

often bump into Zara and her family at national tournaments. Each time, he was taken with Zara's talent.

3. Zara's dream came true in the summer of 2016 leading into her senior year of high school. Glon offered Zara a full scholarship to fence for Penn State. But Zara did not yet know the dark side of Glon and Penn State fencing. The team was a hotbed for sexual assault and gender discrimination. It was well known that Glon relegated his female fencers to second class citizens, while prioritizing his male fencers. And Glon tormented Zara for years—criticizing her appearance, hurling sex-based insults at every opportunity, and verbally and psychologically abusing her. Glon also physically assaulted Zara during her freshman year.

4. Glon's conduct towards women fencers was no secret. Penn State athletic directors and administrators knew about or had observed Glon's egregious behavior towards female fencers. But Glon's prestige, influence, and connections were more important to Penn State than protecting its athletes. So, Penn State did nothing. Indeed, when Zara formally reported Glon's conduct to Robert Boland, Penn State's Athletics Integrity Officer, Boland acknowledged that the school had received numerous reports that Glon had engaged in sex discrimination. Yet, Boland threw up his hands, conceding, "Well, it's hard to find fencing coaches." Upon information and belief, Penn State never investigated or attempted to remedy the problem.

5. Because of Penn State's deliberate indifference towards Glon's sex discrimination, Zara will likely never fence competitively again. She had a clear path to the Olympics. Now, she can barely hold a sabre without having a panic attack. Because of Glon's abuse, Zara developed an eating disorder, body dysmorphia, panic and anxiety symptoms, and significant insecurities. After fencing for Penn State, Zara did not know who she was anymore. In short, Zara's two loves—fencing and Penn State—broke her.

6. Zara brings claims against Glon and Penn State under federal and state law. First, by ignoring prior reports of Glon’s harassment and exposing Zara to his behavior, Penn State deprived Zara of equal educational opportunities in violation of Title IX of the Education Amendments of 1972, 20 U.S.C § 1681, *et seq.* Both Glon and Penn State also violated Zara’s right to Equal Protection under the 14th Amendment to the United States Constitution, for which both Defendants are liable under the Civil Rights Act of 1871, 42 U.S.C. § 1983. And both Defendants’ actions violated Pennsylvania common law. As a result, Zara is entitled to compensatory and punitive damages and all other relief the Court deems just and proper.

PARTIES

7. Plaintiff Zara Moss is a former Pennsylvania State University (“Penn State” or the “University”) honors student and athlete. She attended Penn State from 2017–2021. She was a four time All-American on Penn State’s Division I varsity fencing team. Zara is a resident of Pittsburgh, Pennsylvania.

8. Defendant Penn State is a major, public university that receives state and federal funding and is located in Centre County, Pennsylvania. Penn State is independently governed and is associated with Pennsylvania’s Commonwealth System of Higher Education. Penn State’s fencing program, coached by Glon, is the most decorated program in the University’s history.

9. Defendant Maestro Weislaw Glon was the head coach of Penn State’s fencing program while Zara attended Penn State. He joined Penn State over 30 years ago and was promoted to head coach in July 2014.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 1331 because Plaintiff’s claims arise under federal law—§ 1983 and Title IX. Penn State and Glon were at all relevant times state actors

subject to suit for the deprivation of Zara's constitutional rights under § 1983. And Penn State is a federally funded educational institution subject to suit for sex discrimination against Zara under Title IX. *See Franklin v. Gwinnett Cnty. Pub. Schs.*, 503 U.S. 60, 76 (1992).

11. Plaintiff has also stated claims under Pennsylvania law, including negligence/gross negligence, failure to train/supervise, and negligent and/or intentional infliction of emotional distress. Those state causes of action are so related to Plaintiff's other claims in this case, over which this Court has original jurisdiction, that they form a part of the same case or controversy under Article III of the United States Constitution. This Court, therefore, has supplemental jurisdiction over Plaintiff's common law claims under 28 U.S.C. § 1367.

12. This Court is a proper venue for this action under 28 U.S.C § 1391(b)(2) because a substantial part of the events, acts, or omissions giving rise to the claims occurred in this district.

BACKGROUND

Zara Fell in Love with Fencing at Just Seven Years Old

13. Zara first learned about fencing when she was seven years old. She watched a fencing demonstration in gym class, and it sparked something in her. She began competing in tournaments. Her parents believed fencing would be a fun, recreational activity for Zara. But it became something much more.



Zara Moss (age 7) at the Fencing Institute of America Tournament on May 12, 2007, in Pittsburgh, Pennsylvania. (Photo courtesy of Julie Moss)

14. Beginning in sixth grade, Zara attended yearly Penn State fencing camps. Zara's dream was to attend college at Penn State. So she was thrilled when Penn State's renowned fencing coach, Glon, took an interest in her. In October 2012, when Zara was 13 years old, she competed in her first North American Cup in St. Louis, Missouri. Glon watched Zara compete and spoke with her and her family, offering Zara feedback and pointers. Zara was hopeful that Glon's interest in her talent would lead her to Penn State. Over the years, and throughout her high school fencing career, Zara would see Glon at tournaments. When Zara began to outgrow her Pittsburgh fencing club, Glon referred her to a top club in New Jersey. That program and its coaches launched Zara into elite status and shaped the trajectory of her future in the sport.

15. Zara's dreams came true in July 2016, when Glon offered Zara a full scholarship to fence for Penn State. Glon had big plans for Zara. He was friends with Edward Korfanty, the U.S. National Women's sabre coach and Olympic sabre coach. In July 2017, Korfanty invited Zara to attend the Senior World Championship in Germany as the team alternate.

16. As Zara began spending more time with Glon, she saw a darker side to him. She heard rumors of his vindictive nature and saw, firsthand, his ability to leverage his power and prestige in the fencing community. Zara kept what she saw to herself for this very reason—she wanted to maintain her scholarship and pursue her dream of fencing at Penn State, and likely, the Olympics. But as described below, Glon ruined fencing for Zara. She grew to hate the sport she once loved. In March 2021, Zara reported Glon's abuse to Penn State athletics compliance and Title IX officials. They were not surprised by her reports. Glon's misconduct and the deeply rooted sexism on the team were known facts of life. Still, Penn State did nothing. Now, Penn State must be held accountable for its decision to abandon its women fencers.

Zara's Freshman Year
(2017/2018)

17. Glon tormented Zara from the start. He hounded her about her weight—something he never did to male fencers. Glon held women fencers like Zara to different standards than the men's team when it came to body weight. Based upon misogynistic and stereotypical ideals of beauty and physical appearance, Glon would hone in on the women fencers' bodies. He criticized Zara's weight often. By October 2017, Zara had developed an eating disorder. And Glon liked that. He praised Zara when she looked "skinny" and disparaged her when she gained a pound. Zara lost fifteen pounds in her first few months at Penn State. Almost daily, she sent her mom troubling text messages about her newfound disdain for her own body. Glon did not hold his male fencers to these same ideals of beauty and thinness. Those expectations, based on sex-based stereotypes, were reserved for Zara and her fellow women fencers.

18. Despite Zara's strong performance, Glon took every opportunity to degrade and verbally abuse Zara. Cruelly, he told her she was a waste of his time and valuable scholarship money. He criticized everything she did, and Zara was in constant fear that Glon would take away her scholarship. Consequently, Zara developed panic and anxiety symptoms requiring medication. She became a shell of herself and lived in fear of Glon.



Zara, at the “break at 8” during her freshman year NAAs in March 2018. (Photo Courtesy of Julie Moss)

19. Glon singled out the women fencers. For example, Glon called a meeting for the women’s squad after the first day of Zara’s first NCAA tournament. He screamed at them, telling them he regretted recruiting each of them. The women were in second place, and Zara ultimately finished second. Throughout the tournament, Glon berated the women and complained to anyone who would listen that Penn State women sabre fencers never win the national championship, but the male fencers do. What was the reason Glon offered for that perceived difference? Because women fencers’ performance varies depending on whether or not they are menstruating at the time of their performance. According to Glon, this made Zara and her fellow female teammates inconsistent performers compared to their male, non-menstruating counterparts.

