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SC Court of Appeals

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**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr.
Circuit Court Judge
Case No.: 2011-CP-10-9200

Appellate Case No. 2015-001920

Mother Doe A.....Appellant,

v.

The Citadel.....Respondent.

**APPELLANTS' RECORD ON APPEAL
Volume III of III**

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L. Shapiro
And it says, "The written application provides the information you need to assess the background and interests of applicants. Questions should help you determine whether applicants have mature, adult relationships as well as clear boundaries and ethical standards for their conduct with youth." Do you see that?

A. I do see that.

Q. And Mr. ReVille's 2003 application that we went over earlier, you'd agree with me that if you had reviewed that as a camp director, you wouldn't have determined that he was a mature adult who could lead children, would you?

MR. BOWERS: Object to the form.

A. Taken out of the context that you're stating this, if I had no history with Mr. ReVille of any kind, that he was simply an applicant and I was reviewing that application, that would not be somebody who would get through my screening process. But

1
2 L. Shapiro
3 if Mr. ReVille had worked for me and I knew
4 of him and knew his background extensively
5 for years, I still probably would have
6 addressed it with him and said, you know,
7 "What is this that you're putting here?" And
8 I would expect that he would say, "Oh, come
9 on. I'm just kidding." But I would say that
10 this is an application form and that it is
11 not appropriate and change it or do a new
12 application.

12 BY MR. SLOAN:

13 Q. I understand that. But even assuming
14 this was an attempt at a joke, this is a sick
15 joke, isn't it? When you put down that your
16 qualifications to be senior counselor, you're
17 putting what color your eyes are and your
18 hair, and that you're athletic and that you
19 like to take walks on the beach, that's a
20 sick joke, isn't it? Who would find that
21 funny?

22 MR. BOWERS: Object to the form.

23 A. I don't believe I have the

1

L. Shapiro

2

qualifications to say whether it's sick or

3

warped or incredibly poor sense of humor. I

4

don't believe I'm able to qualify what his

5

intent was or how it should be construed,

6

except to say that it doesn't belong on an

7

application, that's it's inappropriate, and

8

that it would be a cause of concern to me as

9

a camp director. And quite frankly, what's

10

written there does not conform to the

11

standards that one would expect of an

12

application.

13

Q. If you go to page ten.

14

A. Got it.

15

Q. Under inappropriate and harmful physical

16

behavior is "Showing pornography or involving

17

youth in pornographic activities," the very

18

last one there.

19

A. Yes, I see it.

20

Q. You don't disagree with that, do you?

21

A. As being inappropriate? I absolutely

22

agree.

23

Q. Then on page 11 -- (interrupted)

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2 CAMPER DOE 6,

3 Plaintiff,

4 vs.

Case Action No.: 2013-CP-10-5247

5 THE CITADEL,

6 Defendant,

7

8 JOHN DOE, A MINOR, BY HIS
9 GUARDIAN AD LITEM JOHN ROE,

9 Plaintiff;

10 vs.

Case Action No.: 2013-CP-10-4770

11 THE CITADEL,

12 Defendant,

13

14

15

16 Videoconference Deposition of GARY MARGOLIS,
17 held on Monday, February 17, 2014, taken at the Sound
18 Vision, 310 Hurricane Lane, Suite 1, Williston, Vermont,
19 05495, commencing at 10:11 a.m., before Karen L. Wright,
20 a RPR, CRR and Notary Public in and for the State of
21 Vermont.

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2 just not sure if my -- if my accounts
3 payable or accounts receivable folks have
4 done any of that. I just don't recall if
5 I've sent that information to them.

6 Q. Okay.

7 A. Likely that I haven't.

8 Q. Is that something you can easily
9 determine how much time you spent and how
10 much you billed to Barnwell Whaley since
11 March of 2013?

12 A. Yes, sir. I can call my financial
13 team and ask them if we've sent any
14 invoices, sure.

15 Q. All right. Do you agree with me,
16 Dr. Margolis, that child sexual predators
17 create risk of harm to children in their
18 communities?

19 A. Yes, sir. I do.

20 Q. And why?

21 A. They pose a risk to the health and
22 safety of children.

23 Q. If a child sexual predator is
24 accused of abusing 11-to-15-year-old boys in
25 the past, in your opinion, is it foreseeable

1

2 that he will abuse 11-to-15-year- old boys
3 near where he lives and works in the future?

4 A. Again, based on my law enforcement
5 experience, not any psychological experience
6 as such, I would agree with that, more
7 likely than not, it would.

8 Q. Would you agree, based on your law
9 enforcement experience and your academic
10 background and education, that if you became
11 aware in 2007 that a man had sexually abused
12 children in 2002 and 2003 at a summer camp
13 where he worked, would you agree that it
14 would be foreseeable that any victims he was
15 to have from 2004 through 2007 and 2007
16 through 2011 would occur where he worked and
17 spent his time?

18 A. I would agree that it would
19 predispose me to believe that he would be
20 offending again and would have offended
21 again.

22 Q. Would you agree with me that if you
23 were notified that an individual had sexually
24 abused a minor on campus five years
25 previously, and that individual is currently

1

2 on campus, and that there are minors on
3 campus when that report comes in five years
4 later, that that person poses a threat to
5 the campus?

6 A. I would agree with you, yes.

7 Q. And when that individual leaves the
8 campus, he's a threat to minors wherever he
9 goes off campus, correct?

10 A. I would agree that that's a
11 reasonable assumption.

12 Q. If a child sexual predator was a
13 camp counselor in the year 2001 and had a
14 single room as the counselor and used movies
15 and food to lure campers into his room and
16 abuse them there in his room, knowing those
17 facts, what would you do to prevent
18 counselors in the future at that summer camp
19 -- what would you make sure happened as part
20 of your rules to prevent abuse of summer
21 campers going forward?

22 A. Develop appropriate policies and
23 procedures, train individuals to those
24 policies and procedures, and then hold them
25 accountable to those policies and procedures.

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2 opposite conclusion, I just -- that, I don't
3 agree with. If you're telling me that
4 someone could do their own investigation and
5 come up with a different finding, well, then,
6 I would agree with that, absolutely.

7 Q. And that was all I was asking.

8 Isn't it true, Mr. Margolis, that somebody
9 else, another fact-finder, decision-maker,
10 could look at this case based upon the facts
11 presented and conclude that there was a
12 cover-up? Isn't that possible?

13 A. It is possible.

14 Q. Now, what evidence, okay, would you
15 need in order to conclude that there was a
16 cover-up?

17 A. We would need to have found evidence
18 that implied intent, intent to collusion, you
19 know, intent to hide in some way, shape, or
20 form was deliberate in that regard.

21 Q. All right. So you would be looking
22 for evidence that there was an intent to
23 hide; is that right?

24 A. Correct.

25 Q. All right. What other evidence

1

2 that supports both the complainants and the
3 respondents.

4

Q. And is also one of the -- the
5 reasons is so that any hostile environment
6 will be corrected or eliminated?

7

A. I would agree with that.

8

Q. And in eliminating a hostile
9 environment that includes either sexual abuse
10 or sexual harassment, one of the things that
11 Title IX requires is that actions be taken
12 against a predator; isn't that correct?

13

A. It requires that a fair and
14 impartial process for both the respondent and
15 the complainant be conducted should the
16 complainant wish to do so in order to seek
17 an outcome and a resolution.

18

Q. Okay. And back in 2007, Title IX
19 clearly required college campuses to conduct
20 an impartial investigation of all instances
21 of sexual abuse; isn't that correct?

22

A. That they know of, correct.

23

Q. And back in 2007, a general counsel
24 of a college or university would not be an
25 impartial party to whom an investigation

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should be conducted by; isn't that correct?

A. We agreed with that and we stipulated to that.

MR. STONEY: Objection.

THE WITNESS: We stated as much in our -- in our report. And, in fact, some of the challenges that we saw here were consistent with what was happening in general, hence the reason why the Dear Colleague letter was issued in April of 2011.

Q. All right. And in addition to the general counsel not being an impartial investigator, the OCR has also cautioned colleges and universities not to allow insurance companies to do an investigation of sexual abuse; isn't that correct?

A. I don't recall that specifically being in the Dear Colleague letter or in the law. Doesn't mean it's not. I just don't recall that specific passage.

Q. Okay. Well, based upon your having worked with Title IX and worked in this subject area, do you believe that insurance companies can be impartial in the

G. MARGOLIS

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ReVille had a propensity to abuse boys within a certain described range of age?

A. I don't recall that specifically, but it wouldn't be a surprise to me.

Q. Okay. And why wouldn't it be a surprise in the field of sexual predators?

A. Because that's who he offended on, and it's consistent with his offense patterns, as I understand them.

Q. Okay. And from a criminal standpoint, young boys would be a discrete class of victims as compared to all ages and both sexes; isn't that correct?

A. That's what I've come to understand from experts in this area, yes.

Q. So it's pretty clear to you that Mr. ReVille had a propensity to abuse victims within a discrete class within our society; is that right?

A. Yes. I believe they're called preferential child molesters or preferential molesters.

Q. Now, in doing any type of investigation, do you naturally like to see



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1
2 she caught Mr. ReVille alone in a room
3 rubbing Icy Hot on a child's leg. Okay?

4 A. Yes, sir.

5 Q. All right. So we have, in '01, in
6 his performance review, they're saying that
7 he needs to distance himself from campers.
8 In '02, he breaks the rule and is alone in
9 a room with a camper, right?

10 A. Yes, sir.

11 Q. According to Jenni Garrott. And
12 then if we look at Tab 11, Citadel Bates
13 Number 41, have you ever seen this document
14 before, Mr. ReVille's application for
15 employment at the summer camp in 2003?

16 A. I don't recall seeing it.

17 Q. Under -- under Question 3 on his --
18 for the summer camp, it says: "Special
19 qualifications to serve as counselor." Can
20 you read to me what Mr. ReVille put down on
21 his application to be the senior counselor at
22 The Citadel Summer Camp in 2003.

23 A. "5'11", brown hair, brown eyes,
24 athletic, can cook, recite poetry, dance,
25 enjoys walks on the beach."

1

2 Q. Does that cause you concern?

3 A. Does it cause me concern?

4 Q. Yeah. If you had been in charge of

5 hiring the senior counselors at Citadel

6 Summer Camp, what would you have done about

7 that response?

8 A. I think it's odd.

9 Q. Right. Well, let me -- if you'd

10 turn two pages over to the counselor code of

11 conduct that Mr. ReVille signed, which is

12 Bates Number 43. Does it say at the very

13 top that counselors "must always practice

14 mature judgment and be mindful of the

15 well-being of the campers"?

16 A. Yes, sir.

17 Q. Going back to Bates Number 41.

18 There's no way, is there, that Mr. ReVille

19 was using mature judgment when he filled out

20 Section 3 as to his qualifications to be a

21 counselor?

22 A. I think it's definitely odd.

23 MR. STONEY: Objection.

24 Q. Why is it odd?

25 A. Because it's an odd response to the

1

2 question.

3 Q. It's completely inappropriate, isn't
4 it?

5 A. Absolutely.

6 Q. All right. Would you want to send
7 your son to a camp where the camp counselor
8 put down those were his qualifications, his
9 height, his hair color, his eye color, that
10 he's athletic, that he can cook, that he
11 likes to recite poetry, that he dances and
12 he enjoys walks on the beach? Would you
13 want to send your son to spend three months
14 with that guy?

15 A. I would have concerns.

16 Q. All right. It doesn't appear
17 anywhere in your report, does it?

18 A. What doesn't, sir?

19 Q. Anything having to do with his
20 application in 2003.

21 A. I don't recall it being included on
22 our report, sir. Maybe Ms. Franke looked at
23 it and included it in hers.

24 Q. I've looked at Ms. Franke's report.
25 And all it talks about is what should happen

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others, correct?

MR. STONEY: Objection.

THE WITNESS: Correct. But, again, because of, in our opinion, an inappropriate investigation.

Q. Did you say in your opinion because it was an inappropriate investigation?

A. Because of the problems we found with the investigation. Indicating that he left the school without anything in his personnel file or his HR jacket isn't necessarily surprising. I think it goes back to, you know, the investigation that was conducted and how it was conducted and such created some of those problems.

Q. Let me ask you this with regard to Skip ReVille: Let's say in the year 2010, can you point me to any evidence that The Citadel did not engage in a cover-up to make sure that Skip ReVille's name appeared nowhere with regard to any allegations that Doe had made?

A. In terms of the civil defense sheets that were created?

1

2 Q. In terms of anything.

3 A. I cannot.

4 Q. All right. Let's go over to

5 Notebook-2, please. By the way, have you
6 ever been -- any of your consulting ever
7 been on behalf of a child that had been
8 abused or a victim who had been abused at a
9 university, or have you always represented
10 the university?

11 A. In litigation, we've always been on
12 the defense side. We tell universities and
13 colleges what they do wrong all the time.
14 But in terms of litigation, we tend to be on
15 the defense side.

16 We may have had -- yeah, I don't
17 even recall. I was going to say we may
18 have had one case on the plaintiff's side,
19 but I can't recall the details.

20 Q. Were you personally on it as the
21 lead person?

22 A. No. I think it would have been
23 Steven.

24 Q. All right. Tab 1 in Notebook-2.
25 Did you consider the college regulations when

1

2 A. It's possible.

3 Q. And you have -- at the bottom of

4 that, you have: "Regardless of whether a

5 harassed student, his or her parent, or a

6 third party files a complaint," correct?

7 A. Correct.

8 Q. And so this would -- when Doe made

9 a third-party complaint as to eyewitness Doe

10 and the six others who were abused the year

11 before, The Citadel's duty under Title IX

12 requiring it to take immediate action to

13 eliminate the harassment, prevent its

14 recurrence, and address its effects applied

15 to the many others, not just Doe, correct?

16 A. Correct.

17 Q. All right. Now, over on page -- I

18 think it's about -- it would be page 15.

19 These numerals are hard to see. Where it

20 says, "What Really Matters," at the top.

21 "Designate Title IX Coordinator," right?

22 A. Yep.

23 Q. All right. And The Citadel had done

24 that by 2007, correct? They had a Title IX

25 coordinator, right?

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A. Correct. I believe that's accurate.

Q. Yeah. And you say what really matters is that the Title IX coordinator's: "Responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints," correct?

A. Correct.

Q. You would agree with me that the Title IX coordinator at The Citadel didn't oversee those allegations and the investigation of them by Mark Brandenburg, correct?

A. That is correct.

Q. That would be a violation of Title IX, correct?

A. It would be a violation of this, correct.

Q. And further down, I think it's about three pages over, under "Preparing to Investigate."

A. Yes, sir.

Q. It says -- the third bullet point

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
)
 MOTHER DOE A,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

COPY

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
)
 JOHN DOE CAMPER,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
)
 JOHN DOE 2,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

VOLUME I VIDEOTAPED DEPOSITION OF:
JENNIFER CLAIRE GARROTT



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6 Plaintiff,)	6 ERRATA SHEET 156
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8 THE CITADEL,)	8 INDEX OF EXHIBITS
9 Defendant.)	9 (No exhibits were offered or marked
10	10 for identification.)
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Page 3	Page 5
1 APPEARANCES	1 STIPULATIONS
2 REPRESENTING THE PLAINTIFF MOTHER DOE A:	2 It is hereby stipulated and agreed by and
3 LOUIS P. HERNS, ESQUIRE	3 between the parties hereto, through their
4 KRISTIN BATES FEHSENFELD, ESQUIRE	4 respective counsel, that the reading and signing
5 (via telephone)	5 of the transcript is reserved by the Deponent.
6 Pierce Herms Sloan & Wilson, LLC	6 MR. HERNS: Before we turn on the video,
7 321 East Bay Street	7 why don't we go on the record. This is the
8 P.O. Box 22437	8 deposition of Jenni Garrott in the Doe cases
9 Charleston, South Carolina 29401	9 versus The Citadel. I have talked with Mr.
10 louisherms@pshslaw.com	10 Stoney concerning the exhibits that will be
11	11 used during the deposition. The exhibits will
12 REPRESENTING THE PLAINTIFFS JOHN DOE CAMPER, JOHN	12 not be marked during the course of the
13 DOE 2, MOTHER DOE 2:	13 deposition. They will be referred to by their
14 JAMES B. MOORE, III, ESQUIRE	14 Bates stamp number -- most of them, you have
15 McLeod Law Group	15 Bates stamp numbers on them -- or will be
16 134 Meeting Street, Suite 160	16 identified so that they can be found and
17 Charleston, South Carolina 29401	17 reviewed. I have copies of all of the
18 james@mcLeod-lawgroup.com	18 exhibits for Mr. Stoney, a copy for the
19 REPRESENTING THE CITADEL:	19 witness as well. And so while they will not
20 RANDELL C. STONEY, JR., ESQUIRE	20 be attached and marked to the deposition, they
21 Barnwell, Whaley, Patterson & Helms	21 are exhibits to the deposition, nonetheless.
22 288 Meeting Street, Suite 200	22 Is that your agreement, Mr. Stoney?
23 Charleston, South Carolina 29401	23 MR. STONEY: That is correct.
24 rstoney@barnwell-whaley.com	24 MR. HERNS: We also have an agreement
25	25 that during the course of the deposition minor

2 (Pages 2 to 5)

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Page 54	Page 56
<p>1 Bates made the decision to fire this individual? 2 A. Correct. 3 Q. Okay. And you would agree that he did a 4 fairly complete investigation, talking -- 5 interviewing several people, including the person 6 who was ultimately fired? 7 A. I -- I can't quite flow with what's 8 going on, so I can't say really. But -- 9 Q. It seems -- 10 A. Hand (sic), blow job, I mean, that -- 11 yes. 12 Q. It seems pretty straightforward to me. 13 At 7:50 he started talking with the girl involved. 14 At 8:04, he talked with another lady at the camp. 15 At 8:15, he talked with another lady at the camp 16 and made notes. 8:25, he talked with the first 17 girl or lady that he talked with for another five 18 minutes. And then he brought in the person that 19 was fired at 8:39, and that concluded at 8:54. 20 So my question is, Mr. Bates did an 21 investigation of the allegations, wrote notes 22 about it, put them in the terminated employee's 23 file, and he was terminated for violating the 24 sexual portion of the Code of Conduct? 25 A. Right.</p>	<p>1 Box 235-02 through 009. Reports concerning the 2 camp would be made on a regular basis to the Board 3 of Visitors for The Citadel? 4 A. Repeat that again. I'm sorry. I was 5 reading. 6 Q. The Citadel Summer Camp would make 7 reports to the Board of Visitors concerning the 8 activities of the summer camp? 9 A. Correct. 10 Q. And that information would be compiled 11 by you or -- and/or Mr. Bates, which would then be 12 given to Colonel Lackey, who would make the report 13 to the Board of Visitors? 14 A. Well, we would give it to the 15 Commandant, who then would give it to the 16 President, who would then give it to the Board of 17 Visitors, from what I understand. 18 Q. Okay. But you all would compile the 19 information and it would be passed on -- 20 A. Yes, sir. 21 Q. -- to the Board of Visitors? 22 A. Yes, sir. 23 Q. So the Board of Visitors was aware of 24 the activities of The Citadel Summer Camp and knew 25 that it was operating, and was aware of what was</p>
Page 55	Page 57
<p>1 Q. Do you agree with that? 2 A. Yes. I don't recall this incident, but 3 it looks like that is what happened. 4 Q. And Mr. Bates, as we noted, on 0047, 5 checked that this employee would be eligible for 6 rehire, the first -- the second page? 7 A. Okay. Okay. 8 Q. That's correct? 9 A. Yes, sir. 10 Q. And so when a counselor was going to be 11 terminated for cause, an investigation would be 12 done, it would be documented, and it would stay in 13 the camp files; and the person who was being 14 terminated, it would be in his file? 15 A. It should be, yes. 16 Q. Okay. Okay. I'm handing you the next 17 document. 18 THE VIDEOGRAPHER: Off the record at 19 11:07. 20 (The deposition went off the record.) 21 THE VIDEOGRAPHER: On the record at 22 11:07. 23 BY MR. HERNES: 24 Q. I've handed you documents in a folder 25 labeled 1999 BOV/Consent Order Updates, Citadel</p>	<p>1 taking place with regards to the camp? 2 A. Yes. 3 Q. Okay. We're done with that document. 4 I've handed you a document; the file folder was 5 2000-Office Correspondence, Citadel Box 263-006 6 through 0013. I'll give you a minute to look 7 through that. 8 A. Yes, sir. 9 Q. Okay. This was dealing with a problem 10 camper? 11 A. Uh-huh (indicating an affirmative 12 response). 13 Q. And ultimately, the camper, who is -- 14 his name appears on the very first line of 007, he 15 was removed from the camp by his mother? 16 A. Yes. 17 Q. And part of the -- there were some 18 disciplinary problems with this camper, cussing at 19 the counselors, refusing to clean up his room, 20 fighting, just various problems, doesn't listen; 21 and on one occasion, one of the counselors, Jeremy 22 Higgins (sic), grabbed him by the arm and put him 23 in a chair, correct? 24 A. Yes. 25 Q. Okay. And then the senior counselor,</p>

CONFIDENTIAL

1

1 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON
2 COUNTY OF CHARLESTON PLEAS FOR THE NINTH
3 MOTHER DOE A, JUDICIAL CIRCUIT
4 Plaintiff, C/N: 2011-CP-10-9200
5 vs.
6 THE CITADEL,
7 Defendant.

8 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON
9 COUNTY OF CHARLESTON PLEAS FOR THE NINTH
10 JOHN DOE CAMPER, JUDICIAL CIRCUIT
11 Plaintiff, C/N: 2012-CP-10-1860
12 vs.
13 THE CITADEL,
14 Defendant.

15 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON
16 COUNTY OF CHARLESTON PLEAS FOR THE NINTH
17 JOHN DOE 2, JUDICIAL CIRCUIT
18 Plaintiff, C/N: 2012-CP-10-1858
19 vs.
20 THE CITADEL,
21 Defendant.

