misconduct proceeding in this case.
80. However, in the event the Court were to find that no such contract exists, Clarion, through but not limited to its regulations, standards, procedures and policies, made representations to Plaintiff, independent of any expressed contractual promises, that Clarion expected or

should have expected would induce Plaintiff to apply to and continue to enroll at the University.

81. Clarion expected or should have expected Plaintiff to accept its offer of admission and incur the tuition, fees, and costs necessary for enrollment based on the University's regulations, standards, procedures and policies.
82. Plaintiff relied on Clarion's expressed and implied promises that he would not be discriminated against by the University and would be afforded the aforementioned rights set forth in the Student Handbook.
83. Plaintiff justifiably relied on Clarion's express and implied promises to his detriment, as Clarion failed to adhere to its regulations, standards, procedures, and policies and did, in fact discriminate against him with the rights set forth in the Student Handbook.
84. As a direct, proximate and readily foreseeable consequence of Clarion's and the University Police's numerous material breaches, Plaintiff has sustained significant damages, including but not limited to, having a pending academic and/or disciplinary record(s) that improperly includes a notation indicating he was committed in a sexual misconduct, harassment, and/or other related offenses.
85. This negative mark on Plaintiff's record inhibited his ability to enroll in a similarly ranked and esteemed college or university and stigmatizes Plaintiff as he maintains a pending notation on his record for a conduct he did not commit. Plaintiff has also suffered monetary damages, loss of education opportunities, emotional distress, and other direct and consequential damages.

COUNT V

NEGLIGENCE

Plaintiff v. All Defendants

86. Plaintiff incorporates each of the above paragraphs as if fully set forth herein.
87. Clarion's Student Handbook is a binding contract and Clarion has materially breached multiple provisions therein relating to its disciplinary hearing about the false allegations against Plaintiff.
88. However, in the event that the Court were to find that no such contracts exist, Clarion owed duties of care to Plaintiff independent of any contractual duties including, but not limited to:

- a. To ensure that its policies and procedures concerning sexual misconduct are fair and reasonable;
- b. To ensure that its policies and procedures concerning sexual misconduct are compliant with applicable federal/state law, namely but not limited to Title IX;
- c. To adequately train its admission, staff, employees, and representatives of such policies and procedures concerning sexual misconduct; and,
- d. To ensure that its administration, staff, employees, and representatives adhere to such policies and procedures.

89. Based on the aforementioned facts and circumstances, Clarion has breached its duties of care owed to plaintiff.

90. As a direct, proximate and readily foreseeable consequence of Clarion's and the University Police's numerous material breaches, Plaintiff has sustained significant damages, including but not limited to, having a pending academic and/or disciplinary record(s) that improperly includes a notation indicating he was committed in a sexual misconduct, harassment, and/or other related offenses.

91. This negative mark on Plaintiff's record inhibited his ability to enroll in a similarly ranked and esteemed college or university and stigmatizes Plaintiff as he maintains a pending notation on his record for a conduct he did not commit. Plaintiff has also suffered monetary damages, loss of education opportunities, emotional distress, and other direct and consequential damages.

COUNT VI

DEFAMATION

Plaintiff v. All Defendants

92. Plaintiff incorporates each of these above paragraphs as if fully set forth herein.

93. Defendants repeated, stated, and/or published one or more defamatory statements about Plaintiff which where understandable and understood by those who heard and/or read it.

94. Defendants repeated, stated, and/or published these statements with malice and knowledge of their falsity.

95. Defendants failure to retract, amend, and/or correct these statements constitutes ongoing and perpetual malice and knowledge of their falsity.

96. Defendants published these statements and made these claims with the intent to damage Plaintiff's future education, employment, and ability to lead a normal lifestyle.

97. Defendants statements are also defamatory per se and actual damages need not be proved, due to the categorization of Plaintiff as a sex offender and someone who has committed crimes, which he was found Not Guilty of.

98. After Defendant's repeated, stated, published, and failed to retract, amend, and/or correct these statements, Plaintiff has been subject to harassment.

99. Defendants statements have caused current damage and will continue to cause damage to Plaintiff in the future.

100. Defendants repeated statements display an evil motive and/or reckless indifferent to others.

101. Defendants statements as well as the failure to retract, amend, and/or correct were made without privilege.

102. Plaintiff avers that punitive damages are warranted along with any other damages allowed by law.

COUNT VII

FALSE ARREST/FALSE IMPRISONMENT

Plaintiff v. Defendants Clarion University Police Department and Shane White

103. Plaintiff incorporates each of these above paragraphs as if fully set forth herein.

104. Defendants above stated detention, wrongful conviction, and failure to investigate and failure to preserve evidence of Plaintiff, constituted a false arrest/false imprisonment by Defendants, for the following reasons:

- a. Defendant knowingly, willfully, and wantonly took Plaintiff into custody and subjected him to an official investigation, although Defendants, lacked probable cause or reasonable suspicion that Plaintiff committed any crimes and did not have any lawful right to take Plaintiff into custody;
- b. Plaintiff suffered anxiety, embarrassment, distress, and wrongful incarceration as a direct result of Defendants' above-stated actions and inactions;
- c. Defendants failed to properly investigate and failed to preserve evidence that could have prevented Plaintiff's false arrest/false imprisonment; and

d. Defendants had knowledge of evidence that would exonerate Plaintiff, but failed to investigate and failed to preserve evidence while documenting such Constitutional violations in emails.