20. Glon’s conduct went beyond mental abuse. In January 2018, Zara’s teammate advised Zara to get checked for a concussion. Glon told Zara she was simply being overly emotional and sensitive because she was on her period—which, by the way, she was not. He prohibited Zara from seeking medical attention and forced her to train despite her clear concussion. Zara was forced to see the athletic trainer behind Glon’s back. This was not the only time Glon

forced Zara to compete while seriously injured. In fact, this was a pattern for Glon when it came to women fencers. He routinely forced the women fencers to compete despite serious physical injuries, whereas he encouraged the men to seek treatment and recover from similar or identical injuries. This is because Glon believed that men were, stereotypically, tougher and more macho than women, and that women exaggerated and were overdramatic. So, when men complained of injuries, Glon believed them and took their complaints seriously. But when women came to him with similar or worse injuries, he dismissed them as overdramatic or potentially hormonal girls.

21. Things took a turn for the worse when Glon physically abused Zara her freshman year. During a lesson, Glon forced Zara to fence him without equipment. Through tears, Zara begged Glon to allow her to wear protective fencing gear. He refused. Glon hit Zara over and over while she sobbed and pleaded with him to stop. Glon left Zara with bruises and scars that lasted over a year. Glon never engaged in similar behavior toward men.

22. Others in the fencing community took notice of Glon's abuse. For example, the president of USA Fencing, Don Anthony, approached Zara's parents at the 2018 World Cup, commenting that he had heard that Zara was struggling under Glon's coaching. And several months later, at the Junior World Championship in Italy in April 2018, Zara, a once strong and fierce competitor, was seen huddled in a corner. At the Junior World Championship, numerous concerned coaches and parents, as well as USA Fencing's team psychologist, approached Zara's mom Julie about Glon, but nothing was ever done.

23. Glon's abuse was particularly demeaning and humiliating because it was based on Zara's sex. Glon believed women fencers were weak and dramatic. Zara was anything but. Yet because of Glon's relentless abuse, Zara often suffered severe panic attacks that left her unable to breathe. But she had to suffer in silence—escaping to the bathroom during practices so Glon

would not see her “weakness.” One day, Glon told Zara she must have a bladder infection given how often she was using the restroom. Glon felt comfortable making these inappropriate comments because he believed, as a man, he could freely comment upon the shape, size, and internal functioning of women’s’ bodies. He did not make similar comments about men.

Zara’s Sophomore Year
(2018/2019)

24. Zara had ankle surgery in June 2018 when she was a rising sophomore. Zara gained some weight while recovering, and Glon viciously told her she was “better when she was skinny.” Again, Glon had stereotypical visions of beauty and physical appearance for women—namely, that they should be thin. Glon forced Zara back into competing too soon after her surgery, slowing her recovery. Again, he did not take her condition or surgery seriously because he thought Zara, as a woman, was a complainer prone to whining and exaggeration. To make matters worse, Glon blamed Zara’s stunted recovery on her weight. Glon’s obsession with Zara’s weight again fueled Zara’s eating disorder and problematic relationship with food and her body. Indeed, Glon even acknowledged that he knew Zara was not healthy when she was “so skinny.” But according to Glon, girls were supposed to be thin. Glon never attacked the male fencers when they gained weight—just Zara and other women fencers—because Glon bought into societal standards that judge women based on their size. As a result, he monitored every fluctuation in women’s weight, while he judged men on their performance and did not criticize them for gaining a few pounds.

25. In January 2019, Zara spoke to Carl Ohlson, Penn State’s Assistant Athletic Director of Performance and Psychology Services, about Glon’s abuse and her panic attacks when in the same room with him. In March 2019, Zara also saw Penn State sports psychologist, Brendan Carr. Zara told Carr about Glon’s physical abuse during her freshman year and her fear of her

coach. She also shared that she developed an eating disorder because of Glon's constant body shaming. Still, Penn State did not intervene to stop Glon's abuse.

26. Zara's fencing performance took a hit because of Glon's conduct. But Glon refused to acknowledge his role. Rather, he hurled sex-based criticisms at her, telling her, for example, that the reason she was "not good anymore" was because she "needed a boyfriend." Glon subscribed to yet another sexist stereotype: that a woman needs a man to be happy. Glon also often screamed at Zara and the other women fencers, assistant coach Johanna, and volunteer assistant coach Desirae, publicly humiliating and shaming them. He felt he could treat the women fencers and women assistant coaches this way because he placed himself and the other men in a higher class than the women. So he spoke to them any way he wanted, while cracking jokes and befriending his male buddy coaches and players.

27. Zara's second national championship was a repeat of her first. Zara finished second. Nonetheless, Glon was disappointed and publicly blamed the women's team's performance on their sex. He bemoaned women as just not being as strong athletes as men, even though Zara finished second, and tried to convince anyone who would listen that women fencers were vulnerable to inconsistent performance because of their hormones and menstrual cycles.

Zara's Junior and Senior Years
(2019–2021)

28. By her junior year, Zara's panic symptoms stemming from Glon's relentless abuse were so severe she had to forgo national and international competitions. Since Zara ranked in the top 12 nationally, Penn State would customarily pay for her to attend national and international tournaments connected with USA Fencing. Penn State would fund her travel and hotel. Participation in these competitions was necessary to position athletes to qualify for the U.S. Olympic team. During Zara's freshman and sophomore years, Glon attended as Zara's coach and

to scout and recruit new fencers for Penn State. Due to Glon's harassment, however, Zara stopped attending these competitions; she did not attend any USA Fencing tournaments after October 2019.

29. To make matters worse, Zara was battling a wrist injury requiring cortisone shots. Throughout both Zara's junior and senior years, Glon accused her of faking her injuries to get out of practices—calling her “lazy” and a “disappointment.” Meanwhile, Zara's male teammate, Seba, had the same injury. Unlike Zara, Glon believed Seba and encouraged him to rest and recover to avoid inflaming his wrist more than necessary. Zara asked Glon for similar relief—requesting to be substituted so she could preserve her wrist for later, more important bouts. Glon refused and forced Zara to push through while her male teammate healed. Again, Glon believed that men are tough and complain only when seriously struggling, whereas women are weak, overly emotional, sensitive, and prone to exaggeration about their injuries. Zara paid the price physically and mentally when, as a Division I athlete, she could not rely upon her coach to allow her injuries to heal before placing herself at risk physically by competing before she was ready.

30. During Zara's junior year, no later than March 2020, a Penn State Senior Associate Athletic Director and Deputy Title IX Coordinator indicated that Penn State had received reports about sexual harassment on the fencing team related to Glon. The Deputy Title IX Coordinator shared responsibility to address sexual harassment and ensure compliance with Title IX on Penn State's athletics teams. During a sexual harassment training, she told the woman that she knew the team had a problem with sexual harassment that “came from the top,” *i.e.*, Coach Glon. Yet, Glon remained Head Coach, and other than one three-hour training, Penn State took no apparent action to stop his harassment or check in with women on the team about their experience.

31. The COVID-19 pandemic hit in March 2020. Zara qualified to compete in the NCAA championships, but they were canceled due to the pandemic.

32. Throughout her senior year, Zara continued to struggle with chronic wrist pain and developed excruciating leg pain. In spring 2021, Penn State doctors diagnosed Zara's leg pain as chronic compartment syndrome, a condition experienced by athletes caused by intense, repetitive exercise. Penn State doctors warned Zara that she could sustain permanent nerve damage if she did not rest and recover. They advised her that if she did compete, athletic trainers should monitor her leg closely to ensure that her condition did not take a turn for the worse—which would require immediate intervention to avoid permanent nerve damage.

33. But Zara's mental and physical well-being meant nothing to Glon. He prohibited Zara from seeing the team trainer, contrary to the doctors' recommendation. Then, in the weeks leading up to NCAA championships in March 2021, Glon lied to Zara, reassuring her that she was cleared to practice every day when, in reality, even three practices a week placed her at risk for permanent nerve damage. He told Zara that she was not allowed to go to the team's athletic trainers for treatment. Yet when Zara's male teammate, Clem, sprained his ankle during the same period, Glon had him sit out on training sessions and tournaments to allow him to heal. Simply put, Glon applied different rules to his men and women fencers based upon his misogynistic and outdated views of men and women that ultimately placed the women on the team in significant danger.