22 DEPOSITION OF: CAMPER DOE 6
23 DATE TAKEN: March 4, 2014
24 TIME: 11:40 a.m. - 5:55 p.m.
25 PLACE: Courtyard Jacksonville
4670 Lencir Ave., South
Jacksonville, Florida



A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

Page 2	Page 4
1 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON 2 COUNTY OF CHARLESTON PLEAS FOR THE NINTH 3 MOTHER DOE 1, on behalf JUDICIAL CIRCUIT 4 OF JOHN DOE 3, C/N: 2013-CP-1859 5 Plaintiff, 6 vs. 7 THE CITADEL, 8 Defendant. 9 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON 10 COUNTY OF CHARLESTON PLEAS FOR THE NINTH 11 JOHN DOE, A MINOR, BY JUDICIAL CIRCUIT 12 HIS GUARDIAN AD LITEM, C/N: 2013-CP-10-4770 13 JOHN ROE, 14 Plaintiffs, 15 vs. 16 THE CITADEL, 17 Defendant. 18 STATE OF SOUTH CAROLINA IN THE COURT OF COMMON 19 COUNTY OF CHARLESTON PLEAS FOR THE NINTH 20 CAMPER DOE 6, JUDICIAL CIRCUIT 21 CASE NO.: 2013-CP-5247 22 Plaintiff, 23 vs. 24 THE CITADEL, 25 Defendant. 26 TAKEN BEFORE: Linda J. Reumer, RCR and Notary 27 Public, A. William Roberts Reporting	1 2 3 4 I-N-D-E-X. 5 6 Direct Examination by Mr. Stoney Page 5 7 Cross-Examination by Mr. Hems Page 228 8 Redirect Examination by Mr. Stoney Page 241 9 Recross Examination by Mr. Hems Page 245 10 Further Redirect by Mr. Stoney Page 246 11 EXHIBITS 12 DEFENDANT'S FOR IDENTIFICATION PAGE 13 Exhibit No. 1 169 14 Exhibit No. 2 176 15 Exhibit No. 3 181 16 17 18 19 20 21 22 23 24 25
Page 3	Page 5
1 2 3 4 A P P E A R A N C E S: 5 6 7 LOUIS P. HERNES, Esquire 8 of the law firm of 9 PIERCE, HERNES, SLOAN & WILSON, LLC 10 321 East Bay Street 11 CHARLESTON, SC 29401 12 (843) 722-7733 13 appearing on behalf of the Plaintiff. 14 15 16 17 RANDHELL C. STONEY, JR., Esquire 18 and 19 CHRISTOPHER KOVACH, Esquire 20 of the law firm of 21 BARNWELL, WHALEY, PATTERSON & HBLMS LLC, 22 288 Meeting Street, Suite 200 23 Charleston, SC 29401 24 (843) 577-7700 25 appearing on behalf of the Defendant.	1 STIPULATION 2 It was stipulated and agreed by, and between 3 counsel for the respective parties, and the 4 witness, that the reading and signing of the 5 deposition by the witness not be waived. 6 7 CAMPER DOE 6 8 having been produced and first duly sworn as a 9 witness, was examined and testified as follows: 10 DIRECT EXAMINATION 11 BY MR. STONEY: 12 Q Camper Doe 6, my name is Randell Stoney. 13 I represent The Citadel and I'm here today to ask 14 you some questions about this lawsuit that you 15 filed. A couple of ground rules -- have you ever 16 given a deposition before? 17 A No, sir. 18 Q All right. Well, it's important that you 19 understand my question, that I understand your 20 answer, but more importantly, that the court 21 reporter understands both of us so that the record 22 is clear. For that reason, we need to wait until 23 one is finished before the other begins, does that 24 make sense? 25 A Yes, sir.

Page 142

1 A Oh. His house, the upstairs room. There
2 is only one upstairs room. The rest was on the
3 bottom floor, ground floor.
4 Q And other than what you've talked about,
5 about him measuring you, was the abuse that you
6 referenced, watching pornography and
7 masturbating?
8 A Yes, sir.
9 Q Okay. All right. Now, so we go through
10 February of 2005 when you came to visit the
11 college, you stayed with ReVille, and nothing
12 happened at that time.
13 A No, sir.
14 Q So then you then come back to The Citadel
15 as a counselor in the summer of 2005.
16 A Yes, sir.
17 Q And tell me -- tell me what happened.
18 Tell me about that summer, was that summer good,
19 was it bad, what happened?
20 A It was -- it was okay at first. I went
21 to France. Went to France for about a month, maybe
22 a little more. And then I came back just in time
23 for the second session so I worked there.
24 We had a training, a new type of
25 training, at least that I hadn't seen, where the

Page 143

1 lady was talking about rape and pedophilia and how
2 to do it -- or how to recognize pedophiles, a lot
3 of -- you know, adult who spends a lot of time with
4 kids, and doesn't like to spend time with adults.
5 And even went so far as saying an adult minor with
6 him -- I'm sorry -- an adult exposing himself, you
7 know, to a minor is a crime, you know, and that if
8 any of that is caught, they should be turned in to
9 law enforcement, all that stuff.
10 And I also learned that it was a felony
11 not to report sexual abuse. And I was 18 and kind
12 of afraid, because I'm starting to realize now that
13 Mr. ReVille has sexually abused me and I might go
14 to jail for a felony, is kind of how I was
15 thinking.
16 But I still cared a lot about the man, so
17 while it took a two weeks of working there before I
18 finally mustered the courage to go speak with the
19 one person I trusted, Ms. Jenni Garrott. And so I
20 asked Ms. Garrott, I said, May I speak with you
21 about something? And she said, No problem.
22 And we sat down in a room and we faced
23 each other and I said, Well, I needed to speak with
24 you about Skip ReVille. And she said, Well, I --
25 she just completely changed her demeanor and said,

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1 Well, Camper Doe 6, I have to -- I have to go do
2 something. She started stuttering a lot. And then
3 asked me to go back to my room and she'll come talk
4 to me. I was on my free period, I believe it was
5 called.
6 So I went back to my room, about 40
7 minutes to an hour later, a man named Patrick Reid
8 came in, knocked on the door and said he needed to
9 speak with me. And we walked out to the middle of
10 the parade deck and he fired me an hour after I
11 tried to turn Skip in.
12 Q I'm going to -- I want to make certain
13 I've got some of the -- some of the terms correct.
14 So about two weeks into the session in 2005, you
15 approach Jenni Garrott about wanting to talk to her
16 about something; is that correct?
17 A About Skip ReVille.
18 Q Okay. But you didn't tell her it was
19 about Skip ReVille until you gotten --
20 A Exactly.
21 Q In other words, when -- what I understand
22 you to have told me is that when you brought his
23 name up, that's when her demeanor changed.
24 A Yes, sir. Absolutely.
25 Q All right. Now, do you remember what

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1 time of day it was?
2 A I think around 3:00, 4:00, 5:00 it was,
3 because it got dark a few hours after I was fired,
4 so...
5 Q And so then Patrick Reid came to your
6 room.
7 A Yes, sir.
8 Q And what -- who was Patrick Reid?
9 A He was the -- I believe he was the new
10 senior counselor.
11 Q All right.
12 A The year before he was the assistant
13 senior counselor, Moe Baldwin was the senior
14 counselor, but Moe Baldwin moved on to greener
15 pastures, so I believe he filled in his shoes,
16 Patrick Reid. So I guess that's why he did it; I
17 don't know.
18 Q So Patrick Reid came to your room, and
19 tell me again what happened.
20 A He knocked on my door, I said, Come in.
21 He opened the door. I was listening to music very
22 loud so I turned the music down. And I said, Is
23 everything going okay? And he says, Not really.
24 Can you come talk to me for a second? I'm like,
25 Sure.



Office of the General Counsel

May 16, 2007

Small text at the top right of the page.

David Abramaitis
Claims Manager
Insurance Reserve Fund
1201 Main Street, Suite 500
Columbia, SC 29201

VIA U.S. Mail and E-mail to dabramaitis@irf.sc.gov

Re: [Redacted]

Dear David:

This letter is to provide additional information in support of our telephone conference of last week. As I said on the phone, The Citadel was recently contacted by [Redacted] a graduate of the school, concerning his [Redacted] was a camper at the now defunct Citadel Summer Camp for Boys / Citadel Summer Camp. According to Camp records, [Redacted] attended the camp from [Redacted] and then served as a counselor-in-training / junior counselor in [Redacted].

I spoke with [Redacted] initially, and subsequently with [Redacted]. Both allege that during one summer, [Redacted] and another camper were coerced by a counselor into the counselor's room, where the counselor showed them pornographic movies and convinced them to masturbate. [Redacted] alleges the counselor watched the movies and masturbated as well. Importantly, however, [Redacted] specifically said that the counselor never touched him or the other camper. [Redacted] alleges that the counselor engaged in this activity frequently, though, and with many other campers. [Redacted] experienced it once.

Based on the information [Redacted] has provided, which includes the first name of the counselor (though not the last name) and an allegation that it was that counselor's second year working for the camp, my research indicates this activity could have occurred in 2002. [Redacted] would have been [Redacted] years old at the time [Redacted] currently [Redacted] years old. During our conversation, [Redacted] admitted that he has never revealed these allegations to anyone. His father verified that statement. However, the father alleges that, prior to this incident, [Redacted] was a happy, well-adjusted boy who earned good grades in school while presenting few, if any, disciplinary problems. After the summer of 2002, he claimed [Redacted] became disruptive, and that his grades plummeted. [Redacted] claims they have spent "thousands of dollars" attempting to correct [Redacted] behavior, with no success. [Redacted]

[Redacted] called the school and attempted to inform Lt Gen Rosa, President of The Citadel, of these allegations. Lt Gen Rosa's secretary took the call initially, and I responded on behalf of the president. I have spoken with [Redacted] twice and [Redacted] once. To my knowledge, no other representative has spoken with either of the [Redacted].



CITADEL 000380 THE CITADEL 000234 (FOIA 2011)

David A. Brandburg
May 16, 2007

Page 2 of 2

[redacted] stated that he wanted the school to know about this incident, and to know that an apparent predator was once affiliated with the school. He suggested that the school take a statement from [redacted] he also described the troubles that he and his wife have had in raising [redacted] as outlined above. He did not say that he plans to file some type of claim against the school, but he did not rule out the possibility, either.

As you know, the standard statute of limitations for an injury allegedly suffered by a minor would begin to run on the day the minor turns eighteen (18) and would expire on that individual's nineteenth (19th) birthday. However, in 2001, the South Carolina General Assembly enacted S.C. Code Ann. § 15-3-553, which provides:

An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty-one years of age or within three years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual abuse or incest, whichever occurs later.

(emphasis added). Pursuant to this statute, the limitations period would not begin to run until [redacted] realized the harm which allegedly resulted from the incidents he claims occurred in 2002. [redacted] were to file a lawsuit, we could expect him to argue that he did not reach that realization until the day his father called the school.

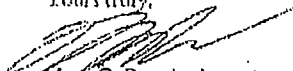
At the time I spoke with [redacted] they had not retained counsel. Moreover, [redacted] was eager that The Citadel "hear [redacted] story." As a result, The Citadel believes that someone should meet personally with [redacted] and his parents, and record a detailed statement of his allegations.

[redacted] live in [redacted], therefore there will be some expense involved in this effort. As we discussed on the phone, though, I would be happy to undertake this effort, as a special investigator for the IRF. As you know, I handled the pre-suit investigation of the Arpaio-related matters, as well as the majority of the discovery after those cases were filed. I continued to work on those cases once I assumed my role at The Citadel as general counsel. Thus, I already have experience in investigations of this type. I also have extensive knowledge of the camp from this time period, as [redacted] allegations overlap the period involved in the Arpaio cases. The Citadel recognizes that the IRF's funding of this investigation would be unusual. However, the school believes it would be beneficial to both the IRF and the institution, and the most likely approach to lead to a quick and inexpensive resolution of this claim.

Please let me know if the IRF will support this approach. I will be happy to answer any questions you might have, and to provide any additional information, as you should require.

With best regards, I am,

Yours truly,


Mark C. Brandenburg
General Counsel

MCB:jbs

cc: Lt. Gen. John W. Ross, USAF (Retired)

CITADEL 000381

THE CITADEL 0000235
(FOIA 2011)

May 16, 2007

E-mail: mark.brandenburg@citadel.edu

David Abramowitz
Claims Manager
Insurance Reserve Fund
1201 Main Street, Suite 500
Columbia, SC 29201

VIA U.S. Mail and E-mail to dabram@irf.sc.gov

Re: [REDACTED]

Dear David:

This letter is to provide additional information in support of our telephone conference of last week. As I said on the phone, The Citadel was recently contacted by [REDACTED] graduate of the school, concerning his son [REDACTED] as a camper at the now defunct Citadel Summer Camp for Boys / Citadel Summer Camp. According to Camp records, [REDACTED] attended the camp from [REDACTED] and then served as a counselor-in-training / junior counselor [REDACTED]

I spoke with [REDACTED] initially, and subsequently with [REDACTED]. Both allege that during one summer [REDACTED] and another camper were coerced by a counselor into the counselor's room, where the counselor showed them pornographic movies and convinced them to masturbate. [REDACTED] alleges the counselor watched the movies and masturbated as well. Importantly, however, [REDACTED] specifically said that the counselor never touched him or the other camper. [REDACTED] also alleges that the counselor engaged in this activity frequently, though, and with many other campers. [REDACTED] only experienced it once.

Based on the information [REDACTED] provided, which includes the first name of the counselor (though not the last name) and an allegation that it was that counselor's second year working for the camp, my research indicates this activity could have occurred in 2002. [REDACTED] would have been [REDACTED] years old at the time [REDACTED] currently [REDACTED] years old. During our conversation, [REDACTED] admitted that he has never revealed these allegations to anyone. His father verified that statement. However, the father alleges that, prior to this incident, [REDACTED] was a happy, well-adjusted boy who earned good grades in school while presenting few, if any, disciplinary problems. After the summer of 2002, he claims [REDACTED] became disruptive, and that his grades plummeted. [REDACTED] claims they have spent "thousands of dollars" attempting to correct [REDACTED] behavior, with no success. [REDACTED] was recently denied admission to The Citadel for membership in the class [REDACTED]

[REDACTED] called the school and attempted to inform Lt Gen Rosa, President of The Citadel, of these allegations. Lt Gen Rosa's secretary took the call initially, and I responded on behalf of the president. I have spoken with [REDACTED] and [REDACTED]. To my knowledge, no other representative has spoken with either of [REDACTED]

CITADEL 000382

THE CITADEL 0000236
(FOIA 2011)

David Abramowitz
May 16, 2007

Page 2 of 2

[REDACTED] stated that he wanted the school to know about this incident, and to know that an apparent predator was once affiliated with the school. He suggested that the school take a statement from [REDACTED]. He also described the trouble that he and his wife have had in raising [REDACTED] as outlined above. He did not say that he plans to file some type of claim against the school, but he did not rule out the possibility, either.

As you know, the standard statute of limitations for an injury allegedly suffered by a minor would begin to run on the day the minor turns eighteen (18) and would expire on that individual's nineteenth (19th) birthday. However, in 2001, the South Carolina General Assembly enacted S.C. Code Ann. § 15-3-555, which provides:

An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty-one years of age or within three years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual abuse or incest, whichever occurs later.

(emphasis added). Pursuant to this statute, the limitations period would not begin to run until [REDACTED] realized the harm which allegedly resulted from the incidents he claims occurred in 2002. If [REDACTED] were to file a lawsuit, we could expect him to argue that he did not reach that realization until the day his father called the school.

At the time I spoke with the [REDACTED], they had not retained counsel. Moreover, [REDACTED] was eager that The Citadel "hear [REDACTED] story." As a result, The Citadel believes that someone should meet personally with [REDACTED] and his parents, and record a detailed statement of his allegations.

The [REDACTED] live in [REDACTED], therefore there will be some expense involved in this effort. As we discussed on the phone, though, I would be happy to undertake this effort, as a special investigator for the IRF. As you know, I handled the pre-suit investigation of the Arpaio-related matters, as well as the majority of the discovery after those cases were filed. I continued to work on those cases once I assumed my role at The Citadel as general counsel. Thus, I already have experience in investigations of this type. I also have extensive knowledge of the camp from this time period, as [REDACTED] allegations overlap the period involved in the Arpaio cases. The Citadel recognizes that the IRF's funding of this investigation would be unusual. However, the school believes it would be beneficial to both the IRF and the institution, and the most likely approach to lead to a quick and inexpensive resolution of this claim.

Please let me know if the IRF will support this approach. I will be happy to answer any questions you might have, and to provide any additional information, as you should require.

With best regards, I am,

Yours truly,

Mark C. Brundenberg
General Counsel

MCB:jhs

CITADEL 000383

THE CITADEL 0000237
(FOIA 2011)

David Abromzini
May 16, 2007

Page 2 of 2

cc: Lt Gen John W. Rosa, USAF (Retired)

CITADEL 000384

THE CITADEL 0000238
(FOIA 2011)

10:24:19 1

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11

RE: SUMMER CAMP INTERVIEW

JULY 1, 2007

12

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10:24:19 15

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CITADEL 000387

THE CITADEL 000287
(FOIA 2011)

11:34:33 1 with , and he ordered Chinese food and --
2 Q. Did anybody -- let me just stop you for a
3 second.
4 Did anybody go with you the first night?
5 A. .
6 Q. ? Bought food and talked?
7 A. That's right.
8 Q. Okay. Nothing -- nothing else happened?
9 A. No.
10 Q. Okay. Okay.
11 A. A few nights later we went back to
12 room. He ordered Chinese food.
13 Q. Okay.
14 A. And then he started telling us that he wanted
11:35:03 15 us to spend the night in his room.
16 Q. Okay.
17 A. And he just said, you know, you guys can stay
18 the night here. You'll stay the night here.
19 Then he started showing us things on the
20 computer. He wanted us to go to the computer. He
21 started showing us things. He started bringing up
22 pornographic videos, and then he started talking about
23 masturbation and how masturbating makes your penis
24 smaller and all these weird things.
25 Q. Okay.

CITADEL 000531

THE CITADEL 0000431
(FOIA 2011)

11:35:34 1 A. And he at that time pulled out his penis and
2 started masturbating and asked us to join him, and I
3 got up, said I was tired, went to the bed and just
4 said I was going to fall asleep and --

5 Q. Okay.

6 A. -- just go to sleep.

7 Q. This was in his room?

8 A. That's right.

9 Q. Okay.

10 A. He -- he kind of got a little aggressive and
11 was asking me to come back to the computer and join
12 them --

13 Q. All right.

14 A. -- which I ended up doing.

11:36:14 15 Q. Was over there with him?

16 A. That's right.

17 Q. Okay. And had he joined?

18 A. That's right.

19 Q. Okay.

20 A. And I did it. Immediately after, I felt
21 completely violated.

22 Q. Okay.

23 A. I mean, it was just a horrible experience for
24 me. I didn't tell anyone until this year.

25 Q. Okay.

11:36:43 1 A. But like I said, it only happened to me one
2 time.

3 Q. Okay.

4 A. I know there are about five other kids that
5 experienced it a few times.

6 Q. Okay.

7 A. He made it seem as if it was completely
8 normal.

9 Q. Okay.

10 A. And he totally treated these campers like --
11 he played favorites.

12 Q. Okay.

13 A. After that incident, I kind of crossed over
14 to the dark side, I guess you could say. I started
11:37:20 15 doing horribly in school.

16 Q. Okay.

17 A. It led to drug use and -- you know,
18 cigarettes, alcohol.

19 Q. All right.

20 A. And for the longest time, you know, I just
21 thought it was my fault, maybe that I was a bad
22 person, but I grew up, and I looked back on it, and,
23 you know --

24 Q. Okay.

25 A. -- I realized who the bad guy was.

CITADEL 000535

THE CITADEL 0000435
(FOIA 2011)

11:41:48 1 Q. So he told you in 2002 --
2 A. That it started in --
3 Q. -- that it started in 2001?
4 A. That's right.
5 Q. Okay.
6 A. And I -- I believe there are five kids,
7 including and , that were involved in that
8 the year before.
9 Q. And tell me why you think that there were --
10 why you say that there were five kids involved?
11 A. Well, I remember there was -- I remember it
12 was and , and then -- I also remember
13 another kid in this section that definitely did
14 mention was involved.
11:42:17 15 Q. Okay.
16 A. I just can't remember his name. I wasn't
17 good friends with this kid.
18 Q. Okay. If you saw a list of names, would you
19 be able to pick it out?
20 A. I might be able to.
21 Q. Okay.
22 A. But, yeah, I -- -- and he talked
23 about it like it was him and a few other kids.
24 Q. Okay.
25 A. And the year that -- the year that it

CITADEL 000545

THE CITADEL 0000445
(FOIA 2011)

11:42:40 1 happened to me, I noticed that there were younger kids
2 coming in and out of room a lot.

3 Q. Okay.

4 A. I mean, you know, I'd go over there, and
5 there would be younger kids leaving the room that he
6 had just bought food for and stuff like that. I'm --
7 I don't know what, you know, that was all about but --

8 Q. This was in 2001 or in 2002?

9 A. 2002.

10 Q. In 2002? Okay. All right.

11 A. was a 2001.

12 Q. Okay.

13 A. In 2002, he was actually moved to a very head
14 position in the camp.

11:43:12 15 Q. Okay. In 2001, do you know where it is that
16 lived?

17 A. He lived -- he lived in a small room.

18 Q. Okay.

19 A. It might have been the second floor.

20 Q. Okay.

21 A. I don't know, though. I had no idea of
22 existence in 2001.

23 Q. Fair enough.

24 How about in 2002?

25 A. In 2002, he lived in the huge room.

11:44:09 1 Q. () Okay. Did he have a
2 roommate that year?
3 A. I don't believe he did.
4 Q. Okay. Was there anybody -- well, you said
5 this only happened to you once.
6 A. That's right.
7 Q. Okay. And it was you and . Were there
8 any other counselors in the room?
9 A. There were none.
10 Q. Were there any campers in the room?
11 A. No.
12 Q. Okay. And you didn't tell anybody about
13 this?
14 A. I told no one.
11:44:36 15 Q. Okay. Why not?
16 A. I felt violated. I was embarrassed to tell
17 people.
18 Q. Okay. Okay. And you said you saw younger
19 campers going into his room at times?
20 A. That's right.
21 Q. When did you see that?
22 A. Just during camp.
23 Q. Okay. What time of day did this occur?
24 A. Night.
25 Q. Nighttime? Do you remember -- I mean, was it

CITADEL 000551

THE CITADEL 0000451
(FOIA 2011)

12:14:30 1 Q. Why he picked you.
2 A. No, not at all.
3 Q. Okay. How about ? Did he ever give you
4 any explanation?
5 A. No.
6 Q. Do you know how many times it happened to
7 ?
8 A. I believe it happened a few times. Quite
9 often.
10 Q. Had it happened before it happened to you to
11 ?
12 A. Yes.
13 Q. Do you know if it happened afterwards --
14 A. I'm not sure.
12:14:56 15 Q. -- to him?
16 Okay. Do you know if it happened to
17 anybody else afterwards?
18 A. I'm not sure, but I wouldn't doubt it. I saw
19 kids coming in and out of his room --
20 Q. Okay.
21 A. -- at all hours.
22 Q. Okay. Okay. All right. And the first time
23 that you told anybody about this was when you told
24 your parents --
25 A. My mom.

12:18:02 1 is the problem.
2 Q. Okay.
3 A. is the problem.
4 Q. Okay.
5 A. I just -- I -- I -- I don't want him to do to
6 another kid what he did to me.
7 Q. Okay. Did you have a sense that he -- well,
8 I'll go in a different direction.
9 Is there anything that you want the
10 Citadel to do as a result of this?
11 A. I was put in a hole because of what happened.
12 Q. Uh-huh.
13 A. I've been trying really hard to get myself
14 out of this hole.
12:18:44 15 Q. Yeah.
16 A. I do expect some sort of compensation. I --
17 I don't believe I'm in position to say what.
18 Q. Uh-huh.
19 A. I mean, every step that I've taken out of
20 this hole that I was put in I've done by myself, on my
21 own.
22 Q. Yeah.
23 A. Most of all, the thing I want the most is
24 just to make sure that doesn't have a chance to
25 do this to anyone else.

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THE CITADEL 0000503
(FOIA 2011)

could have a check issued to me. I would appreciate it. I am also attaching a copy of the call transcript reporter in his report of 8/7/07. That is still outstanding. You will appreciate your issuing a check credit to that company.