105. Defendants above-stated conduct was outrageous, meaning that it consisted of acts done with a bad motive and/or with a reckless indifference to the interests of Plaintiff, in that Defendants intentionally committed acts of an unreasonable nature, in disregard of risks known to Defendants, or so obvious to Defendants, that they must be taken to have been aware of them, and so great as to make it highly probable that harm would follow to Plaintiff as a result of said conduct.

COUNT VIII

MALICIOUS PROSECUTION

Plaintiff v. Defendants Clarion University Police Department and Shane White

106. Plaintiff incorporates each of these above paragraphs as if fully set forth herein.

107. Defendants act of charging Plaintiff with violations of the Pennsylvania Crimes Code, failure to investigate, failure to preserve evidence, and misrepresentations in the Affidavit of Probable Cause, constituted a malicious prosecution by Defendants against Plaintiff for the following reasons:

- a. Defendants knowingly, willfully, and wantonly initiated proceedings with malice, that were criminal in nature against Plaintiff, that were terminated in favor of Plaintiff, and Defendant did not have probable cause to initiate said proceedings against Plaintiff;
- b. Defendants acted maliciously by charging Plaintiff based on a lack of probable cause as well as misrepresentations in the Affidavit of Probable Cause;
- c. As a result, Plaintiff suffered harm including detention, criminal prosecution for a crime he was innocent of, injury to him person, damage to his reputation and attorney fees;
- d. Defendants failed to properly investigate and failed to preserve evidence that could have prevented Plaintiff's false arrest/false imprisonment; and
- e. Defendants had knowledge of evidence that would exonerate Plaintiff, but failed to investigate and failed to preserve evidence while documenting such Constitutional violations in emails.

108. Plaintiff avers that the conduct of Defendants, as mentioned above, was not supported by probable cause, meaning Plaintiff's arrest and the initiation of charges against him, were not supported by a reasonable ground of suspicion or supported by circumstances sufficient to warrant an ordinarily prudent man in believing that party was guilty of the charged offenses.

109. The conduct of Defendants, as mentioned above, was outrageous conduct since such consisted of acts done with a bad motive and/or with a reckless indifference to the interests of Plaintiff in that Defendants intentionally committed said acts of an unreasonable character in disregard of a risk known to Defendants, or so obviously to Defendants, that they must be taken to have been aware of it, and so great as to make it highly probable that harm would follow to Plaintiff as a result of the conduct.

COUNT IX

DAMAGES

Plaintiff v. All Defendants

110. Plaintiff incorporates each of these above paragraphs as if fully set forth herein.

111. Based on the aforementioned facts and circumstances, the named Defendants acted in a negligent manner, and as a direct result of such conduct, Plaintiff suffered and continues to suffer, inter alia, severe emotional distress, mental anguish, and humiliation, as Plaintiff was forced to register under Megan's Law.

112. **Based on the aforementioned facts and circumstances, Plaintiff suffered wrongful incarceration as well as false arrest/false imprisonment.**

113. Furthermore, as a direct result of the named Defendants' conduct, Plaintiff suffered and may continue to suffer from loss of educational and professional opportunities, as this wrongful event occurred during the start of his freshman year at Clarion and continued until the time, he would have completed his undergraduate degree; financial loss and debts, as he incurred many debts, some sent to collections due to his inability to make payments, as he was wrongfully convicted.

114. Finally, as direct result of the named Defendants' conduct, Plaintiff suffered and may continue to suffer defamation and physical harm, as he was and has been the target of brutal attacks and/or slander because of the nature of the of crime (which he did not

commit) and the existence of a circulating mugshot, wrongfully branding Plaintiff as a sex offender.

COUNT X

RELIEF REQUESTED

Plaintiff v. All Defendants

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enters a judgement in his favor against the name Defendants and provide the following relief:

115. Mandate that Clarion make a final determination on the pending notation on Plaintiff's record to reflect his exoneration and innocence with respect to the charges levied against him by Clarion and/or Ms. Hosler;
116. Mandate that Clarion verify this correction by providing Plaintiff with a notarized letter confirming that any findings with respect to these charges have been expunged from Plaintiff's academic and/or disciplinary record;
117. Mandate that Clarion remove any grades issued to Plaintiff during the fall 2015 semester when he was removed access to pre-paid educational opportunities at Clarion by prohibiting him from taking classes in person, on campus, or online;
118. Mandate that Clarion remove any financial holds and/or obligations issued to Plaintiff during the Fall semester when he was removed access to educational opportunities at Clarion by prohibiting him from taking classes in person, on campus, or online;
119. Award Plaintiff compensatory damages in excess of Seventy-Five Thousand Dollars (\$75,000), in addition to prejudgment interest, attorneys' fees, expenses and costs;
120. Award Plaintiff damages in amount to be determined at trial, including but not limited to economic damages, damages to physical well-being, emotional damages, damages to reputation, loss of career prospect, wrongful incarceration, as well as prejudgment interest,
121. Award Plaintiff punitive damages; and;
122. Award Plaintiff any other and further relief that the Court deems just and proper.

JURY DEMAND

123. Plaintiff hereby demands a trial by jury as to all issues so triable.

Respectfully Submitted:

Dated:

DAROLD PALMORE