34. All the while, throughout Zara's junior and senior years, Glon still fixated on Zara's physical appearance and weight. Zara, suffering from disordered eating and body dysmorphia, reveled in any praise from Glon that she looked "skinny," as he preferred girls to be.

35. On March 10, 2021, Zara scheduled a meeting with Boland, Penn State's Athletics Integrity Officer. Boland had authority to take corrective action on behalf of the University. Since 2017, he had been "charged with oversight and reporting of internal and external investigations

into athletics,” including investigating reports of mistreatment or abuse by coaches.¹ Boland himself stated that he had “primary responsibility for assessing and investigating concerns arising out of intercollegiate athletics.” Indeed, Zara reported Glon’s harassment to Boland because Penn State instructed student-athletes to report such issues to him.

36. On March 17, 2021, Zara met with Boland and reported Glon’s abuse. Specifically, she reported Glon’s sex-based verbal abuse toward her and other women fencers and the danger Glon placed them in when he forced them to compete while injured, among other things. She reported that Glon held his men and women fencers to different standards based upon his sexist ideals of how men and women should look and behave and gave specific examples. She reported Glon’s sex-based discrimination against her, specifically, including that he prohibited her from seeking treatment from doctors and trainers based on her sex.

37. Boland indicated that Penn State had already received numerous reports that Glon treated women fencers worse than “the European males” on the team because of their gender. But Boland then made his priorities clear. He advised Zara to avoid “rocking the boat” and to wait until after the NCAA championships to schedule another meeting to discuss Glon’s conduct. Boland did not offer to intervene with Glon, did not explain Zara’s options for filing a formal Title IX complaint, and did not offer any supportive measures to protect Zara from Glon’s abuse or help her get proper medical treatment for her injuries.

38. Because Penn State failed to act, Glon continued to forbid Zara from seeking treatment from Penn State doctors and trainers. At the NCAA championships on March 25-28, 2021, Zara fenced through extreme pain and numbness in her legs. At Glon’s behest, however, the team’s trainers did not attend to Zara during the tournament. And Zara’s performance suffered.

¹ Robert A. Boland, Bio, Pennsylvania State University, <https://pennstatelaw.psu.edu/faculty/boland>.

Due to her injuries, Glon's presence, and the side effects of the psychiatric medication she took to cope with him, Zara performed the worst that she had ever performed at the NCAA tournament, finishing fifth place in women's sabre after two consecutive years as the national runner-up.

39. On April 7, 2021, Zara met with Boland, Matt Stolberg (Penn State's Associate Athletics Director of Compliance), and Christopher James Harris (Penn State's Title IX Coordinator, investigator, and compliance specialist). Stolberg and Harris also had authority to take corrective action on behalf of Penn State. Stolberg was the official responsible for Penn State's compliance with NCAA rules, including its rules governing harassment and abuse by coaches against student-athletes. As Title IX Coordinator, Harris was "the individual designated by the University to coordinate its efforts to comply with Title IX responsibilities."² He "manage[d] the University's response to Title IX reports and over[saw] investigations."³

40. On April 7, 2021, Zara reported Glon's misconduct to Boland, Stolberg, and Harris, detailing the years of suffering she endured on the team. Boland commented that Glon's differential treatment of men and women fencers could support a Title IX claim and warranted further investigation. When Zara expressed her belief that Glon should be removed from the team, Boland dismissively responded, "Well, it's hard to find fencing coaches." As before, neither Boland nor his colleagues explained Zara's options or offered supportive measures.

41. At the request of Boland and his colleagues, Zara provided the names of two witnesses—Isabella Zuzulo and Barbara Vanbenthuisen—who could corroborate her reports. Isabella Zuzulo had struggled with injuries for years. Glon knew about Isabella's injuries—indeed,

² Penn. State Univ., AD85: Title IX Sexual Harassment, <https://policy.psu.edu/policies/ad85>.

³ Penn State Univ., Christopher Harris Named New Title IX Coordinator for University, (July 18, 2018), <https://www.psu.edu/news/administration/story/christopher-harris-named-new-title-ix-coordinator-university/>.

she suffered from similar injuries when she was recruited to Penn State. In the spring of 2021, Glon suspended Isabella from the team for “lying about her injuries” and directed her—despite her sobs and pleas—to clear her locker and get out. Glon lied to Isabella’s teammates, telling them that Isabella had quit the team. Similarly, Barbara Vanbenthuyzen suffered from ankle injuries for years, yet Glon repeatedly forced her to train and compete while injured.

42. After Zara reported Glon to Penn State, she was hopeful that the University would do its job and that women fencers could once again enjoy their sport and college experience. But Zara never heard from Boland or Penn State again.

Glon’s Harassment Was Severe, Pervasive, and Based on Zara’s Gender

43. Said simply, Glon put Zara through hell because she was a woman. Title IX prohibits gender-based harassment, which includes “acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping,” even if those acts do not involve “conduct of a sexual nature.” *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 85 Fed. Reg. 30,026, 30,179 (May 19, 2020). Crucial here, Glon was a giant in the national and international fencing community. The unequal power relationship and age disparity between Glon and Penn State’s women fencers fueled the hostile environment and discrimination. Glon’s sex-based discrimination permeated the team setting.

44. Glon felt comfortable publicly discussing the women fencers’ bodies. On an ongoing basis, Glon berated Zara for her weight. He blamed any performance issues on any slight weight gain and frequently told Zara that she should be “skinny” even if she wasn’t healthy.

45. When traveling to tournaments, Glon expected the women fencers to don perfect hair and makeup to conform to his views of how girls and women should look. These same

standards did not apply to the male fencers, as Glon was guided by his stereotypical notion that it was important for girls and women (but not for men) to be pretty.

46. In addition to expecting the women fencers to be skinny, wear makeup, and have perfect hair, Glon conformed to the stereotypical belief that women should shave their body hair. When one of Zara's teammates stopped shaving her legs, Glon called her disgusting in front of her teammates.

47. Instead of focusing on shaping these women as individuals and athletes, Glon drew out these women's insecurities, making them feel ashamed and small, rather than the strong, talented athletes they were. The men fencers did not have to deal with these criticisms unrelated to their fencing careers. They were allowed to focus on their sport and career as Division I athletes.

48. Glon also routinely and publicly demeaned and humiliated the women fencers for being on their periods. He blamed their emotions on their periods and commented that women's fencing performance was unreliable because so much depended upon whether a woman was on her period at the time. When Zara would retreat to the restroom for a moment of solace from Glon's verbal abuse, Glon insisted she had a bladder infection because of the frequency with which she was using the restroom. Glon never commented on the physical features of his male fencers' bodies, their bathroom habits, or the health of their bladders. That's because Glon viewed women like Zara as less than. So, he felt comfortable verbally poking and prodding the women fencers about everything from their body hair, weight gain, physical appearance, clothes, menstrual cycles, and bodily functions. Glon's disrespect and disregard for women was palpable.

49. Glon also tolerated and abetted sexual harassment by others. In December 2017, Glon's assistant coach, George ("Gia") Abashidze, was accused of groping a non-Penn State women's fencing coach, Jen Oldham, on a flight home from a competition. Specifically, Ms.

Oldham said that Gia repeatedly asked her for sex, touched her knee, arm, and upper leg, and then grabbed her crotch. Ms. Oldham informed Glon of his colleague's assault. Yet Glon was more concerned about how Ms. Oldham's allegations would affect Gia than about her or his women athletes. Glon told Ms. Oldham he did not intend to report the incident and that no one would believe her. When women on the fencing team learned of this incident, it reinforced that Glon condoned sex-based harassment and would always believe men over women, because he assumed that women tended to exaggerate or lie about harm they experienced.