Thank you again for all your cooperation in this matter. I am sorry we were not able to discuss it with a release. But I feel confident that we are well armed in this matter. I will be sure to make a check against the Citadel.

I hope you have a wonderful Thanksgiving!

Mark

Mark C. Brandenburg
Counselor
The Citadel
171 McIntosh Street
Dund Hall, Room 069
Charleston, SC 29404
(843) 953-3222 (office)
(843) 423-4468 (mobile)
(843) 953-3222 (fax)
markcbrandenburg@citadel.edu

From: Mark C. Brandenburg
Sent: Wednesday, August 08, 2007 10:06 AM
To: David Stuckey
Cc: Dan Harris
Subject: RE: [REDACTED]

David and Dan

I stopped [REDACTED] after my convention trip [REDACTED] at the end of June. I met with [REDACTED] (the former camper/complainant) and his parents. We talked for a couple of hours, and I recently received the rough draft of the interview. [REDACTED] received a copy as well, and has forwarded it on to his son. I have not received an e-rate sheet, however.

[REDACTED] will be happy to provide a more complete report later, and indeed, I will be happy to send an electronic copy of the transcript, if you wish. In short, though, I found [REDACTED] to be believable. His story remained the same as the one he related to me over the phone some time ago. He described one incident, in which [REDACTED] a fellow camper, convinced him to visit the room of a [REDACTED] at the summer camp. Once there, the counselor showed them pornography pictures on his computer and convinced the two campers to masturbate with him. [REDACTED] again specifically and emphatically stated that he was touched during the incident. Nonetheless, he says he felt "dirty" and ashamed as a result, and that his grades and general standard of life suffered tremendously afterward. He ultimately [REDACTED] through his eventual [REDACTED]

[REDACTED] is currently working at a grocery store in [REDACTED]. He seems happy with his life, and professes to be much more at peace with himself now that he has revealed this incident to his parents. He and his parents pursued series of visits with doctors, psychologists, psychiatrists, etc. which have finally subsided with the resolution.

Importantly, [REDACTED] identified the counselor without hesitation when I showed him pictures from the relevant time period. He had previously identified him only as "Skip." When I showed him pictures of the staff, though, he immediately identified Skip Raville, who was serving as the senior counselor during the year in question. Moreover, his identification of the barracks (the camp was in that year, and indeed, the room in which Raville was living was accurate. Skip, as I had reported before, denies all of this. However, Arpaio's initial denials were equally forceful, and unfortunately, ultimately proved totally false.

[REDACTED] was by far the most emotional of the three. She feels significantly unfairly toward the [REDACTED] and repeatedly said that he feels the school can do part of the solution, even as it was not [REDACTED]

THE CITADEL 0000224
(FOIA 2011)



the problem. He is a Citadel graduate however, and I suspect feeling much of the typical desire that graduates have to see their sons attend The Citadel. [REDACTED] seems interested in attending, but I'm not as interested as his father in seeing him attend.

Mark

Mark C. Brandenburg
General Counsel
The Citadel
171 Malcolm Street
Bond Hall, Room 369
Charleston, SC 29409
(843) 953-5252 (office)
(843) 473-8465 (mobile)
(843) 953-7592 (fax)
mark.brandenburg@citadel.edu

From: David Stuckey (mailto:dstuckey@irf.sc.gov)
Sent: Friday, June 15, 2007 3:48 PM
To: Mark C. Brandenburg
Cc: Dan Parris
Subject: [REDACTED]

Mark,

This email will confirm our telephone conversation on June 14, 2007 in which we discussed the above incident. During the conversation, we agreed that it would be in our best interest for you to meet with [REDACTED]. During this conversation with the [REDACTED] family, we agreed that a court reporter should be present in order to record the conversation for any possible litigation in the future. Even though a claim has not been filed with either The Citadel or the Insurance Reserve Fund, we would ask that the [REDACTED] family convey in writing their intentions and expectations regarding the investigation of this incident.

Once you have returned from that meeting, please give us a call.

Very respectfully,

David L. Stuckey, Jr.
Professional Liability Representative
South Carolina Insurance Reserve Fund
P.O. Box 11066
Columbia, SC 29211
Office: (803) 737-0028
Fax: (803) 737-3757

THE CITADEL 0000225
(FOIA 2011)

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, South Carolina 29409

3 July 2002

MEMORANDUM
NUMBER 9

THE CITADEL'S SEXUAL ASSAULT CRISIS INTERVENTION POLICY

1. INTRODUCTION:

The Citadel is a unique community in which students, faculty, staff, and administrators interact more closely than in most other institutions of higher learning. Centered around the Corps of Cadets, The Citadel strives to fulfill its mission of educating each cadet as a "whole person," seeking to promote academic excellence, strong military performance, and physical fitness, as well as exceptional character development and leadership training. The Citadel community strongly supports a policy that prohibits abuse of power by sexual assault. This unlawful act and the coercion, intimidation, and lack of respect it represents is the antithesis of The Citadel's mission, and this behavior will not be tolerated. **THE CITADEL WILL PUNISH ANY INDIVIDUAL(S) WHO IS FOUND TO HAVE COMMITTED A SEXUAL ASSAULT.** Furthermore, the College believes that preventive education is critical to both attempting to reduce the likelihood of sexual assault on campus and to supplementing the process of contemporary leadership development among cadets. Thus, The Citadel is committed to presenting a strong, ongoing sexual assault prevention program in an effort to educate all members of The Citadel Community. **THIS POLICY APPLIES TO ALL MEMBERS OF THE CITADEL COMMUNITY TO INCLUDE CGPS STUDENTS, FACULTY, AND STAFF.**

2. DEFINITIONS:

A. RAPE is defined as any sexual intercourse (i.e., anal, oral, or vaginal) however slight with any object without affirmative consent (see definition at 2c).

B. SEXUAL ASSAULT includes rape and all other forms of unlawful sexual behavior and contact which is not mutually agreed upon (i.e., penetration with a foreign object including a finger; oral or anal sex; unwanted touching on skin or through clothing; or touching an intimate part of another person such as their genitals, buttocks, or breasts) without affirmative consent.



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by all persons involved. Affirmative consent cannot be given in the following situations:

- 1) the person is unable to give consent (because the person is a minor under 18 years of age),
- 2) the person is unable to give consent because of his/her temporary or permanent mental handicap or physical incapacity such as a person who is under the influence of alcohol or drugs, who has "passed out" or "blacked out," and/or who is unconscious or semiconscious;
- 3) the person expressed by words or any other behavior a lack of agreement to engage in sexual activity;
- 4) the person having formerly consented to sexual activity subsequently expresses by words or any other behavior a lack of agreement to continue engaging in the sexual activity;
- 5) the person was induced to engage in sexual activity by the other person's
 - a. physical coercion,
 - b. abuse of position of power, trust, or authority; and/or use of artificial means (i.e., drugs such as Rohypnol),
- 6) and/or when the consent is expressed in words or conduct by a third party.

In summary, "No" means "No." The communication of "No" may be expressed verbally or nonverbally (i.e., physical resistance, body language, etc.). Rape and other forms of sexual assault are illegal, regardless of the relationship between the perpetrator and victim (i.e., acquaintance or date rape is as serious a crime as stranger rape).

3. GENERAL GUIDELINES OF THE SEXUAL ASSAULT CRISIS INTERVENTION POLICY:

A. Upon enrollment and/or during orientation and annually thereafter, The Citadel will make available to each cadet, CGPS student, faculty, and employee the following:

- 1) The Citadel's policies on Cadet dating, Cadet fraternization, sexual harassment, and sexual assault;

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2) information designed to reduce the risk of being sexually assaulted or committing sexual assault, (such information will also be displayed prominently on campus bulletin boards.);

3) guidelines which detail the range of formal and informal options for addressing a range of inappropriate behaviors including sexual assault; and

4) data on the prevalence of these crimes, both at The Citadel and in the local area.

B. The Citadel will make available educational programs to inform all students (both Cadets and CGPS), staff, and faculty in the campus community about the nature of sexual assault and sexual harassment. These programs are detailed in the annual Plan of Instruction (POI) for the Corps of Cadets. In addition, the following will be available:

1) Guest speakers, seminars, discussion panels, and/or drama troops may be utilized at various times in an attempt to maintain a preventive education program throughout the year.

2) Academic psycho-educational classes on drug and alcohol abuse, will be presented, which will include the discussion of the close relationship of substance use and sexual assault for all cadets.

3) Faculty, staff, and CGPS students may attend any of the above on a voluntary basis. Contact the Title IX Coordinator at 3-5252 for information.

C. Given that date/acquaintance rape is a particular problem on most college and university campuses, The Citadel will provide training and distribute literature, which focuses on assisting individuals who have been sexually assaulted. This program includes:

1) written protocol describing exact procedures for handling sexual assault cases (this policy);

2) written guidelines for seeking immediate medical and psychological treatment;

3) brochures which detail information about sexual assault and the options for addressing sex with assault in both a formal and informal manner; and

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4) procedures for coordinating the activities of campus and local law enforcement agencies.

D. The Citadel's policy encourages individuals who have been sexually assaulted to formally report the incident to a member of the college's administration or to a Citadel Public Safety official (Campus Police).

E. The Citadel strongly encourages all cadets, CGPS students, faculty, and staff who have experienced a sexual assault or sexual harassment or have knowledge of another person's sexual assault or harassment to report such knowledge to either the Campus Police, the Commandant of Cadets or his/her representative, one of the Deans, the Ombudsperson, the Counseling Center staff, a member of the campus clergy, Human Resources, or the EEO/AA/Diversity Director. The report will not include the name of the individual who has been sexually assaulted or sexually harassed without the individual's permission, except when there is a known or a perceived future threat of imminent physical harm to the individual or others. This report may be done anonymously.

4. IMMEDIATE GUIDELINES IN THE EVENT YOU ARE SEXUALLY ASSAULTED (Refer to Annex A):

5. DO's and DON'Ts IN SUPPORTING A SEXUAL ASSAULT VICTIM (Refer to Annex B):

6. DUTIES AND RESPONSIBILITIES OF CAMPUS PERSONNEL:

A. The persons and agencies suggested in Annex A, Paragraph 1, are recommended initial points of contact for individuals who have been sexually assaulted. It is important to remember, however, that anyone on campus has the potential to be the first contact with someone who has been sexually assaulted, and thus everyone must be familiar with certain information and requirements. First and foremost, it is important to respect the wishes of the individual who has been sexually assaulted, especially as to whether to file a formal complaint or criminal charges. The healing process begins with this individual's control of decision-making which may affect his/her life dramatically.

B. Initial Contact. The Citadel community must be prepared to be the first contact in a sexual assault case. Handling a difficult situation is not easy. The guidelines at Annex B dealing with DO's and DON'Ts, should be kept in mind. (NOTE: THIS LISTING OF DO's AND DON'Ts IS AVAILABLE IN WALLET-CARD FORMAT AND IS RECOMMENDED TO BE CARRIED BY ALL MEMBERS OF THE CITADEL CAMPUS COMMUNITY.)

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C. The Sexual Assault Response Coordinator (SARC) for The Citadel is the Director of Equal Opportunity/Affirmative Action/and Diversity. He/she will be assisted in these responsibilities by the Assistant Title IX Coordinators.

D. Sexual Assault Prevention Committee. This committee will consist of the Special Assistant to the President (Chair), Title IX Coordinator, Sexual Assault Response Coordinator, Director of Counseling Center, Citadel Physician, Assistant Commandant of Cadets for Administration and Coeducation, Director of Student Activities, Dean of Undergraduate Studies, Dean of CGPS, Director of Human Resources, Chaplain to the Corps of Cadets, and Director of Public Safety. Responsibilities:

- 1) Conduct annual review of this policy and recommend changes as required.
- 2) Review contents of annual education program on Sexual Assault and recommend changes as required.
- 3) Review annual statistics on Sexual Assaults on campus and in the local area to discuss trends and lessons learned.
- 4) Meet, as required; to discuss the latest educational material and issues related to Sexual Assault.

7. MYTHS AND REALITIES OF SEXUAL ASSAULT (Refer to Annex C):

8. PROCEDURES FOR FILING A SEXUAL ASSAULT COMPLAINT (Refer to Annex D):

9. FOLLOW-UP RESPONSIBILITIES IN THE AFTERMATH OF RAPE OR SEXUAL ASSAULT (Refer to Annex E):

10. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) AND THE CRIME AWARENESS AND CAMPUS SECURITY ACT OF 1990 (Refer to Annex F):

11. ADDITIONAL INFORMATION ON THE CITADEL'S SEXUAL HARASSMENT POLICY MAY BE FOUND IN MEMORANDUM 51, SEXUAL HARASSMENT, DATED 30 JUNE 2000:

12. RECOMMENDED CHANGES OR QUESTIONS REGARDING THIS POLICY SHOULD BE REFERRED TO THE CITADEL'S SEXUAL ASSAULT RESPONSE COORDINATOR/TITLE IX COORDINATOR AT 953-5252:

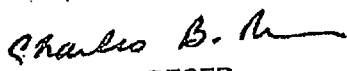
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13. RESCISSION:

Memorandum Number 6, dated 2 August 1999, is rescinded.

FOR THE PRESIDENT:

OFFICIAL


CHARLES B. REGER
Colonel, USAF, Retired
Executive Assistant to the President

Attachments:

- Annex A, Immediate Guidelines in the Event You are Sexually Assaulted
- Annex B, DO's and DON'Ts in Dealing with a Sexual Assault Victim
- Annex C, Myths and Realities of Sexual Assault
- Annex D, Filing a Sexual Assault Complaint
- Annex E, Follow-up Responsibilities in the Aftermath of Sexual Assault
- Appendix 1, Protocol for Responding to a Sexual Assault (Initial Contact Person)
- Appendix 2, Protocol for Responding to a Sexual Assault (Sexual Assault Response Coordinator)
- Appendix 3, Sexual Assault Incident Report Form
- Appendix 4, Sexual and Physical Misconduct Log
- Annex F, FERPA and the Crime Awareness and Campus Security Act of 1990

DISTRIBUTION:

B

6
CITADEL 0002533

**IMMEDIATE GUIDELINES IN THE EVENT YOU ARE
SEXUALLY ASSAULTED:**

1. **GO TO A SAFE PLACE AND NOTIFY SOMEONE IMMEDIATELY AND SEEK ADVICE.** The purpose of notifying someone immediately is for you to receive information regarding the options available to you after being sexually assaulted. The options include seeking medical care, seeking psychological assistance, requesting informal mediation, filing a formal complaint, and/or filing criminal charges. It may be helpful if a friend or neighbor accompanies you when you notify one of the resources listed below and on the next page. You are strongly urged to go to The Citadel Infirmery immediately after the incident. Medical procedures are in place to have you seen and evaluated promptly by a psychologist, a gynecologist, People Against Rape, etc. Medical decisions need to be made as soon as possible regarding evaluation and/or treatment of potential Sexually Transmitted Diseases (STD's), and whether to take the "morning after" birth control therapy. Counselors can help you decide whether you want to press charges, etc.

A. Resources to contact, in the recommended order for assistance and advice include:

- 1) The Citadel Infirmery: 953-6847
- 2) The Citadel Counseling Center: 953-6799; after hours via the Infirmery: 953-6847
- 3) The Citadel Public Safety: 953-5114 (available 24 hours a day)
- 4) Sexual Assault Response Coordinator (SARC): 953-5252
- 5) The Citadel Ombudsperson: 953-7953 *7367-8340 (cell)
- 6) The Citadel Chaplain to the Corps: 953-5049 *
- 7) Your Cadet Human Affairs Team Members

* (Weekday/Daytime number – 24 hours a day/voicemail capability)-

B. Additional resources for cadets to contact for assistance include:

- 1) the officer-in-charge (OC) in your battalion
- 2) your company or battalion tactical officer

Annex A

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3) your cadet chain of command

C. Off-campus resources to contact for assistance include:

- 1) Charleston Police Department: 911
- 2) "People Against Rape," a local, non-profit community agency specializing in assisting victims of sexual assault 24 hour phone # 722-RAPE
- 3) RAPE CRISIS CENTER -- Medical University of South Carolina Emergency Room (MUSC); 792-9127

2. DO NOT STRAIGHTEN OR CLEAN UP THE SCENE OF THE SEXUAL ASSAULT AND DO NOT BATHE, DOUCHE, OR CHANGE CLOTHES. The purpose of this guideline is to maintain any physical evidence of the sexual assault. If you choose to file a formal complaint or a criminal charge, physical evidence can support your complaint. If you clean up the scene of the sexual assault, or if you bathe, douche, or change clothes, you may destroy the evidence needed to support a formal complaint or criminal charge. For example, physical evidence from your clothing, skin, or blood, hair samples on your body, clothing or fabric from the scene of the assault, evidence under your fingernails, semen stains on you, your clothing, or from the scene of the assault, etc., can all be preserved and noted in a police report. Similarly, physical evidence includes any injuries sustained during the assault including bruises, abrasions, swelling, teeth marks, and lacerations that can be documented in a medical chart. Formal documentation of evidence and injuries in a police or medical chart can be critical if you choose to file either a formal complaint or a criminal charge.

3. WITH THE ASSISTANCE OF A QUALIFIED PROFESSIONAL, DECIDE WHETHER YOU WISH TO NOTIFY THE POLICE. A qualified professional may include a doctor, nurse, counselor, ombudsperson, either at The Citadel or off-campus. The Citadel strongly encourages individuals to formally report crimes. Keep in mind that reporting the crime does not require you to file criminal charges. Three key points include:

- A. You may be in shock immediately after the assault and find it difficult to think clearly. Obtaining assistance with decision making from a qualified professional is important. Reporting to police and preserving evidence will allow you to file criminal charges later should you choose to file charges.
- B. If you have a preference regarding the gender of the police officer you would like to speak with, state your preference clearly. Most police departments attempt to accommodate such requests to the greatest degree possible.

Annex A
Page 2

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C. Even if you do not file criminal charges, information provided to the police may help protect others. Remember, many perpetrators of sexual assault will attempt to commit this crime repeatedly.

4. HOSPITAL INFORMATION. If the sexual assault occurred within 72 hours of the incident, all Citadel personnel will encourage you to go to a hospital emergency room for a medical evaluation. Emergency room personnel consider individuals who have been sexually assaulted to be a high priority for evaluation, but keep in mind that life-threatening cases are their first priority, so you may have to wait. However, if you wait beyond 72 hours after the sexual assault, evidence may no longer be available and will make prosecution, if desired, at a later time very difficult. Some suggestions include:

A. bring a friend to wait with you, if possible

B. bring a change of clothes to wear after the medical evaluation, since the clothes worn during the assault will be taken, if you choose to request the collection of physical evidence. If you removed the clothes you were wearing at the time of the sexual assault, put them in a paper bag and bring them with you to the hospital.

5. THE PHYSICAL EXAM AT THE HOSPITAL. You most likely will be evaluated by an emergency room resident, physician, or a nurse practitioner for any injuries that may have occurred during the sexual assault. You will be taken to the General Clinical Research Clinic (GCRC) on the second floor, where you will be seen by a Sexual Assault Nurse Examiner, and receive an exam to assess possible internal injuries. Women may also have a blood sample taken in order to be tested for a preexisting pregnancy. Women and men may also have a blood sample taken in order to be tested for any sexually transmitted diseases. With regard to treatment, you will be offered treatment for external and internal injuries and medication to prevent and/or treat any possible sexually transmitted diseases. Women may be offered "morning after" birth control, in order to help prevent pregnancy which may result from a rape. During your visit, you may request to speak with a psychiatric nurse, psychologist, counselor, or social worker to help you begin to cope with the experience. If the sexual assault occurred more than 72 hours before you arrive at the hospital or if you refuse to open a police report, then you will be sent directly to the follow-up clinic for treatment.

6. THE COLLECTION OF PHYSICAL EVIDENCE AT THE HOSPITAL. You may request that a hospital staff member complete the procedure to collect physical evidence of the sexual assault. This procedure, which is sometimes referred to as completing a "rape kit," may involve photographing physical injuries, preserving samples of semen, blood or other bodily fluids, and/or collecting hair samples from your body or clothing. It is important to note that you can choose to receive medical treatment at a hospital and choose NOT to allow the collection of physical evidence of the sexual assault. A "rape kit" can only be opened if the victim agrees to filing a police report and less than 72 hours has elapsed from the time of the sexual assault and the victim's exam at the hospital.

Annex A
Page 3

CITADEL 0002536

**DO's AND DON'T's IN SUPPORTING A SEXUAL ASSAULT
VICTIM**

DO:

1. believe the victim; the time for investigation will come (as described in Annex C).
2. review the victim's options, then respect the choices regarding the options the victim wishes to implement.
3. help the victim if asked for assistance (e.g., if asked, call a resource person on the list in Annex A for the individual to talk to or to gain more information about options available).
4. be patient and supportive; do more listening than talking (it is not helpful to try to force someone to talk who is not ready).
5. keep in mind the myths and realities of sexual assault (See Annex C).

DON'T:

1. blame the victim for the sexual assault (e.g., "could'a, would'a, should'a" type statements), or imply blame due to alcohol/substance use (e.g., "this would never have happened if you weren't drinking").
2. judge the victim's decision-making; the complainant may be in shock as it is and may feel victimized all over again by such statements.
3. become angry with the individual for "allowing it to happen."
4. focus on asking the sexual details of the alleged assault.
5. make decisions or be overprotective; review all of the options, help the victim get in contact with the appropriate people, and support the final decisions.

Annex B

CITADEL 0002537

SOME COMMONS MYTHS ABOUT RAPE

- Myth:** "No" really means "Yes."
- Fact:** The rapist assumes that the victim really wants sex regardless of what he/she is really saying.
- Myth:** Rape is actually committed by a stranger.
- Fact:** Statistics show 70% to 90% are committed by someone the victim knows. On a college campus 80-90% of rapes are acquaintance rapes.
- Myth:** Some women "ask" to be raped, either because of their mode of dress, reputation or behavior.
- Fact:** Rape is a devastating experience! No one asks to be raped or wants to be hurt in that way.
- Myth:** Any victim could prevent rape if he/she wanted to. No one can be raped against their will.
- Fact:** No one can prevent rape, except a rapist. Studies have shown that in the majority of cases (87% in one study) rapists either had a weapon and/or threatened the survivor with death.
- Myth:** Acquaintance rape only happens in heterosexual relationships.
- Fact:** Rape can occur in any type of relationship including gay/lesbian ones. In addition, gays and lesbians can be vulnerable to homophobic violence including rape.
- Myth:** Women often "cry rape" to get back at a man. There is a high rate of false reporting.
- Fact:** Studies show that over 98% of rape reports are true reports. If a woman tells you she has been raped, believe her.
- Myth:** Rape/sexual assault only happens to women.
- Fact:** Men are also victims of rape. It is estimated that 10% of rapes occur to men.

Annex C

CITADEL 0002538

FILING A SEXUAL ASSAULT COMPLAINT

1. INFORMAL COMPLAINT.

A. Decide whether you wish to pursue informal mediation: You may choose to attempt to resolve your complaint through informal discussion about the behavior. Informal mediation usually involves a discussion with both the individual who is reporting the sexual assault and the individual(s) who is (are) the alleged perpetrator(s) of the assault, either alone or together, depending on the preference of the individual who is reporting the sexual assault. The discussions will include the following:

- 1) a verbal description of The Citadel's Sexual Assault Crisis Intervention Policy,
- 2) a verbal description of all the options available to the individual who is reporting the sexual assault, including a description of the process of filing a formal complaint and/or criminal charges,
- 3) recommendations regarding how the alleged perpetrator can change his/her behavior specifically to discontinue any behavior which may involve sexual assault or harassment, and
- 4) recommendations regarding how the individual who is reporting the sexual assault can respond if the alleged perpetrator's behavior does not change following the informal mediation.