50. Ms. Oldham's husband reported the incident to Penn State's Vice President for Intercollegiate Athletics, Sandy Barbour. Penn State investigated the incident and terminated Gia but left Glon in place. According to an internal Penn State report, Glon deemed Ms. Oldham's accusation "difficult to believe." In August 2021, SafeSport, an independent organization focused on ending all forms of abuse in sport and reducing misconduct in Olympic sports, which is federally authorized under the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017, 36 U.S.C. § 220541, suspended Glon for three years for failing to report Ms. Oldham's complaint, retaliating against Ms. Oldham, and abuse of process.

51. But the suspension did not last. Glon appealed and, in November 2021, an arbitrator overturned SafeSport's suspension, and Penn State reinstated Glon as head coach. As a slap on the wrist, Penn State placed Glon on probation for six months for failing to report the sexual assault allegations. Glon continued to coach the team until after Zara graduated and filed this lawsuit.⁴ In sum, Penn State made clear to its women athletes that it prioritized keeping a famous male coach over protecting women athletes and coaches.

⁴ USA Fencing suspended Glon in September 2022, making it impossible for him to effectively serve as coach. Only then did Penn State place him on paid leave. The reason for Glon's suspension is not public.

52. Glon also tolerated sexual harassment by men on the fencing team. In April 2019, during Zara's sophomore year, female fencers reported sexual harassment by male fencers, and several women Penn State students (not on the fencing team) accused male fencers of physical and sexual assault. While those male fencers were removed from the team, Glon never publicly reprimanded their conduct. Instead, Glon publicly stated that the women fencers who accused their teammates of sexual harassment were being overly dramatic. And Penn State's response was meaningless. It required the fencers to attend three hours of sexual assault and harassment training. Nothing further was done, and nothing changed on the team.

53. Women fencers knew they would not be believed if they reported sexual harassment or assault after they watched Glon dismiss sexual harassment and assault by male coaches and fencers and brand the accusers liars or drama queens. This created an atmosphere of fear and submissiveness for Zara and the other women fencers.

54. To say Glon held women and male fencers to a double standard would be a gross understatement. When women fencers had a minor infraction, Glon publicly shamed them or stripped them of their leadership titles. Meanwhile, when members of the male fencing team were accused of serious infractions, such as rape and sexual assault, Glon simply carried on with the status quo. Indeed, one of Zara's male teammates landed in the hospital with alcohol poisoning and threw a diaper filled with his feces at a nurse, who pressed charges against him. Glon found the incident humorous, later laughing along at a year-end banquet when male fencers joked about the incident during their senior speeches. Male seniors gave speeches in which they joked about currently being drunk and their numerous infractions during their Penn State careers. Women seniors' speeches were solemn, and often featured apologies to Glon for failing to perform well enough or achieve certain results over their last four years.

55. Glon’s “boys will be boys” outlook resulted in women and male fencers having entirely different experiences as Division I Penn State athletes. Women fencers suffered under Glon’s pervasive sexism and missed out on the once-in-a-lifetime experience of an enriching college fencing career.

56. Rather than treat the women fencers as the premiere athletes they were, Glon relegated them to demeaning, stereotypical gender-based roles. For example, Zara and the other women fencers were responsible for sewing and patching equipment for not only themselves, but also for the male fencers. And while Glon treated the men’s captain as a true leader and representative for the team, the women’s captain had no real responsibilities other than those Glon believed belonged to women, like stocking the snack table. During press interviews, Zara and her fellow women teammates were often told to sit there, be quiet, and look pretty. Again, Glon made sure that women athletes missed out on the leadership and publicity opportunities experienced by their male teammates.

57. Troublingly, Glon also forced Zara and other women athletes to compete while injured. As Zara explained to Boland, this only exacerbated their injuries. Glon called his injured female athletes “weak” and “lazy” and accused them of lying. He believed women athletes were simply not tough enough and told them so regularly. He relied upon stereotypical and sexist views that women exaggerate their injuries or can’t handle pain.⁵ Yet when male fencers suffered similar or identical injuries, Glon never doubted them and encouraged them to rest and recover.

58. Glon’s sex-based discrimination and harassment was not sporadic or isolated. He relegated women fencers like Zara to second-class citizens. He believed he could say anything he

⁵ Studies have found that such stereotypes – that women are oversensitive and complain more than men – are common and lead people to underestimate the severity of pain in women. *See, e.g.*, Lanlan Zhang et al., *Gender Biases in Estimation of Others’ Pain*, 22 J. Pain 1048, 1057 (2021).

wanted to Zara and her female teammates because he was a man, and they were women. He believed Zara and the women fencers should be skinny, quiet, and pretty. He demeaned Zara and shamed her repeatedly about her physical appearance. He shamed and humiliated women fencers publicly about their body hair—something that Glon found offensive and “disgusting” to his ideals of women’s beauty. He felt comfortable speaking publicly about Zara’s and other women’s menstrual cycles. Rather than coaching them on any performance issues, he often attributed any performance issues to a woman fencer being on her period or premenstrual hormones. These are elite athletes. But Glon made sure they felt small and confined to their gender roles of overly emotional women, who cannot perform athletically during their monthly cycles. Glon engaged in this conduct not just a handful of times. Rather, Glon’s sex discrimination permeated the team, day in and day out.

59. Before encountering Glon, Zara had never needed mental health services. Nor had she ever suffered an eating disorder. Nor had she needed prescription medications for panic attacks, anxiety, insomnia, or Post-Traumatic Stress Disorder (“PTSD”). Rather, she was a happy high school senior, thrilled to be competing at her dream school, and with her entire future ahead of her. Indeed, she had clear Olympic prospects. But Glon’s sex-based harassment and discrimination was so severe and pervasive that it resulted in Zara suffering a multi-year eating disorder and body dysmorphia, panic attacks, anxiety, insomnia, and PTSD, requiring weekly therapy and mental health medications that continue today.

60. Zara came to Penn State to fulfill her goals of elite fencing. But by the time she had suffered a few years of Glon’s conduct, her mental health prevented her from continuing to compete in many national and international tournaments. These were opportunities that Division I athletes like Zara had because of Glon’s connections in the fencing community and Penn State’s

highly ranked fencing program and funding. But these opportunities and, ultimately, her Olympic dreams were destroyed. And she grew to hate the sport she once loved.

61. In sum, Glon's sex-based harassment was so severe, pervasive, and objectively offensive that it effectively barred Zara's access to the educational opportunity her fencing scholarship provided and the benefits of participating in Penn State's Division I athletics program.

Glon's Conduct was Continuing in Nature

62. Glon's sex-based discrimination was part of a continuing practice, and the last act evidencing that continuing practice falls within the statutory time limitation, so all his conduct throughout Zara's tenure at Penn State (2017–2021) is actionable as a continuing violation. The continuing violation doctrine applies to Title IX claims. *See Moss v. Penn. State Univ.*, No. 4:22-CV-00529, 2023 WL 1456773, at *4-6 (M.D. Pa. Feb. 1, 2023).

63. Glon's derogatory and demeaning sex-based comments and behavior constituted a pattern that he repeated day after day and year after year. In other words, his conduct did not constitute discrete actionable offenses that must be considered independently. And his continued, demeaning, sex-based behavior continued into the statutory time period, after April 2020. So, Glon's earlier Title IX violations are captured in this matter, too.

Penn State Had Actual Notice of Glon's Gender-Based Harassment

64. The women fencers were terrified of reporting Glon for fear of retaliation. Glon frequently cut off women fencers who had wronged him, and Zara and the other women fencers did not want to jeopardize their scholarships or fencing careers by reporting his egregious conduct.

65. Still, upon information and belief, by March 2020, Penn State administrators and compliance officers had received numerous reports regarding Glon's misconduct towards women fencers and the deeply rooted sexism on the team.

66. As explained above, when Zara reported Glon’s misconduct to Boland, Boland responded by indicating that Penn State had already received numerous reports of Glon’s sexism and abuse toward women fencers. Indeed, Boland was not at all surprised by Zara’s reports. To the contrary, he already knew about Glon’s sex-based harassment of women fencers.

67. The evidence suggests that Penn State received these prior reports by March of 2020. As alleged above, no later than March 2020, a Penn State Deputy Title IX Coordinator told members of the fencing team that her office knew that the fencing team had a problem with sex-based harassment that traced to Coach Glon. A March 26, 2020 letter from the Department of Education’s Office for Civil Rights (“OCR”) also described several instances of sexual harassment by a Penn State head coach, including remarks regarding the physical appearance of women athletes, that were consistent with Glon’s conduct.

68. Thus, Penn State received actual notice of Glon’s sex-based abuse before he continued to demean Zara’s physical appearance, disparage her, and deny her access to medical care based on her sex during her from March 2020 – May 2021. Penn State also received Zara’s reports on March 17 and April 7, 2021, before Glon continued to deny her access to medical treatment based on her sex, and before Zara lost even more opportunities based on his treatment.

Penn State Was Deliberately Indifferent to Glon’s Sex-Based Harassment

69. Despite the appropriate officials having actual notice of a cancer destroying the women’s fencing team, upon information and belief, Penn State officials never meaningfully investigated these reports or took corrective action reasonably calculated to end Glon’s abuse.

70. On information and belief, Penn State kept Glon around because (as Boland admitted) “it’s difficult to find fencing coaches.” Glon was an influential and powerful figure in the fencing community—with strong connections in the national and international fencing

communities and, most importantly, to the U.S. Olympic fencing team. Penn State officials prioritized keeping Glon at Penn State over protecting its women athletes.

71. So, Penn State deliberately ignored Glon's Title IX violations. Penn State's deliberate indifference to prior reports by other students allowed Glon to continue to torment Zara based on her sex. And Penn State's deliberate indifference to Zara's reports left Zara vulnerable to further harassment by Glon and deprived her of educational opportunities.

Penn State's Deliberate Indifference Left Zara Vulnerable to Further Harassment and Denied Her the Benefits of Its Programs and Activities

72. Penn State's inaction exposed Zara to further harassment and left her with a grim choice: her fencing or her health. She could continue to endure the hostile environment on the fencing team or give up the sport she loved and the educational benefits that came with it.

73. After she reported Glon's harassment on March 17, 2021, Zara initially did her best to keep fencing and cope with Glon's abuse. She continued to practice through her injuries. And Glon continued to dismiss her complaints and prohibit her from seeking care from Penn State doctors or the team's athletic trainers, against medical advice. Zara also continued to require psychiatric medication and therapy sessions to compete in Glon's presence.

74. Glon's presence, the physical injuries he exacerbated, and the medication Zara took to cope with him all detracted from Zara's performance. At the March 2021 NCAA championships, Zara performed the worst that she had ever performed at the tournament.

75. After the March 2021 NCAA championships, Zara stopped fencing entirely. The Penn State fencing program continued to hold practices after the NCAA championships to help players prepare for further national and international tournaments run by USA Fencing. As explained above, as a top-ranked fencer, Zara could have attended these tournaments with Penn

State's funding. Due to Glon's harassment, however, Zara did not attend any of Penn State's post-season practices or any post-season tournaments after March 2021.

76. Glon's harassment and Penn State's indifference also affected Zara's school work. Throughout spring 2021 (including after March 2021), Zara's insomnia and depression left her with less time and energy for academics. She found it difficult to focus on school and took more time to finish projects, including her senior thesis. Zara abandoned her original thesis topic for a more limited one that would require less research. And she stopped participating in extracurricular activities, including sporting events, fundraisers, and career-building and networking events.

77. Penn State's indifference ultimately cost Zara another year of scholarship study. In spring 2021, also after the NCAA championships, Glon offered Zara a scholarship to fence and study at Penn State for an additional year. This would have allowed Zara to pursue an advanced degree.⁶ It also would have allowed her to continue to participate in team practices and access Penn State's funding to attend national and international tournaments through which to qualify for the Olympics. But Zara turned down the scholarship to avoid further interaction with Glon.

Zara's Injuries Also Arise from Penn State's Custom and Practice of Deliberate Indifference to Sex-Based Harassment by Coaches

78. Sadly, Zara's case is not unique. Penn State has long maintained a custom and practice of deliberate indifference to sex-based harassment committed by Penn State coaches.

79. From 1998 through 2011, Penn State knowingly tolerated a pattern of sexual abuse by football coach Gerald Sandusky, who was ultimately arrested and convicted of 45 counts of child sexual abuse. According to public reports, on at least two separate occasions in 1998 and 2001, senior Penn State officials, including the former University president, received reports of

⁶ Zara had another year of NCAA eligibility due to accommodations granted by the NCAA to student-athletes whose seasons were affected by the COVID-19 pandemic.

Sandusky showering with minors in the football locker room under circumstances raising suspicions of sexual abuse. At least one of these reports alleged that Sandusky was engaging in sexual activity with a minor. Nonetheless, University officials did not notify the University Title IX Coordinator of either incident and took no apparent action to limit Sandusky's access to facilities or to protect the University community. As a result, Sandusky abused five more boys on Penn State property between 1998 and his arrest in 2011.

80. An external investigation later found a “total and consistent disregard by the most senior leaders at Penn State for the safety and welfare of Sandusky’s child victims.” Freeh Sporkin & Sullivan, LLP, Report of the Special Investigative Counsel Re: the Actions of The Penn. State Univ. Related to the Child Sexual Abuse Committed by Gerald A. Sandusky at 14 (July 12, 2012). It found that “[f]our of the most powerful people at The Pennsylvania State University,” including the president and athletic director, “failed to protect against a child sexual predator harming children for over a decade” and instead “concealed Sandusky’s activities from the Board of Trustees, the University community and authorities.” *Id.* Penn State officials also “exhibited a striking lack of empathy for Sandusky’s victims by failing to inquire as to their safety and well-being.” *Id.* Instead, the University’s leadership “empowered Sandusky to attract potential victims to the campus and football events by allowing him to have continued, unrestricted and unsupervised access to the University’s facilities and affiliation with the University’s prominent football program.” *Id.* at 15.

81. The University’s systemic failure to respond to Sandusky’s years of abuse in its athletic programs resulted in a \$2.4 million fine levied by the U.S. Department of Education, criminal prosecutions of senior University officials, and a consent decree between the University and the NCAA that required the University to make a host of programmatic changes.

82. Still, when Zara attended years later, the University had not fixed the systemic failures that allowed Sandusky's abuse to persist. From 2011–2020, OCR reviewed the University's reform efforts in the aftermath of the Sandusky abuse revelations, including the University's revised policies and procedures for resolving allegations of sexual harassment. *See* Letter from Carol Ashley, Enforcement Director, U.S. Dep't of Educ. Office for Civil Rights, to Eric Barron, President of Penn. State Univ. (March 26, 2020), <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/03146001-a.pdf>. "Given the University's profoundly inadequate response to Sandusky's sexual abuse, OCR reviewed over 300 case files, including, in particular, complaints that were initially reported to the Athletic Department staff." *Id.* at 13. At the conclusion of that review, OCR determined that Penn State continued to violate federal Title IX regulations in several respects. *Id.* at 2.

83. First, during the 2019-20 academic year, the University's Title IX policies and procedures failed "to provide adequate notice to students and employees" of the University's Title IX "procedures, including where complaints may be filed"; failed "to ensure adequate, reliable, and impartial investigation of complaints" of sex discrimination; and failed "to provide procedures for complaints alleging discrimination based on sex carried out by employees and third parties," like the sex-based harassment carried out by Glon against Zara. *Id.*

84. Second, OCR determined that Penn State "failed to respond promptly and equitably to complaints of sexual harassment, including ... complaints initially reported to the Athletic Department during the 2015-16 and 2017-18 academic years." *Id.* In its review of over 300 cases, "OCR found, *inter alia*, that the University did not follow its own policies and procedures, there was delay in notifying the Title IX Coordinator of sexual harassment allegations, that student-

athletes were told to keep the investigation of a coach confidential, and that records do not reflect the University providing interim measures to complainants” who reported harassment. *Id.* at 13.