B. Process of Informal Action. The Citadel Ombudsperson, a cadet commander, tactical officer, or other official who is approached by an individual who has been sexually assaulted (or on behalf of this individual) is expected to:

- 1) respond sensitively to the complaint (i.e., along the lines noted in the "DO's and DON'T's" in Annex B),
- 2) if the alleged victim requests, describe the process of seeking formal and informal action and the process of filing criminal charges,
- 3) provide information regarding all of the options available to the individual (described in Annex A),
- 4) if requested by the individual who has been sexually assaulted, initiate formal or informal actions (described in this annex): In this case, the individual who has allegedly been sexually assaulted will be asked for permission to give his or her name to the person against whom the claim is being made.

Annex D

CITADEL 0002539

NOTE: Anonymous complaints can only be pursued in general terms and are less likely to effect a behavior change. The person against whom the complaint has been made will be advised of the nature of the complaint and be allowed to respond. He or she will also be advised of the procedure for handling formal complaints in the event one is made. The goal of this meeting is to determine whether a problem exists, to agree on steps to rectify any identified problems, and to agree to prevent the situation from recurring. Both the individual who has been sexually assaulted and the individual against whom the complaint has been made will be notified in writing of the outcome of the informal meeting.

2. FORMAL COMPLAINT. DECIDE WHETHER YOU WISH TO FILE A FORMAL COMPLAINT:

A.

WITH WHOM DO YOU FILE COMPLAINT?		
If alleged Perpetrator is:	File complaint with:	Final action decided by:
Cadet	Commandant of Cadets	President
CGPS Student	Dean of CGPS	President
Faculty Member	Provost & VPAA	President
Citadel Employee (Non Faculty)	VP Finance & Business Affairs	President
Contractor working at The Citadel	VP Finance & Business Affairs	President

C. PROCESS OF FORMAL ACTION (CADETS). To initiate formal action, the individual who has been sexually assaulted notifies the office of the Commandant of Cadets. The Assistant Commandant for Discipline in conjunction with the Assistant Commandant for Administration and Coeducation will initiate a formal investigation within 3 working days of being notified of the complaint. If the investigation suggests that the matter should be further pursued, the matter will be referred to the Commandant (and law enforcement agencies, where indicated) for formal disciplinary action. In this way, The Citadel will fulfill its obligations to:

- (1) the complainant: to take the complaint seriously, to investigate the allegation thoroughly, and if it is substantiated, to take swift and effective action to initiate discipline and to prevent recurrence. In addition, the Assistant Commandant who is responsible for the initial investigation will verify that all the options available (as described in this Annex) have been reviewed with the complainant.
- (2) the accused: to protect the individual's due process rights.

*Annex D
Page 2*

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NOTE: If the Commandant of Cadets decides not to pursue the matter, a written statement of the reasons will be given to the complainant and to the person against whom the complaint has been made. A copy will also be provided to the President.

C. PROCESS OF FORMAL ACTION (FACULTY AND STAFF). The person against whom the complaint has been made has the right to have the complaint investigated impartially, the right to respond to the complaint and make his or her case, including the right to call for statements from witnesses. Complaints shown to be false, frivolous, or wildly exaggerated may result in disciplinary action against the complainant. In addition, the person appointed by the Provost & VPAA or the Vice President for Finance and Business Affairs, who is responsible for the initial investigation will review resources for support, such as medical treatment and/or counseling services, for the person against whom the complaint has been made. (SEE MEMORANDUM 51, paragraphs 13-14 for a detailed explanation of this process for faculty and staff).

D. PROCESS OF FORMAL ACTION (CGPS STUDENT). See procedures outlined in the College of Graduate and Professional Studies Catalog, pages 16 and 17.

3. COUNSELING/REHABILITATION. Incidents of sexual assault will be considered gross misconduct on part of the perpetrator and will be grounds for expulsion (for students) and termination of employment (for faculty and staff) from The Citadel. In very rare circumstances, where the conduct is less serious it may be sufficient for the perpetrator to receive other punishment (e.g., suspension, tours/confinements), to apologize, to promise not to re-offend, and to be warned about future conduct. Additionally:

- A. complainants will be protected against retaliation; allegations of retaliation will be investigated and dealt with under relevant disciplinary procedures.
- B. the confidentiality of individuals involved in a formal complaint will be protected to the greatest possible degree; only those officials investigating, treating, or disciplining the persons involved are generally considered to have a "need to know." This would include the following officials at The Citadel:

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- The President
- The Commandant (Cadet cases only), Dean of CGPS (CGPS Students cases only), Provost and VPAA, VP for Finance and Business Affairs (Faculty or Staff cases only)
- The Assistant Commandant or Investigating Officer Investigating the case
- The Infirmary Physician
- The Director of the Counseling Center
- The Title IX Coordinator
- The Director of Public Safety
- Tactical Officer or Vice President responsible for responding to allegations of retaliation
- The Vice President for Communications

C. If the complainant and the individual against whom the complaint has been made are in the same cadet company, the individual against whom the complaints have been made may be transferred to the Neutral Quarters until appropriate action has been taken by the Commandant's Department and/or the law enforcement authorities. If a determination is made that an assault of some type did occur, the individual will be permanently transferred to another battalion (if retained within the Corps of Cadets). If the complainant desires to transfer to another battalion, this will also be accomplished immediately.

D. the individual against whom the complaint has been made will be referred to the Counseling Center to receive information regarding counseling options available at the Counseling Center and with off-campus counselors. The individual will be offered opportunities to pursue counseling if he/she chooses to seek an increased understanding of his/her behavior. NOTE: That only students will be treated at the Counseling Center. All others must make their own arrangements for off campus health care providers.

E. The complainant will be offered information regarding available academic accommodations, including the following: assignment to a different section, a late withdrawal from a class, and/or options for medical discharge.

F. Faculty and staff may seek counseling assistance through The Citadel's Employee Assistance Program (EAP)

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FOLLOW-UP RESPONSIBILITIES IN THE AFTERMATH OF A SEXUAL ASSAULT

1. Case Management

- A. The person charged with conducting the investigation will update the appropriate Vice President, (the Commandant, Provost/Vice President for Academic Affairs, or Vice President for Finance and Business Affairs), at least weekly as to the status of the investigation. The Vice President will keep the President and the Vice President for Communications informed.
- B. The person charged with conducting the investigation will keep the complainant and the individual against whom the complaint has been made informed at least weekly as to the progress of the investigation.

2. Support for the Complainant and the individual against whom the complaint has been made

The person conducting the investigation will encourage the complainant and the alleged perpetrator to receive counseling to assist in coping with post-traumatic reactions to a sexual assault. Counseling resources include:

- A. The Citadel Counseling Center - 953-6799 (for currently enrolled students)
- B. People Against Rape - 722-RAPE (24 Hours)
- C. Off-campus private practice mental health professional. This option must be paid for by the complainant directly. For cadets, the Infirmary/Counseling Center will implement appropriate accommodations for off-campus psychological assistance such as securing transportation off campus, requesting special orders permitting travel off campus, etc. (NOTE: The Counseling Center has a list of off-campus mental health professionals)

3. Press Inquiries

- A. All inquiries from media personnel will be directed to The Citadel Public Affairs Office. No one from any other area or department should address sensitive topics of which they may have knowledge without the expressed permission of the President of the College.
- B. A Public Affairs official will field media inquiries but will neither confirm nor deny reports which have yet to be substantiated.
- C. Reports that are substantiated (i.e., charges have been filed with local police, the accused admits guilt, or the investigation leads to disciplinary action) will

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be acknowledged by a Public Affairs official, but names of the parties involved will not be disclosed.

- D. The Public Affairs Office will prepare a general statement at the end of each academic year, noting the numbers of formal complaints of sexual assault which were filed the preceding year. The statement will only list numbers of formal complaints investigated, the number of formal complaints substantiated, and the final outcome of each formal complaint. No names will be released as part of this report. **THIS INFORMATION WILL BE RELEASED IN RESPONSES TO SPECIFIC MEDIA INQUIRIES.**

4. Institutional Follow-up

- A. Data about the occurrence of sexual assault among cadets will be collected and analyzed each year. A copy of any complaint alleging sexual assault by a member of the Cadet Corps will be provided to and maintained by The Assistant Commandant for Administration and Coeducation, regardless of whether or not the complaint is substantiated. This will include those infractions where the cadet is charged with an offense under the Conduct infractions such as Conduct Unbecoming a Cadet or Bringing discredit Upon the Citadel, etc. An accounting of all formal and informal reports received by the Office of the Commandant, the Counseling Center, the Ombudsperson, the Title IX Coordinator, the infirmary, and Public Safety will be turned into the Director of Equal Opportunity at the end of each semester using the form at Annex E, appendix 4. These reports will include data on all students, faculty, staff, and visitors.
 - B. Analysis of the data will seek to pinpoint potential areas for improvement in education, training, and/or discipline within the Corps of Cadets (e.g., cases are found to come disproportionately from one company or one class), CGPS students, the faculty and/or The Citadel staff.
 - C. Nothing in this policy will prevent faculty, staff, or students from exercising their legal rights.
 - D. The Sexual Assault Response Coordinator (SARC) will collect all incident report forms and compile data on a regular basis (at least once annually).
5. The protocol for individuals to follow in responding to a sexual assault are **included at** appendix 1 and 2 to this annex.

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PROTOCOL FOR RESPONDING TO SEXUAL ASSAULT
RESPONSIBILITIES OF THE INITIAL CONTACT PERSONAL,
CADETS, STUDENTS, STAFF, AND FACULTY

In the event that an individual informs you that he/she has been sexually assaulted:

- Listen to the individual who has been assaulted and provide support to the individual
- Inform the individual that the Sexual Assault Response Coordinator (3-5252) can provide complete information regarding options for 1) medical treatment, 2) psychological counseling, 3) academic accommodations, 4) changing living arrangements, 5) seeking informal mediation, 6) filing formal discipline charges, 7) filing criminal charges.
- Encourage the cadet to speak with the Sexual Assault Response Coordinator (3-5252) and offer to accompany the individual to the office of the Sexual Assault Response Coordinator (Rm. 369, Bond Hall)
- Encourage the cadet to go to The Citadel Infirmary (3-6847) for medical treatment and offer to accompany the individual, or encourage the individual to go to MUSC for medical treatment and offer to accompany the individual.
- Encourage the cadet to go to The Citadel Counseling Center (3-6799) for psychological counseling and offer to accompany the individual, or encourage the individual to contact a local counseling center or hotline for psychological counseling.
- Encourage the individual to go to The Citadel Department of Public Safety (3-5114) to file a report and offer to accompany the individual, or encourage the individual to contact the local police to file a report.
- Inform the individual that The Citadel has a Sexual Assault Crisis Intervention Policy which is available at: 1) the Office of the Sexual Assault Response Coordinator, 2) the Office of Undergraduate Studies, 3) the Office of the College of Graduate and Professional Studies, 4) the Office of Human Resources, 5) the office of the Commandant, 6) the Counseling Center, or 7) Public Safety.
- Advise and explain that options exist for pursuing 1) informal mediation at The Citadel, 2) formal disciplinary charges at The Citadel, and 3) formal criminal charges with the state and indicate that the Sexual Assault Response Coordinator can provide specific detailed information about each of these options.
- Ensure that the individual has a safe place to go after speaking with you.
- Contact the Sexual Assault Response Coordinator and file an anonymous report using the attached form.

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Appendix 1

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PROTOCOL FOR RESPONDING TO SEXUAL ASSAULT

RESPONSIBILITIES OF THE SEXUAL ASSAULT RESPONSE COORDINATOR

In the event that an individual informs you that he/she has been sexually assaulted:

- Explain that conversations with the Sexual Assault Response Coordinator are confidential.
- Explain that sexual assault reports are not maintained in the student's permanent academic record and that the only formal documentation of a sexual assault report is an anonymous report which will not include the names of any of the individuals involved in the incident.
- Explain that the role of the Sexual Assault Response Coordinator is to 1) listen to the victim's concerns, 2) provide support, 3) explain the options and services available, and 4) assist him/her in evaluating which options and services are best for the victim.
- Ask the date and time of the sexual assault to determine if it is appropriate to discourage the individual from bathing, douching, changing clothes, or cleaning up the scene of the assault in the event that the individual chooses to go to the hospital or police for the collection of physical evidence of the sexual assault.
- Encourage the cadet to go to The Citadel Infirmary (3-6847) or MUSC for medical treatment (Cadets, CGPS students, staff, faculty, and visitors).
- Encourage the cadet to go to The Citadel Counseling Center (3-6799) or a local counseling center for psychological counseling (CGPS students, cadets, staff, faculty, and visitors).
- Explain options for seeking academic adjustments and accommodations such as rescheduling exams, seeking a late medical withdrawal from a class, and/or requesting a medical withdrawal from the college.
- Explain options for changing current living/working arrangements on campus.
- Describe options for pursuing 1) informal mediation at The Citadel, 2) formal disciplinary charges at The Citadel, and 3) formal criminal charges with the police.
- Encourage the individual to go to The Citadel Department of Public Safety (3-5114) to file a report.
- Encourage the individual to contact the local police to file a report.
- Provide the individual with a copy of the Sexual Assault Crisis Intervention Policy.

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- Ensure the individual has a safe place to go after speaking with you.
- File an anonymous report of the sexual assault.

Annex 2
Appendix 2

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TYPE OF COERCION/FORCE INVOLVED (Check all that Apply)

- Verbal pressure, arguments, or disregarding victim's lack of consent
- Position of authority (professor, supervisor, employer, chain of command, etc.)
- Threat of physical force (threatened to hit, held down, or otherwise injured)
- Use of physical force (hit, held down, twisted arm, hurt, or otherwise injured)
- Presence of weapon, be specific: _____
- Victim/Survivor was significantly incapacitated by:

_____ alcohol _____ other drugs _____ sleep _____ disability _____ other
ALCOHOL WAS USED BY: _____ Victim/Survivor _____ Assailant

OTHER DRUGS WERE USED BY: _____ Victim/Survivor _____ Assailant

LOCATION OF INCIDENT: _____ On-Campus _____ Off Campus Date: _____
_____ Victim's residence _____ Outdoors _____ Vehicle
_____ Assailant's residence _____ Work Place _____ Parking lot
_____ Other Campus Facility _____ Other

DESCRIBE THE NATURE OF THE RELATIONSHIP BETWEEN THE VICTIM/SURVIVOR AND THE ASSAILANT(S) PRIOR TO THE ASSAULT:

_____ Stranger _____ Study Partner _____ Friend or non-romantic Acquaintance
_____ Relative _____ Planned Date _____ On-going Romantic Relationship
_____ Other _____ Impromptu date _____ Faculty or Staff Member

ASSAILANT INFORMATION

Gender: _____ Male _____ Female _____ Unknown
Number of Assailants: _____ Acquaintance _____ Stranger
Residence: _____ Barracks _____ On Campus _____ Off Campus
Race/Ethnicity: _____ Disability: _____ Citadel Affiliation: _____ Class: (if student)
_____ White _____ None _____ Student _____ 1st Class
_____ Black _____ Sight _____ Faculty _____ 2nd Class
_____ Asian _____ Mental _____ Staff _____ 3rd Class
_____ Hispanic _____ Hearing _____ Other _____ 4th Class
_____ Middle Eastern _____ Physical _____ CGPS
_____ Native American _____ Other _____ MECEPS
_____ Other _____ ECEP

CONTACTS AND SERVICES

VICTIM/SURVIVOR HAS REPORTED ASSAULT TO:

_____ Chain of Command _____ Dean _____ Tactical Officer
_____ Campus Police _____ Counseling Center _____ Commandant of Cadets
_____ Local Police _____ Staff Member _____ SARC
_____ Local Hospital _____ Faculty _____ Infirmary
_____ Other _____ Clergy _____ Off Campus Medical Facility

If possible, describe the incident in your own words on a separate piece of paper and attach it to this form. Send form in an envelope to: DIRECTOR OF EQUAL OPPORTUNITY/AFFIRMATIVE ACTION AND DIVERSITY

THE CITADEL COUNSELING SERVICES'
Sexual and Physical Misconduct Log (Year _____)

NAME	Sex Assault/ Phys Assault/ Harassment	Aquaint/ Stranger	Locals*	Assailant Gender	Assailant Affiliation	Date of Incident	Date of Report to Counseling Center	Date of Report to Police
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								

***CODES**

LOCAL:
 -Barracks -Outdoors on Campus
 -Off-Campus -Campus, not specified
 -On-Campus, Academic Building

Assailant Affiliation:
 -Student
 -Faculty/Staff
 -Not Affiliated with The Citadel
 -Unsure of Affiliation

Report Submitted By: _____ Date: _____

**** SEND REPORT AT THE END OF EACH SEMESTER TO:
 The Director of Equal Opportunity/Affirmative Action and Diversity****

*This report will be kept by the Counseling Center, the Infirmary, the Ombudsperson, Public safety, and all Title IX Coordinators.

Annex E
Appendix 4

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**FERPA AND THE CRIME AWARENESS
AND CAMPUS SECURITY ACT OF 1999**

As a result of the Student's Right to Know and Campus Security Act, passed by the US Congress in 1990, The Citadel will as a matter of policy disclose to the alleged victim of any crime of violence, the results of any student disciplinary proceeding or faculty and staff disciplinary hearing conducted by The Citadel against the alleged perpetrator of such crime.

Both the accusers and the accused shall be informed of the outcome of any Citadel disciplinary proceeding brought that alleges a sex offense.

Compliance with the provisions of the Crime Awareness and Campus Security Act does no constitute a violation of the Family Educational Rights and Privacy Act.

With the exception of the requirements listed above, The Citadel will not release any medical or disciplinary information on specific students without first obtaining his/her written release of specifically what information may be released and to whom. This includes information on a student requested by a parent.

Annex F

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THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, South Carolina 29409

MEMORANDUM
NUMBER 15

30 August 2002

SEXUAL HARASSMENT

1. PURPOSE:

All employees and students are entitled to a positive learning and working environment free of any type of sexual harassment. The Citadel's administration has zero tolerance for any form of sexual harassment or sexual violence. In severe instances, cadets may be expelled or employees may have their employment terminated.

Sexual harassment between or among any members of The Citadel community is prohibited, including faculty-student and student-to-student harassment. Sexual harassment also violates federal and state laws.

The purpose of this memorandum is to define and prevent sexual harassment, to establish policies, on sexual harassment, to establish procedures for reporting and investigating sexual harassment complaints by students, faculty or staff in a timely manner, and to describe sanctions.

Recommended changes to this memorandum should be submitted to the Title IX Coordinator, Office of the President, who is the proponent for this regulation.

2. REFERENCES:

- A. Equal Employment Opportunity Commission (EEOC) Guidelines on Sexual Harassment in the Workplace (Title VII of the Civil Rights Act of 1964).
- B. Office for Civil Rights, U.S. Department of Education; Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (Title IX of the Educational Amendments of 1972), dated 13 March 1997.
- C. South Carolina Human Affairs Law, S.C. Code Ann. 1-13 10 to-100 (1990).



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3. BEHAVIORAL AND LEGAL DEFINITIONS:

A. Behavioral. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment under the following conditions:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment, or advancement, or other student opportunities.
- 2) Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting an individual's employment, or advancement, academic standing, or other student standing, or other student opportunities.
- 3) Such conduct has the purpose or effect of unreasonably interfering with a person's work, professional or academic performance or creates an intimidating, hostile, or offensive work, learning, or social environment.

B. Legal. Sexual harassment is a form of sexual discrimination and is prohibited by the following:

- 1) Title VII of the Civil Rights Act of 1964. Title VII covers all employers, including educational institutions, and prohibits discrimination on the basis of race, color, national origin, religion, and sex. Only employees (including student employees) are covered. Title VII is enforced by the Equal Employment Opportunity Commission (EEOC).
- 2) Title IX of the Educational Amendments of 1972. Title IX prohibits sex discrimination in schools receiving any federal assistance, including financial aid. Discrimination, including sexual harassment, is prohibited in the entire school, not just the program receiving federal funds. Students and employees are covered. In February 1992, the U.S. Supreme Court unanimously ruled that complainants under Title IX may sue for damages. Title IX is enforced by the Office for Civil Rights in the Department of Education.
- 3) Individuals may also be sued under the provisions of state law for criminal behavior which may include crimes of rape, sexual assault, or sexual abuse.

C. Offending Behaviors. Sexual harassment is unwanted sexual attention. It is usually repeated behavior but it could be one serious incident. It is frequently a display of formal or informal power intended to demean, embarrass, intimidate or coerce a person. It includes, but is not limited to, unwanted requests or demands for sexual favors, propositions, questions about a person's sexual practices, lewd comments, leering, sexual insults or

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Innuendoes and sexually explicit jokes. It also includes unwanted touching, fondling, patting, pinching or kissing, as well as blocking a person's way. Sexual graffiti and sexually explicit pictures, cartoons or objects can also constitute sexual harassment. Although some forms of sexual harassment may be unintentional, words and behaviors such as those described above may be harassing when viewed or heard by others. Words which are demeaning to one gender, such as calling men and women derogatory names or by names for body parts are forms of sexual harassment. Both men and women can be sexually harassed although women are most often the targets of sexual harassment. Sexual harassment can also occur between members of the same sex.

Additional examples of sexual harassment are given in the following list but sexual harassment is not limited to these examples:

1) **Quid Pro Quo.** One form of sexual harassment is direct or indirect pressure for sexual activity with implicit or explicit threats or bribes such as a harasser asking a subordinate, co-worker, or peer to engage in sexual activity in order to receive improved work, learning, or social conditions (e.g., better grades, promotions, evaluations, etc.).

a. This form of harassment usually occurs when people use the power they have over others. Usually, the harasser asks a subordinate or co-worker to have sex in order to receive improved work conditions (e.g., better benefits, conditions, promotions, or performance ratings).

b. A school employee explicitly or implicitly ties a student's participation in an educational program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or verbal, nonverbal, or physical contact of a sexual nature.

c. Quid pro quo harassment is also unlawful when the student or employee resists and suffers the threatened harm or submits in order to avoid the threatened harm.

d. Quid pro quo cases are usually the most flagrant and clear-cut (although not the most frequent) kind of sexual harassment. Typically the person involved is a supervisor, faculty member, or someone with formal power who can provide or withhold a benefit, service or evaluation, and thus has the power to harm the person involved.

e. The major elements of quid pro quo harassment are as follows:

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The sexual advances or demands are unwanted, and submission is explicitly or implicitly a term or condition of employment or school status or is used as the basis for decisions about the individual's employment or school status.