85. Specifically, OCR found that the University did not have a clear set of procedures for addressing reports of sex discrimination by faculty and staff members, such as coaches. *Id.* at 2, 27. Further, it identified at least four cases in which athletic department staff learned of sex-based harassment by coaches but either failed to report or unduly delayed reporting it to a University Title IX Coordinator for investigation. *Id.* at 14-17. OCR also found that the University repeatedly failed to offer or even *consider* providing interim measures to protect students-victims’ educational environments despite reports of sex-based harassment by coaches. *Id.*

86. As OCR put it, “[t]hese deficiencies indicate[d] that the University has not adequately addressed its failures in the wake of the Sandusky scandal.” *Id.* at 13.

87. As a result of these systemic problems, despite widespread knowledge of Glon’s sex-based harassment and discrimination toward women fencers, Penn State failed to address his abuse until it had already extinguished Zara’s fencing career. Many Penn State staff members knew about Glon’s abuse. Glon’s assistant coaches observed Glon’s abuse. During Zara’s freshman year, one Penn State assistant fencing coach told Zara’s mother that she knew working with Glon was particularly hard for women. And, as alleged above, by March 2019, Zara disclosed Glon’s abuse and its effects to two Penn State team psychologists, including Assistant Athletic Director Carl Ohlson. Yet, consistent with Penn State’s custom and practice, these staff members evidently failed to report Glon’s harassment to Boland or Penn State’s Title IX Coordinators—or if they did, those responsible officials did not launch an investigation into Glon’s abuse.

88. By March 2020, moreover, it appears that Penn State *did* ultimately receive multiple complaints that Glon had engaged in sex-based harassment toward women fencers. But,

consistent with its custom and practice, the University failed to launch any apparent investigation into Glon's sex-based mistreatment, never interviewed Zara about her experience until she approached Boland herself in March 2021, and (other than one three-hour training in Zara's junior year) never implemented interim measures to monitor Glon's interactions with women fencers. And it never intervened to stop Glon's harassment or remove him as a coach.

89. As a result, Zara was forced to give up a sport to which she devoted countless hours of her life since she was seven, along with the educational opportunities that came with it.

COUNT I
Pre-Harassment Deliberate Indifference
in Violation of Title IX, 20 U.S.C. § 1681, et seq.
(Penn State)

90. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

91. Plaintiff Zara Moss attended Penn State from 2017–2021. At all relevant times, Penn State was an educational institution that received federal financial assistance and, therefore, was subject to Title IX. *See* 20 U.S.C § 1681(a).

92. Courts have recognized two general categories of claims for deliberate indifference to sexual harassment under Title IX. The first, sometimes called a “pre-harassment” or “before” claim, generally asserts that a school's deliberate indifference to *prior* reports of sexual harassment caused harassment against the plaintiff. The second, sometimes called a “post-harassment” or “after” claim, involves a school's deliberate indifference to the plaintiff's *own* report of sexual harassment. A post-harassment claim generally asserts that following the school's clearly unreasonable response to the plaintiff's report of sexual harassment, the plaintiff either “(a) ... experienced an additional instance of harassment or (b) an objectively reasonable fear of further harassment caused the plaintiff to take specific reasonable actions to avoid harassment, which

deprived the plaintiff of the educational opportunities available to other students.” *E.g., Wamer v. Univ. of Toledo*, 27 F.4th 461, 471 (6th Cir. 2022). Plaintiff alleges both claims here.

93. First, Zara and her female teammates were subjected to harassment based upon their sex. Specifically, and as described above, Glon held women fencers to sexist stereotypes about girls’ physical appearance, leadership capabilities, expectations that they take care of the male fencers, expectations that they look pretty, keep quiet, and be well-behaved, expectations that they be thin and shave their body hair, as well as untrue and degrading stereotypes about menstruation, hormones, girls being overly emotional and sensitive, girls being weaker than boys, girls needing a boyfriend to be happy, and girls exaggerating about their pain and injuries. Glon relied on these sex-based stereotypes and expectations to verbally and physically abuse, humiliate, ridicule, and intimidate Zara and other women fencers based on their sex.

94. In addition, because Glon believed women were oversensitive and prone to exaggerate, he forced them to train and compete while injured—subjecting them to serious and permanent injuries as a result. Meanwhile, because Glon saw male athletes as tough and capable, he took their injuries seriously and allowed them to rest and recover. As alleged above, Glon also tolerated sexual harassment and assault by male fencers and his male assistant coach, dismissing women’s complaints based on similar stereotypes that women are uniquely predisposed to lie and exaggerate about harassment and assault. These sex-based actions contributed to the hostile environment that Zara and other women fencers faced on the fencing team.

95. Glon’s sex-based harassment was so severe, pervasive, and objectively offensive that it effectively deprived Zara of access to educational opportunities that Penn State provided. Among other things, it deprived Zara of the benefits of participating in Penn State’s premiere fencing program and, ultimately, in the Olympics. And it cost her an additional scholarship.

96. As set forth above, Glon was able to sexually harass Zara because Penn State maintained a policy, custom, or practice of deliberate indifference to sex-based discrimination in its athletic programs and, specifically, was deliberately indifferent to past reports of sexual harassment by Glon. Penn State's deliberate indifference exposed Zara to sex-based harassment by Glon and a hostile environment based on her gender.

97. On information and belief, Penn State officials who had authority to address the discrimination—including Penn State's Deputy Title IX Coordinator and Athletic Integrity Officer Boland—had actual knowledge of Glon's sex-based harassment since at least March of 2020. As alleged above, Boland told Zara that his office received multiple prior reports that Glon had engaged in sex-based harassment toward women fencers. And the evidence indicates these reports were made by March 2020, when OCR described similar conduct committed by a head coach and the Deputy Title IX Coordinator told members of the fencing team that the program had a sexual harassment problem that "came from the top," *i.e.*, from Head Coach Glon.

98. Despite receiving these prior reports and knowing there was a substantial risk that Glon would continue harassing women fencers based on their sex, Penn State took no meaningful steps to try to remedy the problem. Penn State never subjected Glon to increased supervision. Glon remained head coach of the women's fencing team. And Glon continued to harass and abuse Zara and other women fencers based on their sex. After March 2020, Glon continued to criticize Zara's weight and appearance because of his double standards for women and continued to deny her medical care because of his sex-based belief that she was exaggerating her injuries.

99. Penn State's deliberate indifference caused Plaintiff damages, including but not limited to damages for physical injuries resulting from the denial of medical care, loss of

educational opportunities, loss of a scholarship, loss of future prospects as a competitive fencer (including at the Olympics), and loss of future career and sponsorship prospects.

COUNT II
Post-Harassment Deliberate Indifference
in Violation of Title IX, 20 U.S.C. § 1681, et seq.
(Penn State)

100. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

101. On March 17, 2021, Zara put Penn State on actual notice that Glon was engaging in sex-based harassment against her, including by depriving her of equal access to medical care based on her sex, by reporting this conduct to Boland. In addition, on April 7, 2021, Zara discussed Glon's sexual harassment with Boland, Associate Athletics Director for Compliance Matt Stolberg, and Title IX Coordinator Christopher James Harris.

102. Each of these officials had the authority and duty to take corrective action on behalf of Penn State to prevent further harassment by Glon and end the hostile environment he created. But following Zara's reports, Penn State did not take any action reasonably calculated to end the harassment or to preserve Zara's equal access to educational opportunities.

103. As a result, Penn State left Zara vulnerable to further sex-based harassment and denied her equal access to the benefits of its educational programs and activities. Specifically, Zara experienced additional harassment, and her "objectively reasonable fear of further harassment caused [her] to take specific reasonable actions to avoid harassment, which deprived [her] of the educational opportunities available to other students." *Wamer*, 27 F.4th at 471.

104. After Zara reported Glon's abuse to Penn State officials in March 2021, Glon continued to forbid her from seeking medical attention from Penn State doctors and trainers based

on her sex, which exacerbated Zara's physical injuries, detracted from her athletic performance, and interfered with her participation in school (including her ability to walk to class).

105. Zara also reasonably forfeited educational opportunities to avoid further harassment by Glon. After Zara reported Glon's harassment in March 2021, Zara missed post-season fencing practices, passed up the opportunity to attend tournaments with funding from Penn State, struggled to complete schoolwork, withdrew from extracurricular activities, and declined a scholarship offer to avoid interaction with Glon.

106. Penn State's deliberate indifference caused Plaintiff damages, including but not limited to damages for physical injuries resulting from the denial of medical care, loss of educational opportunities, loss of a scholarship, loss of future prospects as a competitive fencer (including at the Olympics), and loss of future career and sponsorship prospects.

COUNT III
Disparate Treatment Based on Sex
in Violation of Title IX, 20 U.S.C. § 1681, et seq.

107. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

108. Glon ran the Penn State fencing team based on sex stereotypes. Instead of promoting women fencers' talents and leadership skills, Glon had them tend to traditionally female tasks like clothes repair and food preparation. As alleged above, he also denied them access to medical care and treatment from Penn State athletic trainers and doctors based on their sex.

109. From 2018-2021, Glon repeatedly denied Zara access to medical care and forced Zara to train through severe injuries based on her sex. As alleged above, Glon used his authority as Head Fencing Coach to prohibit Zara from seeking treatment from team trainers and Penn State doctors for physical injuries, including a concussion, a wrist injury, and chronic compartment

syndrome in her leg, and forced Zara to train through those injuries. He did so based on gender bias: Glon dismissed women's complaints about injuries because he believed they were oversensitive and tended to exaggerate, while he took men's complaints seriously because he believed they were tougher and would not complain unless they were seriously injured.

110. Medical and training services are an important part of a university's athletic programs. *See, e.g.*, 34 C.F.R. § 106.41(c)(8) (providing that, to determine whether a school "provide[s] equal athletic opportunity for members of both sexes" as required by Title IX regulations, the Department of Education must consider the school's "[p]rovision of medical and training facilities and services"). Fencing is a mentally and physically intense contact sport that requires frequent and intense training to compete at the Division I level and carries a risk of injuries to the hands, wrists, and legs from physical strain and overuse, among other injuries. A university cannot offer a safe or functioning—let alone competitive—fencing program without providing high-quality training and medical care to athletes to prevent and treat injuries.

111. By denying Zara access to care and treatment by Penn State's athletic trainers and doctors and forcing her to train through her injuries based on sex stereotypes, Glon "excluded [Zara] from participation in," "denied [her] benefits of," and "subjected [her] to discrimination under" its education programs and activities based on her sex, in violation of Title IX. 20 U.S.C. § 1681(a). As a result, Zara suffered aggravated physical injuries and pain that interfered with her athletic performance, made her unable to walk to classes, and required multiple rounds of surgery.

112. Penn State is liable for Zara's unequal treatment because Glon acted on behalf of the University and because, as alleged in Counts I and II, Penn State's deliberate indifference exposed Zara to Glon's discrimination and its effects on her education and athletic participation.

113. Penn State's disparate treatment caused Plaintiff damages, including but not limited to damages for physical injuries resulting from the denial of medical care, loss of educational opportunities, loss of a scholarship, loss of future prospects as a competitive fencer (including at the Olympics), and loss of future career and sponsorship prospects.

COUNT IV
Violation of Equal Protection
42 U.S.C. § 1983
(All Defendants)

114. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

115. Defendants Penn State and Glon engaged in all actions described in this Complaint under color of state law. The Pennsylvania legislature created Penn State and funds it to this day. Penn State is designated by Pennsylvania state law as "a State-related university and an instrumentality of the Commonwealth [of Pennsylvania] within the Commonwealth System of Higher Education." 24 Pa. Stat. and Cons. Stat. § 2510-503(7). Penn State employees are "state employees" under Pennsylvania law. 71 Pa. Stat. and Cons. Stat. § 5102.

116. Acting under color of state law as head fencing coach of Penn State, Defendant Glon violated Zara's right to Equal Protection under the 14th Amendment to the United States Constitution by subjecting her to sex-based harassment and depriving her of equal access to medical care and equal educational opportunities based on her sex.

117. Acting under color of state law, custom, or usage, Penn State violated Zara's right to Equal Protection under the 14th Amendment to the United States Constitution by maintaining a policy, custom, or practice of deliberate indifference to sex-based discrimination in its athletic programs that subjected her to sex-based harassment and deprived her of equal access to medical care and equal educational opportunities based on her sex. Penn State's unlawful policies,

customs, and practices include the failure to adequately train or encourage athletic department employees to identify, report, or stop sex-based harassment and abuse by coaches against student-athletes, the failure to maintain clear policies and procedures for reports of sex-based harassment by coaches, the failure to implement measures designed to prevent or detect sex-based abuse by coaches, the failure to monitor coaches or provide interim measures for student-athletes following reports of sex-based harassment or abuse, and the repeated failure to investigate reports of sex-based harassment by coaches.

118. These policies, customs, and practices caused Zara to suffer sexual harassment and lose the benefits of Penn State's state-related educational programs and activities on the basis of sex because, among other things, staff members knew about Glon's abuse toward Zara and other student-athletes but did not timely intervene or report it, Penn State did not implement measures to prevent or detect sexual harassment on the fencing team, and, when Penn State did receive reports of abuse, it did not investigate or implement interim measures reasonably calculated to end Glon's harassment or protect students' access to educational opportunities.

119. Defendants' constitutional violations caused Plaintiff damages, including but not limited to damages for physical injuries resulting from the denial of medical care, emotional distress, loss of educational opportunities, loss of a scholarship, loss of future prospects as a competitive fencer (including at the Olympics), and loss of future career and sponsorship prospects. Zara is entitled to an award of compensatory and punitive damages.

COUNT V
Negligence/Gross Negligence
(Glon)

120. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

121. Glon, as the head fencing coach, recruited Zara for the Penn State fencing team and relied on her to generate professional, reputational, and monetary benefits for himself and Penn State, for which Zara was compensated through a scholarship. Glon owed a duty to college athletes like Zara to provide her with a safe sport environment, use appropriate and functioning equipment, coach with knowledge and skills of instructional training, sufficiently supervise the athletes, warn athletes and their parents regarding safety risks on the team, provide access to proper medical care, and avoid and prevent sexual harassment and discrimination.

122. Glon breached these duties to Zara by, as detailed above, failing to create a safe sport environment for her, failing to use appropriate equipment during practices with Zara, failing to coach with knowledge of skills and instructional training and resorting to verbal and physical abuse, failing to provide or facilitate the necessary medical care Zara needed for her fencing-related injuries, and failing to prevent sexual harassment and discrimination on his team.

123. Glon's breach of his duty to Zara and his negligence/gross negligence proximately caused Zara's damages, including but not limited to emotional distress, physical injuries and pain and suffering, loss of educational and athletic opportunities, loss of future prospects as a competitive fencer (including at the Olympics), and loss of future career and sponsorship prospects. Zara is entitled to an award of compensatory and punitive damages.

COUNT VI
Negligence/Gross Negligence
(Respondeat Superior)
(Penn State)

124. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

125. Penn State owed Zara a duty not to subject her to physical and psychological abuse and to protect her from such abuse by its employees.

126. Penn State hired Glon in 1985, and Glon has been a Penn State fencing coach ever since, with the exception of his suspension and probation described above.

127. At all times relevant to this Complaint, Glon was Penn State's men's and women's head fencing coach, and he coached Zara from 2017–2021.

128. Penn State had special relationship with Zara, a college athlete it recruited to fence for its elite fencing team and awarded her a full scholarship to do just that. Penn State recruited Zara and offered her a scholarship to provide benefits to Penn State, including favorable attention and aid to the University in attracting donations as well as other student-athletes.

129. Based on that special relationship, Penn State had a duty to protect Zara from repeated and ongoing physical and psychological abuse, as well as sex-based discrimination and harassment, at the hands of its employee and head coach of its Division I fencing program.