2) Hostile Environment Sexual Harassment:

a. Sexually harassing conduct (which can include unwelcome sexual advances, requests for sexual favors, and other verbal, employee, by another student (peer), or by a third party) is behavior which is sufficiently severe, persistent, or pervasive to create a hostile or abusive educational or work environment that limits a person's ability to work or participate in or benefit from an educational program or activity.

b. Harassment occurs when one or more people create an uncomfortable, intimidating, and demeaning atmosphere for others either in the work place or educational setting by engaging in unwelcome activities such as sexual remarks, gestures, sexist pictures or pornography.

c. The harasser who creates a hostile environment does not have to be a person with formal power. In fact, most peer-to-peer harassment is of a hostile environment type.

d. The behavior does not have to be sexual in nature; it could be simply demeaning or intimidating; it could be general comments about the inferiority of females or males; or it could be physical threats or verbal abuse.

3) Examples of sexual harassment include, but are not limited to the following: Engaging in sexual comments, sexual innuendoes, degrading language, profanity, or vulgar comments.

a. Asking or commenting about a person's sexuality or spreading rumors about a person's sexual activities.

b. Engaging in humor or jokes about sex or about women or men in general.

c. Making sexually suggestive sounds or gestures, including winking, throwing kisses, making cat calls, licking lips, whistling, etc.

d. Pestering a person for dates.

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- e. Ogling, leering, or looking a person up and down (elevator eyes).
- f. Unnecessary touching, fondling, patting, or pinching, or deliberate brushing against a person.
- g. Shouting obscenities at a person.
- h. Publicly discussing a man or woman's sexual attributes.
- i. Mooning.
- j. Pulling down one's own shorts or pants or those of another.
- k. Creating a sexually demeaning atmosphere, such as displaying posters or pictures that are sexist or otherwise demeaning to women or men, or having social events that focus on sexuality.
- l. Showing petty hostility to a particular sex by making sexual remarks.
- m. Engaging in sexual banter or jokes.
- n. Leaving obscene messages on campus computers.
- o. Promising rewards or benefits to someone for cooperating with sexual advances.
- p. Displaying sexual graffiti and sexually explicit pictures, cartoons, or objects.
- q. Sexually touching or rubbing oneself in a suggestive way when around another person.
- r. Intentionally cornering or blocking another's passage or other "in your face" type of behavior.
- s. Offering repeated, unwelcome sexual attention.
- t. Making demands, threats and bribes -- implied or direct -- for sexual activity. Committing sexual assault.
- u. Making demands, threats and bribes - - Implied or direct -- for sexual activity.
- v. Committing sexual assault.

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4. CONFIDENTIALITY:

The confidentiality of the reporting party as well as those affected by the harassment (third party) will be observed to the greatest extent possible, with only those with a need to know being informed, provided it does not interfere with The Citadel's ability to investigate or take corrective actions.

5. INTENT:

The fact that someone did not intend sexual harassment of an individual is no defense to a complaint of sexual harassment. Regardless of intent, it is the effect and characteristics of the behavior that determine whether the behavior constitutes sexual harassment.

6. PROHIBITION AGAINST RETALIATION OR REPRISALS AGAINST ANYONE REPORTING SEXUAL HARASSMENT BEHAVIORS:

A. Retaliation against anyone reporting or thought to have reported sexual retaliation shall be considered a serious violation of the policy and shall be independent of whether a charge or informal complaint is substantiated, harassment behaviors or against anyone who is a witness or is otherwise involved in a sexual harassment complaint or proceeding is prohibited. Such Encouraging others to retaliate also violates this policy.

B. Examples of retaliation are as follows:

- 1) Threats or bribes.
- 2) Unfair grading.
- 3) Unfair evaluations.
- 4) Unfair assignments.
- 5) Withholding information or making it difficult to obtain in a timely manner.
- 6) Failure to inform the person about important events such as meetings or changes in policies.
- 7) Ridicule (public or private).
- 8) Oral or written threats or bribes.
- 9) Refusal to meet with a person even though that person has a right to a meeting.
- 10) Name calling.

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11) Further harassment or intimidation of any nature.

7. SCOPE:

A. This policy covers all persons -- including administrators, faculty, staff, cadets, students of the College of Graduate and Professional Studies and other employees of The Citadel. The harassment of students by faculty or staff as well as by other students (peer harassment) is also covered, as is the harassment of faculty, staff, or other employees by students. Prospective and former cadets or students as well as visitors to The Citadel campus are also covered.

B. The harassment of cadets, students, and employees by vendors, including contractors, is prohibited.

C. Males as well as females are covered by this policy, and may also be victims of same-sex harassment.

8. OTHER FORMS OF HARASSMENT:

Discrimination and harassment based on race, color, religion, or national origin is strictly prohibited.

9. OFF-CAMPUS VIOLATIONS:

The Citadel will treat in the same manner as on campus violations any off-campus violations of this policy by any cadet, student, or member of the faculty or staff in those cases involving Citadel off-campus athletic events, internships, or any Citadel-sponsored event or program. The Citadel will also not tolerate the harassment of its cadets, nor other students, nor members of the faculty or staff by non-Citadel personnel in programs sponsored or supported by The Citadel.

10. IMPACT OF SEXUAL HARASSMENT:

Sexual harassment is demeaning and degrading. It affects an individual's self-esteem and can have a negative impact on performance at work or in class. It can make an individual feel angry, powerless, and fearful, as well as cause physical reactions such as tension/stress.

11. FALSE CHARGES:

Any one who knowingly makes false charges of sexual harassment will be subject to discipline. Such charges will be considered a serious offense. However, a complaint that cannot be substantiated simply because of a lack of evidence shall not be considered a false complaint. The decision on whether or not false charges were submitted will be made at the Vice President level after a careful review of the available facts.

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12. CONSENSUAL RELATIONSHIPS:

The Citadel strictly prohibits amorous relationships between a cadet and any individual with professional responsibility for that student -- e.g., faculty, staff, or a member of the cadet's chain of command. The fact that a relationship may have been consensual at one time shall not be a defense to a subsequent charge of sexual harassment.

13. COMPLAINT PROCEDURES:

A. Options for Handling Complaints

- 1) The individual informally takes steps which may stop the behavior. (See Annex A.)
- 2) The Citadel initiates actions informally. (See Annex A.)
- 3) Formal charges under The Citadel's Sexual Harassment Procedures can be Filed against the offender by either the individual complaining or by The Citadel. (See Annex B.)
- 4) The person may file formal charges under federal and/or state laws.
- 5) The individual may seek advice or assistance from the Ombudsperson (See paragraph 21.)

B. Informal Complaints (See Annex A.)

- 1) Studies show that more than 90 percent of individuals who experience sexual harassment do not want to file formal charges.
- 2) Consequently, most complaints are handled informally, including those handled by the Ombudsperson.
- 3) Informal procedures are optional, and individuals can choose to bypass them, discontinue them, or initiate a formal complaint while using them.
- 4) The purpose of dealing with a complaint informally is to stop the offending behavior and to resolve the matter as expeditiously as possible.
- 5) Disciplinary action requires a formal charge and by the rules of due process requires a formal hearing. The Citadel cannot take disciplinary action using informal procedures.
- 6) Informal procedures are aimed at stopping the behavior rather than determining culpability.

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7) Informal procedures are voluntary on the part of the victim, with no requirement that individuals use informal procedures before filing a formal charge.

8) There is no requirement that informal complaints be put into writing.

9) In cases of severe harassment, The Citadel may bypass informal resolution by filing its own formal charges against offenders.

10) In some cases, the identity of the complainant can be kept confidential and not be revealed to the alleged harasser without the person's permission.

C. Formal Complaint Procedures. (See Annex B.)

1) Formal complaint resolution procedures include conducting a thorough investigation that results in a formal written report of the investigator's findings of fact, conclusions of law, and recommended actions to resolve the complaint.

2) The parties to the complaint are interviewed as are witnesses and third parties.

3) Formal complaint procedures may be pursued by either the person complaining or by The Citadel.

4) A third party, who is not the direct victim of harassment but who feels that the sexual conduct of another in the educational or work environment has the purpose or effect of substantially interfering with the third party's welfare, academic, or work performance, may file a formal complaint.

5) A person who believes that he or she is a victim of sexual harassment should file the complaint within 180 days of the incident.

6) The formal complaint procedure should be completed within 30 days of the date of filing and within 60 days of the date of filing when the individual submits an appeal.

7) Formal complaints should be filed with The Citadel's Affirmative Action officer who also serves as The Citadel's Title IX Coordinator. The Affirmative Action Officer is responsible for ensuring that the policy is followed, that time frames are observed, and that questions from all parties are answered.

8) Investigations of allegations involving a member of the faculty or staff will be conducted in a confidential manner by an Affirmative

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Action/Equal Employment Opportunity Advisory Committee, which is a three-person investigative committee appointed by the President or the Vice President who directed the investigation. The investigation will include questioning of the individual(s) accused of wrongdoing to afford them the opportunity to respond to the allegations of the complaint as well as any witnesses. The Advisory Committee will collect, record, and safeguard all information and/or evidence relative to the incident and report findings through the Vice President to the President for final disposition. If the recommendation is to terminate a faculty member for cause, the process will follow paragraph 4c of Section II of College Regulations and paragraphs 4c and 4d of General Order (GO) 14, dated 7 June 2000, Policies and Procedures On Probationary Reappointment, Academic Tenure, Academic Promotion, and Termination of Tenured Faculty. Proceedings involving (non-faculty) staff members will follow procedures outlined in The Citadel's Human Resources Policies and Procedures.

9) Investigations of allegations involving a cadet will be conducted through the use of a Commandant's Board or Hearing. The procedures outlined in the Blue Book will be followed for due process procedures. The results of the hearing or board will be forwarded to the Commandant of Cadets. Recommendations for suspension, dismissal, or expulsion will be forwarded to the President for final action.

10) A copy of all completed formal investigations of charges of sexual harassment will be forwarded to The Citadel's Affirmative Action Officer/Title IX Coordinator for filing.

11) All rights and procedures for appeals will be in accordance with paragraph 6 of College Regulations for cadets, paragraph 4c of Section II of the College Regulations and GO 14 for faculty members, and the State-approved, "The Citadel Employee Grievances Policy" for (non-faculty) staff members.

12) Hearings and boards will be either open or closed based on the desires of both the victim and the accused. Both must agree if the hearing is to be open based on their individual desires for confidentiality. If either party objects to the hearing being open, it will be closed.

13) The hearings or boards are administrative in nature; therefore, there is no right to legal representation. Appeal procedures are as stated in College Regulations.

14) The standard for findings of guilt or innocence is that of "a preponderance of evidence"- that is, there is sufficient evidence which is greater in weight or more convincing than the evidence, which is offered in opposition to it; that is, evidence which as a whole shows

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that the fact sought to be proved is more probable than not. The Hearing Officer or Board will perceive the evidence of one side as outweighing the other based on which side has the most persuasive or impressive evidence. The strength or "weight" of evidence is not decided by the sheer number of witnesses but rather by the witnesses opportunity for knowledge, information possessed, and the manner of testifying.

14. SANCTIONS:

The following list of sanctions may be used when a person is found guilty of harassing behavior. The purpose of the sanctions will be reasonably calculated to end the sexual harassment, punish the harasser, and prevent recurrence of incidents. Although advice and counseling may be appropriate occasionally, they are not applied in lieu of sanctions. If alcohol were involved, attendance may be required at a program on alcohol abuse prevention. The sanctions listed below can be applied to cadets, faculty, students or staff. Those sanctions that specifically apply to a selected group are so designated, i.e., faculty/staff, cadets/students, cadets.

- A. Applies to cadets, other students, faculty, or staff.
 - 1) Written warning letter of reprimand.
 - 2) Mandatory attendance at a sexual harassment training or counseling program. (This is not likely to be imposed as a single sanction.)
 - 3) Change of job or class assignment (removes the person from being in a position to retaliate or further affect the victim).
 - 4) A mandatory apology to the victim(s).
 - 5) When ever there is an incident of sexual assault or sexual abuse, the incident will be reported to the police. Reporting an incident to the police will not affect any disciplinary proceeding conducted by The Citadel.
 - 6) Required community service, such as preparing posters or disseminating information about harassment and/or sexual assault.
- B. Applies only to faculty/staff.

Probation, suspension, dismissal or termination.
- C. Applies only to cadets.
 - 1) Prohibition from holding rank or participating in specific student activities, including sports, for a specified time period.

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- 2) Transfer of the cadet or student to another academic class or company assignment.
- 3) Tours or confinements.
- 4) Suspension, dismissal, or expulsion.

15. PERSONS TO CONTACT IF AN INDIVIDUAL IS EXPERIENCING SEXUAL HARASSMENT:

A. There are several places to whom a person experiencing sexual harassment or one who is concerned about it can go for help. The person can choose the person with whom he or she feels most comfortable. The information will be kept confidential to the greatest extent possible. The persons listed in the following paragraphs can explain the policy and discuss options for handling the situation.

B. For faculty or staff members who feel that they have been sexually harassed or who are concerned about it, the following steps should be taken:

- 1) Discuss the matter with an immediate supervisor, an appropriate person upward in the chain of command and/or the Affirmative Action Officer, the Director of Human Resources or the Ombudsperson (see paragraph 21). Assistance is also available through the Chaplain or the Counseling Center's counselors who may suggest options and help the person decide what steps need to be taken next. The President's Hotline 953-OUCH is also available to report problems. This line is available via voice mail 24 hours a day. (See TABS A and B for how complaints are handled both informally and formally.)
- 2) To ensure confidentiality, the faculty or staff members should not discuss the complaint with persons other than the persons receiving the complaint.
- 3) Detailed procedures for informal complaints are located at Annex A.
- 4) Detailed procedures for formal complaints are located at Annex B.

C. Individuals who have knowledge of sexual harassment or who feel they have been sexually harassed should discuss the behavior with any of the people listed below.

- 1) Discuss the matter with an immediate supervisor in the chain of command, an appropriate person upward in the chain of command, and/or a tactical officer, an Assistant Commandant, or the

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Commandant of Cadets: A cadet may also discuss the matter with the Ombudsperson (see paragraph 21), the Title IX Coordinator, a cadet Human Affairs Officer or a cadet Religious Officer, the Chaplain or any campus minister, a counselor in the Counseling Center, a member of The Citadel Faculty or Staff, or a Public Safety Officer. **The important point is to report the alleged harassment to someone in authority.**

2) It is the responsibility of the person receiving the complaint from a cadet to pass the information quickly (within 24 hours) to the officer listed below who will determine if an immediate investigation is required to determine the facts and circumstances surrounding the incident.

<u>IF THE PERSON ACCUSED IS</u>	<u>THE COMPLAINT SHOULD BE FILED WITH:</u>
A cadet	The Assistant Commandant of Cadets
CGPS or Summer School student	The Dean of Graduate and Professional Studies (CGPS)
A member of the Faculty	The Dean of Undergraduate Studies
A member of The Citadel Staff	The Affirmative Action Officer

3) The victim should complete the appropriate harassment complaint form (formal complaints only, see Appendix 2 to Annex B of this Memorandum).

4) The accused will be informed of the charges and be given the opportunity to refute the charges (formal complaints only).

5) The complainant will receive a timely written response to the allegation or be informed of the results face to face from the person listed in paragraph 15c(2) or the person who conducted the investigation. The notice will inform the complainant that the allegation was either substantiated or not and to whom it was sent for action (formal complaints only).

6) Sexual harassment complaints against a member of The Citadel Faculty or Staff will be promptly investigated by The Citadel Affirmative Action/Equal Opportunity Advisory Committee (formal complaints only).

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7) If the complaint, based on the investigation, is deemed valid, then it will be sent to the appropriate Vice President for review and appropriate action:

IF THE ACCUSED IS:

REVIEW AND ACTION AUTHORITY IS:

A cadet

The Commandant of Cadets

CGPS or Summer School Student

Dean of Graduate and Professional Studies (CGPS)

Faculty

VP for Academic Affairs

Staff

VP for Finance and Business Affairs

8) Throughout the process of investigation on harassment complaints, strict confidentiality will be maintained by all involved.

9) Final disposition on the matter will be taken by the President. The appropriate disciplinary action will be taken based on the facts, on a case-by-case basis.

10) Proven allegations of harassment may be considered as the commission of an act unbecoming a cadet which would tend to bring discredit to the institution or to the uniform.

16. RETALIATION:

Under no circumstances will retaliation, such as making threats or continued harassment, be tolerated when a person has reported an alleged sexual harassment violation.

17. REPORTING REQUIREMENTS:

A. The Citadel requires that all cadets, students, faculty, and administrators who have knowledge of sexual harassment to report it confidentially to the officials noted in paragraph 15 of this memorandum as soon as possible. The report will not include the name of the victim without the victim's permission unless there is a known or perceived threat of physical harm.

B. Such reporting enables Citadel administrations to identify problem areas that can, in some instances, be eliminated by initiating educational efforts for a particular unit without identifying the information that makes the educational efforts necessary. Such reporting also helps in identifying

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persons who may have a history of harassment, which requires stronger means of intervention.

C. Affirmative Action Officer, who is The Citadel's Title VII and Title IX Coordinator, or one of the assistant coordinators listed in paragraph 18 of this memorandum.

18. TITLE VII AND IX COORDINATORS:

A. Her office phone number is 953-5252. Her office is located in Bond Hall.

B. The Assistant Title VII and Title IX Coordinators are: (1) The Assistant Commandant of Cadets for Coeducation and Administration -- office phone number is 953-6707; office located in Jenkins Hall; (2) The Multicultural Officer -- office phone number is 953-5096; office is located in the Counseling Center; (3) The Special Assistant to the VPAA for Cadet Matters -- office phone number is 953-4834; office is located in the Executive Wing of Bond Hall; and (4) the Dean of Undergraduate Studies -- office phone number is 953-5016; office is located in the Executive Wing of Bond Hall.

19. MAINTAINING RECORDS:

A. All complaints of sexual harassment will be recorded once they are reported to The Citadel. The records will remain confidential and will be kept in a secured, locked file.

B. Records will be maintained whether the complaint was made formally or informally. Records will be maintained on informal complaints only if reported to the Title IX Officer. For example, the Ombudsperson will not file reports because all the information that he/she has is confidential.

C. The records will be maintained in the following locations:

1) Affirmative Action, Equal Opportunity and Diversity.

2) Records on cadets will be maintained by the Assistant Commandant of Cadets for Coeducation and Administration.

D. The information may be used in subsequent complaints against the same person to assess whether a pattern of harassment exists.

E. Before the complaint is filed, the custodian will ensure that the complaint is properly completed and that a determination was properly made as to whether the complaint was substantiated or not substantiated and that it is marked properly.

F. Records will be maintained for the time period required by institutional policy for the type of person identified (cadet, faculty or staff).

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20. TRAINING REQUIREMENTS:

A. The Commandant of Cadets will publish an annual training program concerning sexual harassment no later than the start of each academic year that outlines training requirements for all classes within the Corps of Cadets. This training is mandatory for all cadets. Make-up classes are required for any cadet who misses the regularly scheduled training.

B. New faculty and staff will attend mandatory initial training on Title VII and Title IX during their new employee or faculty orientation session. Mandatory sustainment training will be held annually according to requirements set forth by the Director of Human Resources for members of the staff and by the VPAA for the faculty.

C. READMITTED cadets will be required to attend Sexual Harassment Training at the very start of the semester that they return to The Citadel.

21. THE OMBUDSPERSON:

A. The President of The Citadel will appoint an Ombudsperson at the beginning of each academic year.

B. All communications with the Ombudsperson shall be considered confidential. The Ombudsperson will not reveal any name(s) of people without their express permission in writing unless there is a perceived threat of imminent physical harm or of other illegal activity.

C. The Ombudsperson will have direct access to the President of The Citadel and to all vice presidents and directors.

D. All interactions with the Ombudsperson shall be voluntary.

E. The general duties and responsibilities of the Ombudsperson are as follows:

1) Act as a source of information and assistance to all students, faculty, and staff with regard to alleged inequities. (No individual shall be retaliated against for using the services of an Ombudsperson.)

2) Bring the complaint to the attention of the appropriate Citadel official.

3) Seek to resolve the difficulty between the individual and The Citadel.

4) Make recommendations to the President and appropriate authorities when necessary on policies, procedures actions.

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5) Address matters using existing policies and procedures in an informal manner. If the individual desires to use formal procedures, the Ombudsperson will direct the individual to the appropriate office or person.

6) Keep no case records on behalf of the organization. If notes are necessary to manage the work, the Ombudsperson will follow a consistent and standard practice for the destruction of any written notes as soon as possible.

7) Remain neutral and strive for objectivity and impartiality.

F. The Ombudsperson is LTC John Carter, Health and Physical Education Department. Office phone is 953-7453. Home phone is 577-6830.

22. MANDATORY POSTING REQUIREMENTS FOR THIS MEMORANDUM:

A. This regulation will be maintained in its entirety and permanently posted in the White Book binder located in each cadet's room. The presence of the booklet is an inspection item during Saturday Morning Inspections.

B. New faculty and staff will receive a copy of this memorandum during New Employee or Faculty Orientation.

C. A copy of this memorandum will be posted in the permanent section of every cadet company's bulletin board.

D. A copy of this memorandum will be located in every department's policy file in its administrative office.

E. Copies of this memorandum will be required reading for all staff and faculty on an annual basis. A roster indicating that the memorandum was read by all will be maintained in the department's administrative office.

23. RESCISSION:

Memorandum Number 51, dated 30 June 2000, is rescinded.

FOR THE PRESIDENT:

OFFICIAL

CHARLES B. REGER
COL, USAF, Retired
Executive Assistant to The President

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Attachments:

Annex A: Informal Complaint Procedures
Annex B: Formal Complaint Procedures

Distribution:

1 each cadet
1 each staff member
1 each faculty member

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INFORMAL COMPLAINT PROCEDURE

1. What Happens in an Informal Complaint Procedure
 - A. Informal procedures are aimed at stopping the behavior rather than determining culpability or intent.
 - B. There is no requirement that informal complaints be put into writing.
 - C. Informal procedures are optional and voluntary on the part of the victim, with no requirement that individuals use informal procedures before filing a formal charge. In addition, the victim may discontinue the informal procedure at any time of his/her choosing.
 - D. Disciplinary action requires a formal charge and, by the rules of due process, requires a formal hearing. Consequently, The Citadel cannot take action using informal procedures.
 - E. Any complaint of harassment will be treated with the greatest degree of confidentiality possible. Only those with a need to know will be informed.
 - F. Retaliation against the victim or the reporter of an informal complaint is prohibited.
 - G. The individual making the complaint may be helped to handle the complaint on his/her own, or if the person so desires, a member of the chain of command or of The Citadel Faculty or Staff may handle the complaint by talking to the harasser and/or providing training to the harasser or the unit.
 - H. Determining that the behavior fits the definition of sexual harassment is not as important as in formal procedures because the aim is to stop the offending behavior, not to determine whether it fits the specific definition of sexual harassment.
 - I. Informal procedures usually do not require an investigation.
 - J. The more serious the harassment, the more likely informal procedures may not be appropriate, particularly when violations of law have likely occurred.
 - K. Normally, the information, advice, and informal process will be concluded within 30 days from receipt of the complaint.

ANNEX A 1

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2) Informal Methods Individuals Can Use to Stop Harassment any times an individual who is experiencing harassment or who knows of harassment may simply want the behavior to stop and does not wish to report or file a formal charge against the harasser. The purpose of dealing with a complaint informally is to stop the offending behavior, prevent it in the future, and resolve the matter as expeditiously as possible. In these cases, the individual may try one or more of the following to correct the behavior:

- A. Tell the offender that the behavior is unwelcome and that it must stop.
- B. Put a copy of The Citadel's Sexual harassment Policy in the offender's mailbox after circling or highlighting the applicable parts.
- C. Send a letter to the harasser (see Appendix 1 to this Annex).
- D. Seek advice or assistance from the Ombudsperson. All communications with the Ombudsperson are strictly confidential unless there is a perceived imminent threat of danger or illegal activity.
- E. (For faculty or staff members) Seek advice or assistance from an immediate supervisor, an appropriate person upward in the chain of command, and/or the Affirmative Action Officer or the Director of Human Resources.
- F. (For cadets) Discuss the matter with an immediate supervisor in the chain of command, an appropriate person upward in the chain of command, and/or a Tactical Officer, an Assistant Commandant, or the Commandant of Cadets. A cadet may also discuss the matter with a Cadet Human Relations Officer, a Cadet Religious Officer, the Chaplain or any Campus Minister, a Counselor in the Counseling Center, or a member of The Citadel Faculty or Staff.

3. Actions on the Part of Individuals Who Receive an Informal Complaint

- A. Determine whether or not you are prepared to assist the individual with his/her complaint or if the individual should be referred to someone else. If you have not received training in handling complaints of this nature, then you should refer the complainant(s) to someone else who has had the training. If you refer them to someone else, make the appointment yourself and offer to take the complainant to the office of the person to whom you are referring the incident.
- B. If you decide to listen to the complaint, find out what the person wants to have happen, explain the difference between informal and formal

ANNEX A 2

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procedures, and determine the individual's clear intent to treat the complaint in an informal manner. (Guidelines for conducting the interview with the complainant(s) are included at Appendix 2 to the Annex.)

C. Attempt to find a resolution that is satisfactory to the complainant, the accused, and The Citadel. At times, a satisfactory resolution may require the involvement of the Department Head or Supervisor in the case of a member of the faculty or staff and either the Commander or the Tactical Officer in the case of a cadet. The victim should have a say in whether or not supervisors should be informed because the individual may desire not to make a report of the matter as long as the actions taken stop the behavior.

D. Prepare an agreement to be signed by the complainant(s) and the accused if the complainant(s) will agree to this procedure.

E. Inform the complainant(s) of the method and time for filing a formal complaint if a satisfactory resolution cannot be obtained at the informal level.

F. Plan a follow-up meeting with the complainant(s) at a future time to verify that whatever action that was taken did stop the harassment and will prevent it from recurring to someone else. Sometimes, the settled (agreed-upon) cause of action by the complainant(s) is not sufficient to prevent recurrence of the harassment to someone else.

4. Outcomes of the Informal Procedures

A. Typical outcomes might include some or all of the following:

- 1) A decision to stop further action on the complaint;
- 2) a negotiated resolution of the complaint that is satisfactory to the person perceiving harassment;
- 3) or initiation of formal procedures by that person.

B. When informal procedures have shown that a violation of The Citadel's Sexual Harassment Policy has occurred, possible resolutions may include one or more of the following:

- 1) An apology to the complainant(s) by the accused.
 - a) Assisting the accused to understand better the effects of his/her conduct and ways in which this behavior could be changed.

ANNEX A.3

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b) Participation by the accused in Sexual Harassment Training Sessions, counseling, or workshops.

c) Other interventions or actions aimed at ending the harassing behavior.

d) If the complainant(s) or the accused believes that procedural errors have occurred during the informal procedures, an appeal may be made to the Director of Human Resources (for staff and faculty) or to the Commandant of Cadets (for cadets), and/or a formal complaint can be initiated.

5. Should the Parties Be Required to Meet or Confront Each Other?

A. The decision of whether or not the complainant(s) will meet with the accused belongs with the individual(s).

B. Mediation should be presented as one option along with others to resolve the complaint. Mediation assumes a position of neutrality and may not always be appropriate when either the law or college policy has been violated. However, in situations when the victim wants to meet with the harasser to present his or her feelings, a third party can provide a safe and controlled environment in which this can occur. This offer should not be made unless the third party has received mediation training. The names of trained, on-campus mediators can be obtained by contacting the Director of Human Resources.

C. As an alternative, the person receiving the complaint may offer to meet with the accused on behalf of the complainant.

6. Recordkeeping When Informal Procedures Are Used

A. Issues of confidentiality are involved in the maintenance of records involving complaints of sexual harassment.

B. The Citadel, however, has a legal responsibility to identify behavior of faculty, staff, and/or students who commit sexual harassment. The Citadel, therefore, will make a record of reports concerning an individual who has been accused of sexual harassing behavior. The record of an informal complaint will not be used to take disciplinary actions against the individual when the complaint has been successfully resolved. Rather, the record will be used only to gather information that may be used to demonstrate a pattern of sexual harassment.

C. The name of the complainant(s) will be omitted from the report if he or she desires.

ANNEX A 4

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D. The accused will be informed that a report will be filed on his/her alleged behavior and will be given an opportunity to respond in writing and have the response attached to the record. In the event the accused attaches a response, the complainant shall be informed and be given the opportunity also to have a response attached to the record.

E. The report will be filed in a locked container maintained by the Affirmative Action Officer in the case of staff/faculty or the Assistant Commandant of Cadets Coeducation and Administration in the case of cadets. The information may be used in the case of subsequent complaints against the same person to assess whether a pattern of harassment exists. Only the custodians of the locked container shall have access to the contents.

ANNEX A 5

CITADEL 0002460

USING A LETTER TO DEAL WITH SEXUAL HARASSMENT (Informal Complaint Procedures)

A letter to the alleged harasser can be a powerful means of dealing with sexual harassment. This technique was developed by Dr. Mary P. Rowe of the Massachusetts Institute of Technology. It has been extraordinarily successful in many institutions of higher education and in workplace situations. In approximately 90% of the cases, it stops the harassment of the particular person who wrote the letter and seems to prevent the future harassment of others by the harasser. It has been used successfully in the workplace by faculty and staff and in cases of one-to-one peer harassment by students at all levels.

The letter should be polite, low-key, and consist of the following:

Part I should be a factual account of what happened without any evaluation by the writer. It should include to the extent possible details including time, place, and a description of the behavior(s). Often the alleged harasser agrees with the facts but not with the interpretation.

Part II should describe how the writer feels about what happened such as misery, fear, revulsion. As in Part I, there are not evaluative words or accusations, only a description of how the writer feels.

Part III should describe what the writer wants to happen next. This part is usually short, since most people just want the harassment to stop.

The letter is best delivered in person or by certified mail with a return receipt requested. This ensures that the alleged harasser receives the letter.

A copy should be kept by the writer. Should there be any subsequent retaliation or continued harassment (which would be unusual), the letter can be used as evidence.

Copies should not be sent to anyone else. A letter copied to someone in authority is likely to lead to the recipient's contacting the administrator and then denying the incident and denigrating the writer's credibility. If the letter is to work, it should be a private communication between the two people involved.

Usually nothing happens other than the harassment stops. In the event that the alleged harasser wants to discuss the incident, the writer should say, "I am not going to discuss it; I just want your behavior to stop," and walk away.

ANNEX A
APPENDIX 1

CITADEL 0002461

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, South Carolina 29409

MEMORANDUM
NUMBER 39

26 April 2000

SERIOUS INCIDENTS

1. GENERAL:

Serious incidents are unexpected occurrences directly or indirectly involving The Citadel, which require a response or action from the college administration; or, which have the potential to generate positive or negative publicity regarding the college.

Serious incidents include, but are not limited to, such events as a death, serious injury, fire, accident, criminal activity, act of heroism, severe weather or other natural disasters affecting the campus.

All members of the Corps of Cadets, day and evening students, faculty, and staff of The Citadel are responsible for reporting such occurrences immediately.

2. PROCEDURES:

A. Death of Cadet(s):

1) Individual responsibilities:

Notify the Department of Public Safety.

2) Public Safety responsibilities:

a) Determine the appropriateness of notifying City of Charleston Police Department (on-campus death due to vehicle accident, homicide or suicide). Director of Public Safety will normally make this determination. Notify City Police as required. If death occurs on campus, the Coroner will also be notified.

b) Notify:

Commandant or Assistant Commandant
Director of Public Safety (Deputy Director in his absence)
President (through his office during duty hours) and the Executive Assistant
The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
The Citadel Physician



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Counselor to the Corps of Cadets
Vice President for Facilities and Engineering
Vice President for Communications*
Director of Physical Plant*
Vice President for Finance and Business Affairs*
Safety and Risk Management Officer*

*The Director of Public Safety will normally direct which of these should be notified, depending upon circumstances.

c) Maintain police blotter, recording actions taken and personnel notified.

3) Notification of the next of kin:

The President will make the determination of who notifies the next of kin.

B. Death of Day or Evening Student(s) On Campus:

1) Individual responsibilities:

Notify the Department of Public Safety.

2) Public Safety responsibilities:

a) Determine the appropriateness of notifying the City of Charleston Police Department (on-campus death due to vehicle accident, homicide or suicide). Director of Public Safety will normally make this determination. Notify City Police as required. If death occurs on campus, the Coroner will also be notified.

b) Notify:

Director of Public Safety (Deputy Director in his absence)
President (through his office during duty hours) and the Executive Assistant
Vice President for Academic Affairs
Dean of Undergraduate Studies or the Dean of the College of Graduate & Professional Studies as appropriate
The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
The Citadel Physician
Vice President for Facilities and Engineering
Vice President for Communications
Director of Physical Plant*
Vice President for Finance and Business Affairs*
Director of Human Resources* (if student was also a Citadel employee)

Safety and Risk Management Officer*

*The Director of Public Safety will normally direct which of these should be notified, depending upon circumstances.

c) Maintain police blotter, recording actions and personnel notified.

3) Notification of the next of kin:

The Vice President for Academic Affairs will confer with the individuals listed below to determine the most appropriate notification of the next of kin. He will inform the President and obtain his concurrence before proceeding with the actual notification.

The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
Executive Assistant to the President
Appropriate Dean (Undergraduate or College of Graduate and Professional Studies)

C. Death of Faculty or Staff Member or of a Faculty or Staff Member's Dependent on Campus:

1) Individual responsibilities:

Notify the Department of Public Safety

2) Public Safety responsibilities:

a) Determine the appropriateness of notifying City of Charleston Police Department (on-campus death due to vehicle accident, homicide or suicide). Director of Public Safety will normally make this determination. Notify City Police as required. If death occurs on campus, the Coroner will also be notified.

b) Notify:

Director of Public Safety (Deputy Director in his absence)
President (through his office during duty hours) and the Executive Assistant
Appropriate Department Head
Vice President for Facilities and Engineering
The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
The Citadel Physician
Director of Human Resources
Vice President for Communications*

Director of Physical Plant*
Vice President for Finance and Business Affairs*
Safety and Risk Management Officer*

*The Director of Public Safety will normally direct which of these should be notified, depending upon circumstances.

c) Maintain police blotter, recording actions taken and personnel notified.

2) Notification of the next of kin:

The Vice President for Academic Affairs will confer with the individuals listed below to determine the most appropriate notification of the next of kin. He will inform the President and obtain his concurrence before proceeding with the actual notification.

The Citadel Director of Religious Activities (if unavailable, contact The Citadel Episcopal or Catholic Chaplain)
Executive Assistant to the President
Director of Human Resources

D. Fire:

1) Individual responsibilities:

Alert individuals in the area.
Notify fire department.
Notify Public Safety.
Assist at scene.

2) Public Safety responsibilities:

a) Dispatch first unit to the scene to:

Evacuate personnel.
Establish crowd control.
Set up vehicle traffic control.
Take actions to control fire.
Assume command at the scene until fire department and/or The Citadel Fire Marshal arrives.
Brief responding fire fighting personnel.

b) Dispatch second unit (if available) to meet fire department vehicles at the gate and lead them to the scene.

c) Notify:

The Citadel Fire Marshal (Physical Plant office during duty hours)

Director of Public Safety and Deputy Director
President (through his office during duty hours) and the
Executive Assistant

Vice President for Facilities and Engineering
Safety and Risk Management Officer

Vice President(s) responsible for personnel or facilities
involved

Building coordinators(s) of facilities involved

d) Maintain police blotter, recording actions taken and
personnel notified.

E. Serious Injury (on-campus):

1) Individual responsibilities:

a) Render immediate fire aid.

b) Summon emergency medical service (EMS) – Dial 911 (9-
911) from a barracks or on-campus office telephone.

c) Notify Public Safety.

d) Remain with injured person until assistance arrives.

2) Public Safety responsibilities:

a) Summon EMS if not already accomplished.

b) Dispatch unit to scene to:

Give "First Responder" care to injured person(s).

Establish crowd control.

Set up vehicle traffic controls.

Gather information, identify witnesses, and obtain other
information for incident report.

Assist medical personnel as requested.

c) Contact Sports Medicine (0800-1800 Monday-Friday) if it
involves an athlete.

d) Dispatch second unit (if available) to gate to escort
responding emergency vehicles to the scene.

e) Notify:

The Citadel Physician
Director and Deputy Director of Public Safety
Commandant or Assistant Commandant (only if it is a
cadet who is injured)
President (through his office during duty hours) and the
Executive Assistant
Vice President for Facilities and Engineering
Safety and Risk Management Officer
Director of Physical Plant*
The Citadel Director of Religious Activities (if unavailable,
contact The Citadel Episcopal or Catholic Chaplain)*
Appropriate Department Head*
Vice President for Communications*
Vice President for Finance and Business Affairs*
Director of Human Resources (only if injured person is
employee)*

*The Director of Public Safety will normally direct which of these is to be notified depending upon circumstances.

f) Maintain police blotter, recording actions taken and personnel notified.

F. Serious Injury (Off Campus):

The serious injury of a member of The Citadel student body, faculty or staff while off-campus would normally be handled by city or county medical and law enforcement personnel. Should a member of The Citadel community learn of such an occurrence, the following will apply:

1) Individual responsibilities:

Notify the Department of Public Safety.

2) Public Safety responsibilities:

a) Notify:

The Citadel Physician
Director of Public Safety
Commandant or Assistant Commandant (only if it is a
cadet who is injured)
President (through his office during duty hours) and the
Executive Assistant
Vice President for Facilities and Engineering
Safety and Risk Management Officer

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The Citadel Director of Religious Activities (if unavailable, The Citadel Episcopal or Catholic Chaplain will be contacted)*

Appropriate Department Head*

Vice President for Communications*

Vice President for Finance and Business Affairs*

Director of the Physical Plant (only if a Citadel vehicle or Physical Plant personnel are involved)

Director of Human Resources*

*The Director of Public Safety will normally direct which of these is to be notified depending upon circumstances.

b) Maintain police blotter, recording actions taken and personnel notified.

G. On-Campus Accidents:

All on-campus accidents, vehicle and otherwise, must be reported as soon as possible. When such an accident is observed by a member of The Citadel community, the following actions apply:

1) Individual responsibilities:

Notify EMS (Call 911) if personnel are injured in the accident.
Notify the Department of Public Safety (953-5114).
Notify Physical Plant.

2) Public Safety responsibilities:

Notify EMS if injuries are involved and EMS has not already been notified.
Notify Fire Department if fire and/or hazardous materials are involved.
Dispatch a unit to the scene to:

Give "First Responder" care to injured person(s).
Determine if a fire or hazardous material contamination is involved or imminent.
Establish crowd control. (Evacuate personnel if appropriate.)
Establish vehicle traffic controls.
Gather information, identify witnesses, and obtain other information for accident report.
Transport individuals with minor injuries to The Citadel Infirmary, if requested.
Assist fire and medical personnel as appropriate.

a) Notify:

The Citadel Physician if injuries, however minor, are reported
The Director of Public Safety and Deputy Director
Commandant or Assistant Commandant (only if a cadet is involved)
President (through his office during duty hours) and the
Executive Assistant
Director of Physical Plant (Physical Plant office during duty hours)
Safety and Risk Management Officer
Vice President for Academic Affairs
Vice President for Facilities and Engineering
Appropriate Department Head*
Vice President for Communications*
Vice President for Finance and Business Affairs*
Director of Human Resources*

*The Director of Public Safety will normally direct which of these is to be notified, depending upon circumstances.

b) Maintain police blotter, recording actions taken and personnel notified.

c) Prepare appropriate accident/incident report.

3) Physical Plant responsibilities:

a) Respond to scene to:

Implement hazardous materials (HAZMAT) warnings and procedures, if appropriate.
Evaluate contributing factors to the accident from a real property and/or vehicle viewpoint.
Determine appropriate physical repair requirements.
Initiate accident prevention measures as appropriate.

H. Off-Campus Accidents Involving Citadel Personnel or Property:

All off-campus accidents, vehicle and otherwise, must be reported as soon as possible when observed by a member of The Citadel community. In such instances, the following actions apply:

1) Individual responsibilities:

a) Notify the Department of Public Safety.

b) Notify the Physical Plant.

2) Public Safety responsibilities:

a) Gather information, identify witnesses, and obtain other information for the accident report.

b) Ensure that The Citadel Physical Plant has been notified in all cases involving Citadel real property or vehicles.

c) Determine whether or not the news media has been notified and if publicity is expected.

d) Notify:

The Citadel Physician if injuries, however minor, are reported
Director of Public Safety and Deputy Director
Commandant or Assistant Commandant (only if a cadet is involved)
President (through his office during duty hours) and the Executive Assistant
Vice President for Facilities and Engineering
Safety and Risk Management Officer
Appropriate Department Head*
Vice President for Communications*
Director of Human Resources*
Vice President for Finance and Business Affairs*

*The Director of Public Safety will normally direct which of these is to be notified depending upon circumstances.

e) Maintain police blotter, recording actions taken and personnel notified.

I. Criminal Activity:

The occurrence on The Citadel campus or the involvement of a member of The Citadel Corps of Cadets, day/evening student, faculty, staff or campus dependent, as the suspect or victim in an incident will be immediately reported by the first member of The Citadel community learning of the occurrence. Incidents include, but are not limited to, murder, rape, robbery, aggravated assault, simple assault, burglary, motor vehicle theft, liquor law violations, drug abuse, weapon possession violations, driving under the influence, theft (grand and/or petty larceny), trespass, hazing, telephone violations, computer violations, ATM card violations, and mail violations. The following responsibilities apply:

1) Individual responsibilities:

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Notify the Department of Public Safety.

2) Public Safety responsibilities;

- a) Initiate an incident report and investigation as necessary.
- b) Contact the appropriate law enforcement agency (agencies) as necessary to ascertain the facts in the situation.
- c) If a member of the Corps of Cadets has been accused or is involved as a victim:

Notify the Commandant immediately. In his absence, notify the Assistant Commandant or Officer of the Day. Determine whether or not it is appropriate to have an offending cadet released to Public Safety custody; if so, follow standard operating procedures to accomplish same. Determine the current location and disposition of cadet victims. Notify in accordance with injured cadet notification procedures. (See paragraph 2.f.2)a. above.)

d) Notify:

Director of Public Safety and Deputy Director
President (through his office during duty hours) and the
Executive Assistant
Vice President for Academic Affairs*
Appropriate Vice President*
Vice President for Communications*

*The Director of Public Safety will normally direct which of these is to be notified, depending upon circumstances.

- e) Maintain police blotter, recording actions taken and personnel notified.

J. Act of Heroism:

Upon learning that a member of the student body, faculty, staff, Board of Visitors, or an alumnus of the college has performed an act of heroism, members of The Citadel community will notify the Director of Public Affairs. The Vice President for Communications will:

- 1) Verify the facts involved in the incident.
- 2) Inform the President and Executive Assistant.

3) Inform the Commandant or Assistant Commandant (if a cadet is involved).

4) Inform the appropriate department head.

5) Recommend to the President the appropriate recognition and arrange for news media coverage.

K. Severe Weather/Earthquake Damage:

(1) Individual responsibilities:

Notify the Department of Public Safety immediately.
Return to the scene of the damage to safeguard the area until the Public Safety officer arrives.
Assist the Public Safety Officer in warning persons in the area, controlling traffic, and otherwise preventing further damage or injury.

2) Public Safety responsibilities:

a) Dispatch a unit to scene of damage to:

Evaluate the situation, report the extent of damage and determine the appropriate response elements from the Physical Plant, off-campus utility (gas, electrical, water) or the Fire Department required.
Remain at the scene to control traffic and direct the arrival of appropriate Physical Plant and/or other responding personnel.
Take charge of damaged area to ensure that further damage and injury are kept to a minimum.
Interview witnesses, gather information, and prepare a preliminary incident report.

b) Notify:

Director of Physical Plant
Director of Public Safety and Deputy Director
President (through his office during normal duty hours) and the Executive Assistant
Vice President for Academic Affairs*
Vice President for Facilities and Engineering
Safety and Risk Management Officer
Vice President for Communications*
Commandant*
Department Head(s)*
Building monitor(s)*

Janitorial personnel*

*The Director of Public Safety will normally direct which, if any, of these individuals are to be notified depending upon the circumstances.

- c) **Maintain police blotter, recording actions taken and personnel notified.**

L. Other Incidents:

Any incident which has a recognized potential for news media interest will be reported by the first individual aware of the incident. Examples of such incidents include, but are not limited to, scandal involving an individual(s) closely identified with the college, allegations concerning illegal or immoral activities at the college, allegations of major personnel changes or firings at the college, and rumors of pending changes affecting the Corps of Cadets. The following responsibilities apply:

1) Individual responsibilities:

Notify the Executive Assistant to the President.
Refrain from commenting on the incident or situation to other individuals or to the news media until the facts can be ascertained.

1) Executive Assistant responsibilities:

Alert the President to the situation.
If criminal activity is alleged, contact the Department of Public Safety.
Contact the appropriate department head to ascertain the facts as known to him or her.
If warranted, appoint an appropriate fact-finding investigative panel of officers to determine the facts and report the same to the President.
Alert the Vice President for Communications to the situation.

3) Public Safety responsibilities:

Initiate actions in accordance with Paragraph 2.i. above if criminal activity is alleged.

3. ADMINISTRATION:

Each director or office manager in the college will prepare appropriate office instructions or checklists to ensure that all personnel have the necessary guidance to implement this memorandum. A copy of these instructions/checklists will be forwarded to the Department of Public Safety to be filed with the original memorandum.

4. RESCISSION:

This memorandum rescinds Memorandum No. 15 dated 22 May 1995.