130. Penn State breached its duty to Zara through Glon's actions. Glon's tortious conduct occurred while he was acting in the scope of his employment and in furtherance of his employer's (Penn State's) business (the fencing program). Glon physically and psychologically abused, sexually harassed, and discriminated against Zara in his capacity as a Penn State coach, on Penn State property, and while Zara was training and competing on behalf of Penn State. Glon chose to coach with fear and verbally and psychologically tormented Zara at fencing practices, lessons, training, and tournaments. Glon strove to get results for Penn State at all costs. And it was Zara who paid the price.

131. Penn State's breach of its duty to Zara proximately caused Zara's damages, including but not limited to damages for emotional distress, physical injuries and pain and suffering, loss of educational and athletic opportunities, loss of future prospects as a competitive

fencer (including at the Olympics), and loss of future career and sponsorship prospects. Zara is entitled to an award of compensatory and punitive damages.

COUNT VII
Negligence/Gross Negligence
(Failure to Train/Supervise)
(Penn State)

132. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

133. Penn State had a duty to train its employees like Glon to exercise safe coaching techniques, to ensure that student-athletes received appropriate medical care, and to avoid discrimination on the basis of sex, including based on sex-based stereotypes. Penn State also had a duty to exercise ordinary care prevent an intentional harm committed on its premises.

134. Penn State, therefore, had a duty to take reasonable measures to protect Zara from abuse by her coach, including, but not limited to closely monitoring Glon and Penn State fencers, responding to and investigating complaints involving Glon, and reasonably ensuring that a student-athlete was not tormented throughout her career as a Division I Penn State athlete.

135. Penn State breached its duty by failing to have protective measures in place or utilizing any protective measures to protect Zara from her coach's abuse.

136. Penn State also breached its duty to investigate any complaints or reports of misconduct involving its head fencing coach and its student-athletes, as well as its duty to reasonably supervise Glon and his interactions with fencers. Despite having actual notice of issues of sex discrimination by its head fencing coach, Penn State failed to investigate. Based on an ordinary standard of care, such an investigation should have included, for example, interviews with assistant or volunteer coaches, trainers, athletes, family members, and others with potential personal knowledge of Glon's behavior as a coach. Penn State also should have instructed its

compliance supervisors to meet with Glon to discuss these concerns, observed Glon's practices, required Glon to attend additional trainings on Title IX compliance and sexual harassment, and coach him on the same. Instead, Penn State's athletics compliance officials did not want to "rock the boat" and ignored these complaints and reports rather than addressing them head on.

137. As a result, Glon continued to engage in sex-based discrimination against Zara while Penn State's compliance officials either failed to acknowledge the seriousness of these issues or deliberately ignored them in order to retain its prestigious fencing coach.

138. Glon's abuse of Zara was a foreseeable result of its failure to train and supervise Glon because, among other things, Penn State had received past complaints of Glon's inappropriate conduct and mistreatment of both student-athletes and other coaches.

139. Penn State's breaches proximately caused Zara damages, including but not limited to damages for emotional distress, physical injuries and pain and suffering, loss of educational and athletic opportunities, loss of future prospects as a competitive fencer (including at the Olympics), and loss of future career and sponsorship prospects. Zara is entitled to an award of compensatory and punitive damages.

COUNT VIII
Negligent and Intentional Infliction of Emotional Distress
(All Defendants)

140. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as if fully stated herein.

141. Penn State deliberately ignored the sex discrimination, harassment, and physical and emotional abuse that fencing coach Glon directed toward women student-athletes and allowed it to continue for years. In doing so, Penn State intentionally placed the success of its fencing

program and its head coach's prestige over protecting its women athletes like Zara. Penn State is also liable for Glon's actions through the doctrine of respondeat superior.

142. Defendants' acts and omissions were intentional or, in the alternative, were negligent or grossly negligent as pertaining to Zara. As alleged above, Defendants breached duties owed to Zara as a University student and as an athlete subject to its employee's abuse, and it was substantially certain and/or reasonably foreseeable that Defendants' acts and omissions would cause Plaintiff severe emotional distress or harm.

143. Glon verbally and psychologically abused Zara for four years. He routinely told her she was worthless and a waste of scholarship money. Zara, desperate to remain at Penn State on scholarship and pursue her dream of fencing at Penn State, lived in constant fear that Glon would rip all of that away from her. And he had the power to do so. On an ongoing basis, Glon attacked Zara's physical appearance, telling her that she fenced better when she was unhealthily thin. Time after time, Glon forced Zara to train and compete while injured and in pain. Glon habitually called Zara lazy, weak, and an embarrassment to Penn State. He publicly humiliated her—for example, announcing at a team meeting that Zara had single-handedly made Team USA lose to Ukraine at a competition in Belgium the week before, when in fact, Zara had the highest indicator (the difference between touches scored and received) of anyone on the team. He did this to turn Zara's teammates against her because her teammates were not at the competition in Belgium and did not know Glon was lying. Glon also once lied to Zara that he had polled other women fencers her age on whether they ever spent time with Zara or if she had any friends. He then cruelly told Zara they said they never hung out with her and that she did not have any friends. Glon then taunted Zara—saying she had no friends. He also took advantage of Zara's vulnerability and isolated her further. He demanded she stop communicating with her mom and sisters—her

sole support system. According to Glon, Zara was weak for needing her family. Glon's intentional cruelty was extreme and outrageous and went beyond all grounds of decency.

144. Glon's conduct was committed in the scope of his employment for Penn State, as he used these cruel tactics as a method of coaching and with the perverse incentive to maintain Penn State's prestige in the fencing community and bring home wins for the University, which in turn, allowed the University to recruit talent. Once these recruits, like Zara, landed their dream of fencing at Penn State, or received full scholarships to attend Penn State, they then had to endure years of harassment, intimidation, cruelty, and abuse at the hands of their coach.

145. Glon's misconduct ruined the sport of fencing for Zara. Still, though, Glon believed his approach was best and that Penn State's success in the sport was thanks to him.

146. Glon weaponized his prestige and influence in the fencing community against Zara. She depended upon him for not only the success of her career in fencing but also her scholarship at Penn State. He viewed himself as invincible, and unfortunately, Penn State made that viewpoint a reality by allowing him to get away with whatever he wanted. Consequently, Zara could not escape her tormenter, and no one at Penn State did anything to help her.

147. Defendants' intentional, negligent, and grossly negligent conduct led Zara to develop an eating disorder and body dysmorphia. She sent her mom disturbing texts about her weight, saying cruel things about her body.

148. Defendants' conduct left Zara with severe panic and anxiety symptoms, insomnia, nightmares, and PTSD.

149. As a result of Defendants' conduct, Zara needed prescription anxiety medications for her panic attacks and anxiety. Zara began taking anxiety medications her freshman year at Penn State and continues to take them today.

150. As a result of Defendants' conduct, Zara sought out psychological services during her freshman year fencing for Glon. Zara continues to need weekly psychological therapy today as she is still recovering from the effects of Defendants' conduct.

151. This severe emotional distress and damage was directly and proximately caused by the negligent, grossly negligent, and/or intentional conduct, acts and omissions of Defendants.

152. Plaintiff has been damaged as more specifically set forth herein and due to the manner and character of the conduct, acts and omissions of Defendants. Zara is entitled to an award of all compensatory and punitive damages authorized by law.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- (a) award Zara Moss compensatory and punitive damages in an amount to be determined at trial, including but not limited to damages for emotional distress, physical injuries and pain and suffering, medical and therapy expenses, loss of educational and athletic opportunities, loss of future prospects as a competitive fencer (including at the Olympics), loss of future career and sponsorship prospects, and all other direct and consequential damages available;
- (b) award prejudgment interest;
- (c) award attorney's fees and costs pursuant to statutory or common law doctrines providing for such award; and
- (d) grant such other and further relief that the Court deems just and proper.

Respectfully submitted,

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** Pro Hac Vice Admission Pending*

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by Jury.

/s/ Sean Ouellette

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2023, I electronically filed the foregoing Second Amended Complaint using the Court's CM/ECF system and that the following counsel of record will be served electronically via that system:

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