FOR THE PRESIDENT:

OFFICIAL

CHARLES B. REGER
Colonel, USAF, Retired
Executive Assistant to the President

DISTRIBUTION:

B

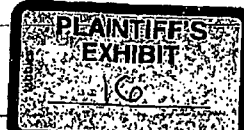
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CITADEL 0002406

THE CITADEL SUMMER CAMP

OFFICIAL CAMP POLICIES REGARDING SEXUAL MISCONDUCT ISSUES

1. ANY SEXUAL RELATIONSHIP BETWEEN ANY CAMP EMPLOYEE AND A CAMPER IS PROHIBITED. ANY PERSON NOT ADHERING TO THIS RULE WILL BE IMMEDIATELY DISMISSED FROM HIS/HER EMPLOYMENT WITH THE CITADEL AND WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW.
2. ANY PHYSICAL CONTACT BETWEEN AN EMPLOYEE OF THE CITADEL AND A SUMMER CAMPER SHOULD BE CLEARLY IDENTIFIED AS HAVING AN EDUCATIONAL PURPOSE OR AS A RESULT OF ILLNESS OR INJURY.
3. CAMP EMPLOYEES WILL KEEP AN OPEN DOOR WHEN VISITING CAMPER ROOMS ALONE. WHEN A CAMPER VISITS A COUNSELOR'S ROOM ALONE, IT IS THE RESPONSIBILITY OF THAT CAMP EMPLOYEE TO ENSURE THAT THE DOOR IS FULLY OPEN AND THAT IT STAYS OPEN UNTIL ANOTHER ALERT PERSON IS PRESENT IN THE ROOM.
4. REGARDLESS OF VALIDITY OF THE VIOLATION, ANY SEXUALLY INAPPROPRIATE CONDUCT REPORTS CONCERNING ANY CAMPER OR EMPLOYEE OF THE CAMP WILL BE TURNED OVER TO THE CITADEL PUBLIC SAFETY DEPARTMENT AND A THOROUGH INVESTIGATION WILL BE CONDUCTED.
5. FAILURE TO REPORT KNOWN MISCONDUCT AND/OR QUESTIONABLE BEHAVIOR IS GROUNDS FOR TERMINATION OF EMPLOYMENT WITH THE CITADEL. IF A CRIMINAL OFFENSE HAS BEEN COMMITTED, FAILURE TO REPORT THE INCIDENT IS CONSIDERED A FELONY AND WILL BE REPORTED TO THE NECESSARY LAW ENFORCEMENT AGENCIES FOR PROSECUTION.
6. ANY EMPLOYEE OF THE CAMP WHO HAS BEEN CHARGED OR CONVICTED OF A CRIMINAL OFFENSE WHILE WORKING AT THE CAMP HAS 24 HOURS FROM THE INITIAL ALLEGATION TO DISCLOSE SUCH INFORMATION TO THE DIRECTOR OF THE CAMP. ANY HIREE OF THE CAMP IS REQUIRED TO DISCLOSE ANY PENDING INVESTIGATION CONCERNING A CRIMINAL CONDUCT ALLEGATION.
7. ALL SEXUAL MISCONDUCT ALLEGATIONS DISCLOSED AT ANY TIME CONCERNING ANY INDIVIDUAL(S), CURRENTLY OR FORMERLY,



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ASSOCIATED WITH THE CAMP, WILL BE INVESTIGATED UPON DISCLOSURE. THERE ARE NO TIME PERIOD RESTRICTIONS REGARDING SEXUAL MISCONDUCT INVESTIGATIONS.

8. AT NO TIME IS ANY MINOR PARTICIPANT OF THE CAMP ALLOWED OFF CAMPUS WITHOUT PERMISSION FROM THE DIRECTOR. ALL OFF-CAMPUS TRIPS INVOLVING A MINOR PARTICIPANT OF THE CAMP REQUIRE NO LESS THAN 3 PERSONS. IF THE MINOR PARTICIPANT IS A FEMALE, AT LEAST ONE OTHER FEMALE MUST BE PRESENT.

9. ALL CAMP EMPLOYEES MUST ADHERE TO THE GUIDELINES AND STANDARDS OF THE CITADEL BE SUBJECT TO THE CITADEL'S STANDARD OF REVIEW.

I UNDERSTAND AND WILL ABIDE BY THESE POLICIES:

X _____

Print Name: _____ Date: _____

CITADEL 0002284

COUNSELOR CODE OF CONDUCT

The Citadel Summer Camp personnel must always remember that they are role models and mentors to the hundreds of boys and girls that attend the Camp each year. They must always practice mature judgment and be mindful of the well being of the campers.

WHILE ON CAMPUSES, CAMP PERSONNEL WILL COMPLY WITH THE FOLLOWING REGULATIONS:

1. Use of tobacco, alcohol, and/or drugs, in any form, is prohibited.
2. Camp personnel will not use profanity or make any obscene remarks or gestures.
3. Camp personnel will never use force when disciplining a camper. Campers are not cadets; they are 10 to 15 year old campers!
4. While on campus, there will be limited interaction between summer school students and camp personnel
 - a. Camp personnel will have no direct contact with Summer School students other than casual meeting encounters.
 - b. Summer School students and Camp personnel are not permitted to visit each others living area/rooms, unless on official business and registered with the guard at the gate.
5. Sexual activity, in any form, with any person is prohibited while on campus. "Sexual activity" includes kissing, handholding, lying together, groping, fondling and sexual intercourse.
6. Male personnel and campers may NOT visit the girls' living areas at any time unless specifically authorized.
7. Female personnel and campers may NOT visit the boys' living areas at any time unless specifically authorized.
8. Camp personnel must read and abide by procedures set forth in the "Counselor Handbook."

COMPUTER ROOM:

The Senior Counselor will have a key to the barracks Computer Room for use by counselors. This room is especially helpful when writing "Counselor Letters" to parents. Please take special care of this room so that the camp's privilege of using it is not revoked. **CAMPERS ARE NEVER ALLOWED IN THE COMPUTER ROOM** (unless permission has been granted by the Camp Director).

COUNSELOR LOUNGE:

An air-conditioned room in the barracks will be designated as a "counselor lounge", for use during free time and periods off. This is a common area for use by all counselors. Care must be exercised to ensure the activities of a few do not interfere with others. Care must also be taken to ensure the lounge is kept clean. If problems arise with the lounge, it may be closed.

- a. Male and female counselors, and guests who are properly "signed-in," may jointly use the lounge.
- b. Camp employees and visitors are expected to self-police behavior and cleanliness in this area.
- c. Individuals may be barred from the lounge for disruptive behavior, and the lounge may be closed entirely if problems persist.

CURFEW:

Counselors under the age of 18 have a curfew of 12:00 midnight. For accountability, these individuals must report to the Staff Duty Officer in the front sallyport to sign-in each night. Curfew violations will result in immediate termination of employment.

DANCES:

1. Remember: The Citadel Summer Camp Dances are for the campers... not for counselors to find a boy- or girlfriend. Counselors will NOT bring guests to dances. This rule also applies to counselors on their "day off."
2. Counselors will act as chaperones and be visible at all times. Counselors will be assigned to perform specific functions or monitor various areas during the dance. Assignments will be handed out and posted in the guardroom on the day of the dance.
3. Counselors MUST BE PROPERLY DRESSED IN UNIFORM WHILE AT A DANCE. If a counselor is on a "day off" and desires to attend the dance, he/she must be in uniform.
4. Counselors exhibiting inappropriate behavior may be dismissed.
5. At the end of the dance, sections will be dismissed one at a time and return to the barracks in formation. Everyone should stay in the auditorium until his/her section is dismissed.

Remember: You are accountable for your campers and yourself.



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DAYS OFF:

1. Days off will be assigned at the beginning of each session. Assignments will be given to each HSC. Section counselors will then make their night duty schedules.
2. Days off usually run from after dinner until the 7:00 a.m. meeting 36 hours later. When making the night duty schedule with your section, try to make sure you are not scheduled for night duty the night before your day off. If you are, you will be expected to work. Schedules will NOT be rearranged.
3. In order to optimize rest and relaxation, counselors should try to spend their days off away from camp.
4. Counselors may attend camp meals on days off, but will be in proper camp uniform while in the Mess Hall.
5. Counselors should try to get sufficient rest during their days off.
6. If returning to the barracks late at night, please do so **QUIETLY**.
7. Counselors cannot change their days off. If a counselor has a problem with his/her day off, he/she will coordinate with the Head Section Counselor, the Senior Counselors and the Directors before the session begins. **COUNSELORS CANNOT REARRANGE SCHEDULES!**
8. Counselors who sign up to tutor Academic Review are expected to meet this obligation, regardless of day off schedule.

DISCIPLINE:

1. Counselors are responsible for discipline within their section and at their activities. Counselors must handle discipline in a positive nature. Recurring problems or those of a significant nature will be channeled through the Head Section Counselor, to the Senior Counselors, and to the Directors, if necessary.
2. Discipline Reports are used to document a camper's negative behavior. Making use of these forms enables the staff and counselors to keep a record of problems we have had with a particular camper. Discipline reports must be filed in the barracks guardroom. You can find blank reports in various locations:
 - Activity Notebooks
 - Guardroom
 - Deas Hall Camp Office
 - Mess Hall Podium
 - Head Section Counselor Notebooks

★ **REMEMBER:** Use of "discipline report forms" helps let the camper know what they did wrong. Having the camper take "time out" to fill in the report is a good way to punish negative behavior. Campers with excessive reports will be sent to the senior counselor, and if the problems persist, the parents will be called.
3. Lead by example and be a positive influence! Be specific rather than general. Avoid group punishment. Be positive and encouraging, but never give the camper false hope (i.e. "you'll probably win the Mark Clark Award", "I bet you will be the First Honor Graduate", etc.).
4. Campers are not going through a fourth-class system. Push-ups, or any form of physical punishment, are prohibited when disciplining campers.
5. Campers are 10 - 15 years old. They are not adults! They are not cadets! Treat them with kindness and encouragement.
REMEMBER: Praise publicly / Punish privately

EQUIPMENT POLICY:

1. Activity heads will sign for the equipment for their activity from the Operations Officer. They should verify the amount and condition of equipment for which they sign. Counselors who are instructing an activity will also verify equipment accountability at the end of each period. Broken equipment should be brought to the attention of the camp Operations Officer and Logistics Officer.
2. Do not leave equipment at an activity site until the counselors instructing the next class arrive. If the next instructor does not arrive within a reasonable amount of time (after the next class starts), notify a staff member

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immediately. Equipment should be returned to the respective storage areas at the end of morning and afternoon activity sessions (11:20 a.m. and 3:20 p.m. M/W/F or 4:20 T/Th/S).

- Deas Hall Storage Equipment (hallway by the Camp Office)
 - Basketball
 - Racquetball
 - Swimming
 - Volleyball
 - Dodge Balls
- Barracks Equipment Room (designated room- # TBA)
 - Flag Football
 - Soccer
 - Softball
 - Team Handball
 - Tennis
 - Referee equipment
 - Cones for Intramurals
- Air Rifle (locked closet in the Air Rifle Room)
 - Air Rifle equipment
 - Ping Pong equipment

3. Failure to properly account for equipment may mean that a counselor has
4. Any problems concerning equipment or Deas Hall personnel should be d

*Other about IMAK
② Aquarium?*

EVENING ACTIVITIES:

The camp offers the following evening activities for campers and counselors:

1. Field Games: 1st night of each session
2. Intramural Sports: between sections
3. Video/Movie Nights: All movies watched by campers must be G or PG
4. Dances: Saturday, and the final Friday of each session
5. Riverdogs Baseball Game

FINES:

1. All personnel hired by the Camp are expected to abide by the rules set forth in this Counselor Handbook and in the Code of Conduct agreement of which they have signed. As a reinforcement mechanism, counselors may be subject to monetary fines for minor infractions of the rules.
2. Fines may be routinely levied for: missing a morning meeting; being late or absent from scheduled activity; being late or absent from required duty; uniform or room condition infractions and equipment or property damage.
3. Counselors are expected to pay their fines on payday.
4. The Director will collect the fines.
5. Fines collected will be returned to the camp, and may be used for the general good of the camp as determined by the Directors.

FORMATIONS:

1. Counselors must attend all formations (except on their days off). The first formation of the day is a meeting in the front sallyport at 7:00 a.m. (Head Section Counselors may authorize one counselor to miss this meeting in order to supervise section campers in the barracks. The HSC will report for that counselor during roll call.)
2. Counselors are expected to march with their section to all meals and retreat.
3. For the 1st activity period in the morning / afternoon, counselors assigned to teach an activity, will march the campers they are instructing to the appropriate location. If necessary, one counselor should be sent ahead to ensure equipment is ready. Counselors will march campers back to the barracks after the last morning / afternoon activity ends. Campers will not be allowed to march themselves back to the barracks.

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4. Head Section Counselors must insure all campers and counselors are in formation and in proper camp uniform. Accountability relates directly to SAFETY; campers should be accounted for at all times!
5. Night duty counselors will march their campers to evening activities, and remain with them during the activity. (On movie nights, campers sit as a section with their counselors. Night duty counselors sit IN the auditorium, watching the movie with their section.) The night duty counselors will march their section back to the barracks after the activity.
6. Both campers and counselors should be prompt to formations. Early in the session, counselors need to be extra early for formations. Special attention may be required for campers as they adjust or there may be a specific problem camper who needs assistance.

FUN:

1. This is the second priority of camp! While campers, counselors, and staff members are not required to have fun, most at least make an attempt at it.
2. Safety should never be jeopardized in the interest of fun. After over forty years of existence, the camp program has proven that it can be an enjoyable experience. Do your part to ensure each camper has the opportunity for an enjoyable and FUN experience.
3. Competition should not be over-emphasized and EFFORT should be consistently recognized.

GIFTS FROM PARENTS OR CAMPERS:

1. Counselors and staff members should never accept money or goods from a camper (including his or her family or friends.)
2. If gifts are offered, the staff member or counselor should politely inform the giver of this camp policy and thank them for the thought.

GUARDROOM:

The barracks guardroom is an office of the camp. It must be maintained in an orderly manner. The guardroom and front sallyport are not lounges. CCQs and CITs are responsible for cleanliness of these areas. The telephone in the guardroom is for official business only.

HARASSMENT:

1. Every camper deserves the opportunity to experience camp life free from any form of harassment. Each camper should be able to experience camp without being subject to physical, mental or sexual harassment, assault, slurs, degradation or pressure of any kind.
2. No counselor will subject a camper to harassment.
3. No counselor will strike, lay hands upon, threaten with violence, or offer to do bodily harm to a camper.
4. No counselor will allow tyrannical, abusive, shameful, insulting, or humiliating treatment to a camper.
5. Campers may be disciplined by:
 - a. reprimand (e.g., explain how the action will not be tolerated)
 - b. loss of privileges (e.g., starting Rec. Period fifteen minutes late)
 - c. additional duty (e.g., sweeping the section gallery or a portion of the quad).
6. If a counselor has tried remedies for a camper and does not see changes in behavior, the counselor should seek assistance from the Head Section Counselor, Senior Counselors, or Directors.
7. Campers should not be subject to harassment from other campers.
 - a. Older campers may try to control younger campers
 - b. Multi-year campers may try to control newer campers
 - c. Campers who are heavy or wear glasses may be subject to comments/slurs
 - d. Campers of one race may be subject to comments by those of another race
 - e. Campers of one sex may offend those of another
 - f. Campers may threaten other campers

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8. Counselors must constantly monitor sections and activities to ensure no form of harassment takes place.
9. The definition of "Sexual Harassment" as defined in the Blue Book Regulations for the Corps of Cadets states: "Sexual harassment is unwanted sexual attention. It is frequently a display of power intended to demean, embarrass, intimidate or coerce a person. It includes but is not limited to unwanted requests or demands for sexual favors, propositions, questions about a person's sexual experiences, lewd comments, leering, sexual insults or innuendos and sexually explicit jokes. It also includes unwanted touching, fondling, patting, pinching or kissing, as well as blocking a person's way. Sexual graffiti and sexually explicit pictures (including those on computers), cartoons, or objects can also constitute sexual harassment. Although some forms of sexual harassment may be unintentional, words and behaviors such as those described above may be harassing when viewed or heard by others. Words which are demeaning to one gender are also forms of sexual harassment. Both men and women can be sexually harassed and it can also occur between members of the same sex."
10. All counselors must accept personal responsibility for the fair, equitable, proper, and effective treatment of every camper and every other counselor.

HOTEL SIERRA:

1. "Hotel Sierra" is a code phrase often used for "homesickness." Homesickness can happen to any camper, regardless of age, when separated from familiar surroundings.
2. On the first day of camp, especially while parents are leaving, campers tend to be very susceptible to homesickness. For some campers, this is their first time away from home. Counselors should be extra patient with these campers. Try not to single them out and attempt to get every camper fully engaged in the activities at hand. Most campers will successfully adapt to new surroundings with involvement, support, and positive reinforcement.
3. Parents may experience "child-sickness" when separated from campers. Counselors should discourage excessive contact with parents, which may contribute to the camper's homesickness. Let the Directors know if there is a situation where a parent is contributing to the ongoing homesickness of a camper.

INDIVIDUAL EXCELLENCE:

1. This is the fourth priority of the camp.
2. Campers, counselors, and staff are encouraged to do their best to "excel", but never at the expense of Safety, Fun, or Team Play. Keep in mind that effort, not perfection, should be recognized.

INFIRMARY:

1. Campers and counselors may use the campus Infirmary when required for medical assistance.
2. Sick call will be held each morning at the time of the first activity. Campers should go on "sick call" if they need medical assistance, or have been instructed to do so by the medical staff. Sick call will usually be broken into two portions: campers with sports injuries, who need to see the trainer; and those with sickness, infection, or medical problems, who need to see the doctor or nurse.
3. The nurses of the infirmary administer medications to campers:
 - Routine medications are administered near meal times and at bedtime.
 - Campers who need medications will usually go to the infirmary at a different time than those who need to see the doctor, nurse, or trainer.
4. The infirmary is not a place for homesick campers. In the case of a severely homesick camper, please escort that camper to the Camp office in Deas Hall.
5. Counselors and staff must remember the staff of the infirmary are trained professionals. Their considered opinion will be followed without comment or discussion.

JOB DESCRIPTIONS:

Job descriptions for Staff, Counselors, CCQs, and CITs are found at the beginning of this Handbook.

JUNIOR COUNSELORS and COUNSELORS-in-TRAINING:

1. Counselors in Training (CITs) are 16-year old employees whose primary role is to serve as operational assistants to the camp staff. CITs are hired for one session of camp, but may be asked to remain in camp and take a position as a Junior Counselor (depending on position availability and prior job performance).
2. Junior Counselors (JCs) are 16- and 17-year olds who have been assigned to a section of campers.
3. For safety and liability reasons, JCs and CITs have certain restrictions that may not apply to other counselors. Other counselors must be mindful of not putting a JC or a CIT in a position where these rules could be violated.
4. Even though there are differences in counselor positions, where campers are involved, JCs and CITs are the same as counselors. Counselors and staff should NEVER call attention to counselor-level distinctions to the campers.

JC & CIT CODE OF CONDUCT

Junior Counselors (JCs) and Counselors in Training (CITs) must always remember that they are role models and mentors to the hundreds of boys and girls that attend the Camp each year. JCs and CITs are no longer campers and are expected to continuously demonstrate maturity well beyond that expected from the oldest campers.

AUTOMOBILES: Automobiles will be permitted on campus when approved by parents/guardians. All vehicles must be registered with the campus Public Safety office, through the Camp's Director of Personnel and Administration. Possession and use of a vehicle on campus are privileges and are revocable. Travel during off duty hours must be within a 25 mile radius from The Citadel campus, unless specific exceptions are requested by parents and approved in advance by the Directors.

CURFEW: The nightly curfew for all JCs and CITs is 12:00 a.m. All JCs and CITs are required to be in the barracks by that time and will be required to sign in with the Staff Duty Officer.

WHILE ON CAMPOS, JCS AND CITs WILL COMPLY WITH THE FOLLOWING REGULATIONS:

- Use of tobacco, alcohol, and/or drugs, in any form, is prohibited.
- Camp personnel will not use profanity or make any obscene remarks or gestures.
- Camp personnel will never use force when disciplining a camper. Campers are not cadets; they are 10 to 15 year old campers!
- While on campus, there will be limited interaction between summer school students and camp personnel
 - Camp personnel will have no direct contact with Summer School students other than casual meeting encounters.
 - Summer School students and Camp personnel are not permitted to visit each others living areas/rooms, unless on official business and registered with the guard at the gate.
- Sexual activity, in any form, with any person is prohibited while on campus. "Sexual activity" includes kissing, handholding, lying together, groping, fondling and sexual intercourse.
- Male personnel and campers may NOT visit the girls' living areas at any time unless specifically authorized.
- Female personnel and campers may NOT visit the boys' living areas at any time unless specifically authorized.
- Counselors must read and abide by procedures set forth in the Counselor Handbook.

LANGUAGE:

1. Counselors and staff are expected to use proper language at all times. Campers are at an impressionable age and will often repeat what they hear from other campers and counselors.
2. Campers are also expected to use proper language. Counselors must monitor the language of the campers in their care and make corrections when indicated.
3. Cussing, cursing, profanity, vulgarity, insults, name-calling, derogatory, demeaning or threatening language will not be tolerated. Off-color and derogatory "jody calls" will not be tolerated. Counselors are expected to insure a proper tone in all counselor-camper, camper-counselor and camper-camper discourse. **IN SHORT, DO NOT USE IMPROPER LANGUAGE.**

LAUNDRY:

1. Laundry service is provided for campers and counselors by the campus Laundry. Laundry is picked up and delivered twice each week. The dates for pickup and delivery are posted in each camper's room and announced in the Mess Hall.

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2. Campers and counselors will count their laundry, complete the forms, and carry their laundry to the quadrangle for pick up. Counselors should supervise this process and ensure their campers have clean cloths and clean bedding. Bedding should be changed at least weekly (see the master schedule and remind your campers).
3. Counselors who so desire may make use of the vending washers and dryers on campus (the Laundromat is located between Deas Hall and LeTaller Hall.)
4. Every counselor is expected to have clean uniforms to wear during camp. "I didn't get my laundry done," is not an excuse for being in an improper or dirty uniform. Uniforms that are torn or permanently stained may be exchanged in the camp office.

MAIL CALL:

Individual sections do Mail Call. Each morning the Director of Personnel and Administration collects outgoing mail from the guardroom and delivers it to the campus Post Office. Incoming mail is then returned to the barracks, sorted by section and put in section boxes for counselors to distribute after lunch. Campers enjoy getting mail, so be sure to check the boxes and ensure all items are delivered to the camper to whom addressed.

MENTORING:

Counselors are the leadership of the camp. Act responsibly and maturely. Campers are aware of your actions and are easily influenced. Set a good example!

MESS HALL:

1. Counselors sit at the end of each table ("mess carvers") and are responsible for camper behavior, as well as their own. The Mess Hall is a place to eat (not to play games, throw food, etc.). Food should not be taken from the Mess Hall. Sections will be kept quiet during announcements and behavior monitored at all times.
2. Should a counselor have a problem with the food, mess hall employees, etc., he/she should report the situation to the camp Logistics Officer; to include any special food or dietary needs (e.g. pork substitutes for Jewish or Muslim campers.)
3. At breakfast, sections will rotate to the cereal tables. An announcement will be made at the beginning of each meal indicating what sections go first. Counselors need to pay attention to the rotation and control their campers.

MONEY:

1. Counselors will neither loan money to, nor borrow money from, campers at any time. Additionally, campers and counselors are prohibited from selling items at camp.
2. Remind your campers to keep their valuables secured and not give their lock combinations to their roommates.
3. Before campers arrive, check lock boxes in each room and make sure they can be secured. Report any problems to the Logistics Officer. Continue to monitor this situation during camp sessions.
4. Security of cash is especially important on Wednesdays when campers receive spending money. Caution your campers to take care of their money and keep it safe.
5. If a section is to hold a pizza party, counselors must be extremely careful regarding money collected from campers. Money collected will be documented on a section roster, and turned over to the Senior Counselor. At no time should a counselor appear to profit by collecting money for a section party. If proper documentation is not kept, the counselors of that particular section will be responsible for any refunds requested by campers.
6. On Wednesdays, campers are given \$10.00 in spending money. Head Section Counselors will see the Director of Personnel and Administration at the beginning of the lunch meal to receive the money and a roster for their section. HSCs will have each camper sign for their \$10.00, and return their roster and any extra cash to the Director of Personnel and Administration, before leaving the Mess Hall. Extra money and rosters will not be taken from the Mess Hall, without specific approval.

NIGHT DUTY:

1. Counselors are scheduled to work several night duty shifts during each camp session. Prior to the start of each session, section counselors will get together and make their section's night duty schedule. The schedule is then

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submitted to the Senior Counselor for approval. Copies are then distributed to the Directors and staff for further accountability.

2. Once approved and published, night duty schedules will not be changed without written approval from the Senior Counselor or one of the Directors.
3. One of the two counselors scheduled for night duty will remain with the section, in the barracks, all night ("Overnight Section Duty"). The other counselor with night duty ("Evening Activity Duty") is off at 10:00 p.m. The schedule will indicate which counselor is required to be present for the overnight shift.
4. Counselors without night duty may leave campus after dinner.
5. Night duty counselors are responsible for:
 - a. Being present on the gallery until "Taps" is sound, or until campers settle down for the night. (Both night duty counselors must be present).
 - b. Maintaining order in their section (noise, chaos, etc.).
 - c. Insuring all campers take a shower before Taps.
 - d. Insuring all lights in camper rooms are turned off at Taps.
 - e. Providing an "All-in Report" to the on-duty CCQ (within fifteen minutes of Taps).
 - f. Keeping campers in their own rooms after Taps.
 - g. Insuring camper accountability (infirmary visits, etc.).
6. Each evening, a staff member is assigned duty as "Staff Duty Officer", to:
 - a. Insure all counselors assigned for night duty are present.
 - b. Monitor evening events.
 - c. Be present on campus during evening activities and in the barracks from after Taps until breakfast the next morning.
 - d. Receive the "All-In Reports" from the CCQ on duty.
 - e. Insure order is maintained in the barracks.
 - f. Insure the guard on duty plays "first call" for Reveille/breakfast at 0715.
 - g. Conduct accountability check of IC / CIT curfew.
7. Visibility is the first line of defense against section disorder. Counselors must remain on the galleries until Taps has sound and order among campers has been established.
8. Campers may not "switch" rooms (even if it is "just for the night"). Night duty counselors are responsible for enforcing this rule. Campers who do not observe this policy will lose privileges.
9. Campers will NEVER be allowed to sleep in a counselor's room. If a camper is experiencing difficulty, visit the camper in their room with their roommate present, or talk to them on the gallery or in a counselor room with another counselor present. NEVER allow a camper to sleep in a counselor's room and NEVER sleep in a camper's room.

PARTIES (PIZZA):

Counselors may have no more than 1 section party after Taps, per session. These parties are encouraged, but for maximum value should be tied to a positive event: i.e., when campers have performed particularly well during inspections, section grading, behavior, and/or intramural competition. Head Section Counselors must receive advance permission from the Senior Counselor, and give notice to the Staff Duty Officer. For accountability, money collected for these parties MUST be documented and signed by the camper on a Section Roster. Turn the completed money collection roster over to the Senior Counselor.

PERIOD OFF:

Each day, counselors will be assigned at least one 50-minute activity time slot as a period "off". Counselors enrolled in summer school will not be afforded this privilege, due to the time already taken out of the camp schedule for their classes.

PROMPTNESS:

1. Bugle calls apply to both campers and counselors. Counselors on duty are expected to be on time for all formations.

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2. Counselors are expected to be at their assigned activity on time. Repeated instances of being late to formations and activities will result in monetary fines for counselors and, if necessary, termination of employment.
3. Counselors in summer school classes are especially susceptible to being late. Extra care must be taken to proceed quickly to assigned activities. Once at an activity site, counselors should not leave the activity site until another counselor has arrived.

QUAD CHAOS:

"Quad Chaos" is a term used for activities that occur on the barracks quadrangles during free time. Even when "no out is in charge" of camper activities, counselors must be aware of what is taking place. SAFETY must not be compromised for the sake of fun.

QUIET:

1. Order and discipline by Summer Camp personnel is important. The camp must be a good neighbor and be courteous of others at all times.
2. There are several campus facilities that deserve special attention, regarding noise:
 - a. Deas Hall - Many camp activities take place in Deas Hall. Summer School activities also take place here. Whenever campers are in hallways, they should remain orderly and quiet. Campers should only take the stairwells allocated for camper use (signs will be displayed.)
 - b. Mark Clark Hall - Mark Clark Hall is one of the most visited buildings on campus, and the Camp also uses it for many activities. Campers must maintain good order and discipline in this building. Counselors should regularly monitor bathrooms. When in Mark Clark Hall, campers should never be without counselor supervision. During Recreation Period, counselors will be assigned to monitor areas of concern.
 - c. Murray Infirmary - Campers visit the Infirmary to receive medications, for routine sick call and for emergency treatment. Only campers who stay in the Infirmary on orders of the medical staff due to injury or illness will be left without counselor supervision. Orderliness is important so that nurses and doctors can properly treat campers. Counselors will routinely be assigned to accompany campers to the Infirmary to assist in maintaining order and discipline. The Director of Safety & Education will monitor camper and counselor conduct in the infirmary on a daily basis.
3. Quiet and discipline in the barracks is extremely important.
 - a. The Summer Camp can be quite taxing on campers, as well as counselors. Quiet must be maintained to ensure everyone gets a good rest, at night and after lunch.
 - b. When Summer Camp shares barracks space with other activities, like the SC Police Corps, the need for general quiet becomes even more important.
 - c. Many counselors are taking summer school classes. Quiet is needed for study time.
4. It is a counselor's duty to control and maintain discipline of campers. Noise levels must be kept down when inside all buildings. Campers who fail to observe rules should be immediately corrected. The word "Quiet" will be used when requesting order within the section. "Shut-up" will not be used.

RAIN (See Black Flag):

1. When the Black Flag / Rainy Day (BF/RD) Schedule is to be implemented, as much advance notice as possible will be given to counselors. Counselors should be ready to move campers to their alternate activity quickly and safely.
2. Under the BF/RD Schedule, each outside activity has an alternate activity/site. Counselors with outside activity responsibilities should review their teaching schedule and become familiar with any reassignments.

RECREATION PERIOD:

Recreation period takes place on Mondays, Wednesday, and Fridays from 3:30 to 4:20. After the last Activity Period on these days, campers return to the barracks for a formation. After this formation, campers are free to leave the barracks. Permissible destinations include:

- Remain in the barracks
- Mark Clark Hall / Snac

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- k Bar
- Parade Ground
- Deas Hall (only when escorted by a counselor)

Counselors will be assigned to various locations to supervise campers. Assignments will be posted in the guardroom before the session starts.

REGULATIONS:

Counselors will abide by regulations of The Citadel and are expected to conduct themselves accordingly; the college's Honor Code and Summer School Regulations apply. College regulations give the Directors disciplinary authority over Summer Camp personnel.

RELATIONS (COUNSELOR/STAFF):

1. Camp counselors are responsible for the day-to-day supervision of campers and their activity instruction. Within each section, the Head Section Counselor is responsible for that section's other counselors.
2. Camp staff members are primarily responsible for planning and coordination, which allows counselors to operate effectively.
3. Counselors in Charge of Quarters (CCQs) are primarily responsible for the security of the camp's barracks.
4. Counselors-in-Training (CITs) have two responsibilities: security of the camp's barracks during daylight hours and performing various support and training activities, e.g., intramural referees, marking fields, supplying water to activity sites.
5. Counselors and staff must strive to work together in order for the camp to operate efficiently and professionally. Recognition that staff, counselors, CCQs and CITs have different responsibilities is important. Each person must perform his/her own duties. Any concerns or problems should be brought to the attention of the Senior Counselors or Directors without hesitation.
6. Counselors with problems or questions, no matter how small, should normally consult, first, their Head Section Counselor. The Senior Counselors are usually the next to be consulted, but any staff member, including the Directors, may be approached regarding questions or problems. Staff members must be ready to correct problems brought to their attention.
7. Counselors should not hesitate to direct parents to the Senior Counselors or Directors concerning any camper-related problems.
8. Counselors will not have "dating relationships" with other counselors while camp is in session. Such behavior is not conducive to smooth operation of the camp and may result in dismissal.

ROOMS:

1. Counselor and staff rooms will be kept neat and clean at all times. Staff members (including the Directors) will check rooms periodically. Failure to maintain rooms in proper order may result in fines.
2. Counselors are allowed to have televisions, VCRs, computers, stereos, and video games. Other appliances (i.e., refrigerators, microwaves, hotplates, etc.) are not acceptable.
3. If furniture in a counselor's room is moved, it must be returned to its normal arrangement before the end of camp. Furniture may not be arranged in such a manner to create a safety hazard.
4. The guardroom, front sallyport and staff rooms are not lounging areas for either campers or counselors. Help maintain these areas for official camp business.
5. A room designated as the "Counselor Lounge" will be set aside for use by camp personnel during off-duty time. Campers are not allowed in the Lounge. Failure to maintain the Lounge in an orderly manner and excessive noise may result in a person being banned from the Lounge or the closing of the Lounge altogether (See "Counselor Lounge".)
6. Campers should not enter another camper's room unless invited by the occupants. Campers are also not permitted to visit other rooms after Taps. **CAMPERS MUST SLEEP IN THEIR OWN ROOMS.** Staff and

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counselors on night duty will enforce this rule. Likewise, counselors should not visit camper's rooms after Taps, except in case of illness, injury, assisting a camper or while maintaining order.

7. No member of the opposite sex should enter any camper's room for any reason without prior approval of the Senior Counselors, or Directors. Should the need arise, staffor counselors will enter in pairs and never alone.
8. Staff and counselors should use discretion when visiting with campers in his/her room. Always leave the door open, and insist that another counselor or camper is present.

SAFETY:

1. THIS IS THE #1 CAMP PRIORITY!

2. In case of injury, the Senior Counselors, Directors, or the Staff Duty Officer will be immediately notified. Follow established safety procedures (located in activity notebooks and posted in barracks) to get aid for the injured individual, and then proceed to transport him/her to the Infirmary. If an injury is sufficiently serious, contact a staff member for evacuation to the Medical University of South Carolina Emergency Room.
3. The counselors present when an accident occurs are responsible for promptly filling out of an Accident Report. If no counselor was present, the Head Section Counselor of the camper will complete the Accident Report. Accident forms should be turned in to the Safety and Education Officer within six hours of an accident.
4. Blank Accident Reports are in all activity notebooks, the guardroom, and the camp office.

SCUBA INSTRUCTION:

SCUBA TAKES PLACE FROM 4:30 TO 6:00, MONDAY - FRIDAY. Due to time constraints and the large amount of material to cover over the 3-week session, it is very important that SCUBA participants are prompt in getting to class. Two people will be assigned to assist with SCUBA and their primary functions include:

1. Ensuring all participants are in the sallyport, with proper materials (swim suit, towel, book, fins, etc.) in hand, at 4:25 p.m.
2. Escorting campers to Deas Hall by 4:30 p.m.
3. Assisting SCUBA instructors with camper accountability and discipline during the class.
4. Escorting campers to the Mess Hall after the class, eating dinner with them, and escorting them back to the barracks.

For accountability purposes, Section Counselors need to know which of their campers are participating in SCUBA

SPECIALIZED ACTIVITIES:

1. Counselors are assigned to work with a specialized activity. These assignments are based upon individual interests (as indicated on the employment application) and the needs of the camp. Assignments are announced during staff training.

2. Counselors will be at their specialized activity every day (except days off) and be on time.

3. Some counselors are assigned Hunter Safety & Trapshooting as their specialized activity. This activity takes place after lunch on WLI Field, behind the mess hall. Counselors assigned to this activity have a rest period during the regularly scheduled specialized activity period (4:30 - 5:30 p.m.), Monday through Saturday. The Director of Marksmanship is coordinator for this activity.

4. Specialized activities last an entire hour (4:30 - 5:30 p.m.), Monday through Saturday.
DO NOT LET CAMPERS LEAVE EARLY!

5. Counselors cannot cancel a specialized activity for a day; therefore, counselors involved with outdoor specialized activities should prepare for rainy days.

6. Counselors involved with each specialized activity will present a skit for the campers on the first Monday night of each session. After the skits, campers sign-up to participate in one of the activities offered.

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TEAM PLAY:

1. This is the third priority of the camp.
2. Team Play encourages sportsmanship and group involvement by everyone in all activities. Activity instructors and coaches for intramurals must ensure each camper gets an opportunity to participate.
3. Unsportsman-like conduct will not be tolerated and violators will be asked to sit out of the activity. Activity instructors and coaches must take the lead in monitoring daily activities and intramural competition. Support for a section is to be encouraged, but good sportsmanship must always be practiced. Stop improper actions; council players; expect and demand good sportsmanship.
4. At the beginning of camp, counselors should remind campers of the "Best Section" competition. This award is based on the combined results of numerous competitions:
 - Room inspections results
 - Track Meet results
 - Field Day results
 - Marching competition results
 - Team cooperation
 - Team spirit
 - Counselor leadership
 - Overall behavior

TELEPHONES:

1. Telephones in the camp office and guardroom are for official business use only. Should the need arise, counselors may use the phones in the camp office to contact camper parents.
2. Head Section Counselors and staff members should plan to have telephones in their rooms. These phones will be an important resource for their communications. Campers should not be permitted to use these telephones unless the Directors give specific permission.
3. Other counselors are allowed to bring their own telephones for personal use, but this privilege may be revoked for cause (i.e., letting campers use counselor phones.)
4. Campers will have routine access to telephones in Mark Clark Hall to contact parents during Recreation Periods (Rec. Time), M-W-F/3:30 to 4:20. Counselors should be prepared to assist campers in placing collect or credit card calls, if required.
5. Campers should not use the pay phone located in the barracks.
6. A 24-hour cell phone will be provided to the camp. The Senior Counselors will have the phone during the day and at night the Staff Duty Officer will have the phone.

TOBACCO:

The use of tobacco (in any form) by campers, counselors, or staff members is prohibited at camp. Campers found with tobacco products will receive punishment. Counselors found with tobacco products will be dismissed.

VALUABLES:

1. Counselors and campers should secure any valuables in lock boxes. When campers are checking into camp, try to discourage them from keeping expensive, pilferable items. Encourage parents to take such items when they depart on Opening Day.
2. Before campers arrive, each session, counselors check the condition of the lock boxes in each room and assure they can be secured. During daily checks of camper rooms, and when talking to campers, be aware of any security problems. Report problems to the Director of Logistics and the Senior Counselors.
3. The camp attempts to provide a secure environment but it is not responsible for lost or stolen items.

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VEHICLES:

1. Operators of any camp vehicle, including the golf cart, must have a valid drivers' license in their possession and obey all traffic regulations. Only individuals who participate in "Vehicle Safety Training", during staff training, may drive assigned vehicles.
2. Operators of the golf cart must exercise great care:
 - a. The cart is small and not seen as readily as other vehicles.
 - b. While highly maneuverable, the golf cart is considered a vehicle and is not allowed on sidewalks.
 - c. Passengers may not be carried in the back of the golf cart.

VISITORS:

1. Counselors and staff members should challenge anyone in the barracks who is not:
 - a. a camp employee
 - b. a member of the vending machine or janitorial service staffs
 - c. maintenance personnel
 - d. College official (President, Director of the Physical Plant, etc.)
 - e. affiliated with the SC Police Corps
2. Summer school students are not allowed in the camp barracks without a counselor or staff escort.
3. Visitors wishing to see camp personnel will report to the guardroom. The CCQ/CIT on duty will page the counselor, who must come to the sally port and escort the visitor to his/her room. A barracks pass will be given to all visitors and must be outwardly displayed when visiting. No visitor of the opposite sex will be allowed into a counselor's room.
4. Guests of camp personnel may visit with their host/hostess in the Counselor Lounge provided they observe all rules pertaining to the lounge.
5. Visitors are not allowed in the Mess Hall without the prior approval of the Senior Counselors or Directors.

MOST IMPORTANTLY:

- USE GOOD JUDGMENT AT ALL TIMES
- BE A GOOD ROLE MODEL
- BE SAFE
- HAVE FUN

COLLEGE REGULATIONS

THE CITADEL

The Military College of South Carolina

(Revised 22 April 2006)



CITADEL-0001091

The Citadel COLLEGE REGULATIONS

SECTION I.

Organization and Administration

Statement of Vision, Core Values, and Mission.

These statements of Vision, Core Values, and Mission were approved by The Citadel Board of Visitors on 1 February 2003 and by the South Carolina Commission on Higher Education on 5 June 2003.

Statement of Vision. Achieving excellence in the education of principled leaders.

Core Values.

- (1) Academics: We produce graduates who have insight into the issues, ideas and values that are important to society and possess the skills necessary to deal with them successfully.
- (2) Duty: We emphasize the importance of individual accountability and the moral obligation of responsibility for the welfare of others.
- (3) Honor: We adhere to a code which teaches that uncompromising personal integrity is the primary guide in all situations.
- (4) Morality: We believe that an individual's character is of utmost importance and, therefore, we provide training which emphasizes ethical principles and core values.
- (5) Discipline: We operate a leadership laboratory which emphasizes a structured environment, acceptance of responsibility, self-confidence and service to others.
- (6) Diversity: We promote diversity in all segments of our campus community and in all aspects of college life.

Mission: The Citadel's mission is to educate and prepare graduates to become principled leaders in all walks of life by instilling the core values of The Citadel in a challenging intellectual environment.

The Citadel strives to produce graduates who have insight into issues, ideas, and values that are of importance to society. It is equally important that Citadel graduates are capable of both critical and creative thinking, have effective communication skills, can apply abstract concepts to concrete situations, and possess the methodological skills needed to gather and analyze information.

Throughout its history, The Citadel's primary purpose has been to educate undergraduates as members of the South Carolina Corps of Cadets and to prepare them for post-graduate positions of leadership through academic programs of recognized

16. **Ignorance of Regulations.** Ignorance of any order or regulation is not considered an excuse for neglect or misconduct.

17. **Information about the College.** The Vice President for Communications is the official source of information to the news media about the College, except for athletic matters which will be disseminated by the Director of Athletics or a designated representative.

18. **Publications.** Any authorized student publication, such as the yearbook, the college newspaper, and student academic literary journals, will be issued under the responsible supervision of a student editor and a designated faculty advisor. The Director of Cadet Activities retains final responsibility for these student publications related to cadet activities. The Provost/Designee of the Provost is responsible for student publications related to activities of non-cadet students. Other official publications prepared by the faculty or staff will be coordinated with the Vice President for Communications.

19. **Non-Academic Graduation Requirements.** Having incurred punishments which would extend beyond commencement, a cadet will not be permitted to graduate or participate in commencement exercises until such punishments have been served or disposed of to the satisfaction of the Commandant of Cadets.

20. **Policy on Hallucinogenic, Narcotic, and Other Controlled Drugs and Substances; Drug Paraphernalia; and The Citadel Drug Testing Policy.**

a. **Prohibited Activity.** The Citadel will not tolerate the possession, solicitation, distribution, sale, or use of hallucinogenic, narcotic or other controlled drugs or substances or of drug paraphernalia.

- (1) The Citadel therefore prohibits all students at any time or place, whether on- or off-campus, from possessing or using any hallucinogenic, narcotic or other controlled drug or substance or any paraphernalia as defined in South Carolina Code Ann. Sec. 44-53-110, unless authorized by a legal prescription for such substance or otherwise specifically permitted by law. Any student knowingly and willfully possessing or using any such substance or item in violation of this policy will be expelled from the College. Any student possessing or using any such substance or item in violation of this policy, but for whom the possession or use is not knowing and willful, will be subject to expulsion from the College.
- (2) The Citadel has a drug testing program which gives the College the right to randomly test members of the Corps of Cadets periodically for the presence of illegal drugs and other controlled substances. Agreeing to participate in this program is a condition of acceptance at The Citadel, and submitting to testing when required under this program is a condition for remaining as a student. (See required Consent Form at the end of this section.)
- (3) The Citadel additionally prohibits any person - whether a student, visitor, employee, or other person - from bringing onto or possessing on The Citadel campus or other Citadel property any hallucinogenic, narcotic or other controlled drug or substance or any drug paraphernalia except as specifically permitted by law. The possession of any such substance or item by any person on Citadel property is contrary to and in violation of the permission of any person to be on Citadel property, and possession or control of any such substance or item on

1 STATE OF SOUTH CAROLINA THE COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON
3 ----- x
4 MOTHER DOE A, :
5 Plaintiff, :
6 vs. : CASE NO. 2011-CP-10-9200
7 THE CITADEL, :
8 Defendant. :
9 ----- :
10 JOHN DOE CAMPER, :
11 Plaintiff, :
12 v. : CASE NO. 2012-CP-10-1860
13 THE CITADEL, :
14 Defendant. :
15 ----- :
16 JOHN DOE 2, :
17 Plaintiff, :
18 vs. : CASE NO. 2012-CP-10-1858
19 THE CITADEL, :
20 Defendant. :
21 ----- x
22 DEPOSITION OF: ANN H. FRANKE (VOLUME 1)

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Page 174	Page 176
<p>1 abused any minor males, after being arrested by the 2 Mount Pleasant police in October of 2011, is 3 100 percent that he did not abuse any minor males. 4 A Had he committed suicide at that moment, 5 he would not have abused anyone else either. 6 Yes. I agree with you. 7 Q Because as you note in your report, the 8 only two sure ways that a pedophile isn't going to 9 sexually abuse a child is death and incarceration. 10 MR. BOWERS: I object to the form. 11 THE WITNESS: I believe I said -- 12 MR. HERNES: Correct. 13 THE WITNESS: -- institutionalization. 14 BY MR. HERNES: 15 Q Which is the same as incarceration -- 16 A There are -- 17 Q -- correct? 18 A -- other kinds of institutional 19 confinements, but they are of a piece, yes. 20 Q Two peas in a pod. Wouldn't you agree? 21 We are splitting hairs, aren't we? 22 A You ask a rhetorical question. I'll give</p>	<p>1 have mandatory reporting laws that address precisely 2 the distinction that you're making. 3 Those mandatory reporting laws disappear, 4 go out the window when the victim, at the age of 5 victimhood, is an adult. 6 Q Okay. So, college students can make up 7 their own mind. Children, who are sexually abused, 8 sexually molested, they should be reported -- it 9 should be reported on their behalf. 10 Would you agree with that? 11 A As state law so dictates, yes. 12 Q Or if you, as an institution, university 13 adopt your own policy where you make it mandatory on 14 yourself to report. 15 A If that policy is clear and it says, if 16 you see child abuse or neglect, you must report it, 17 then -- yes -- that can be an obligation the 18 institution takes on itself. 19 Q Okay. If you will, turn to tab four, 20 please. 21 A Okay. 22 Q Tab four is an article cited in your</p>
<p>1 you a rhetorical answer. 2 Q And it also notes in the last sentence of 3 that paragraph that we were reviewing that university 4 administrator's believe that policies allowing the 5 confidential or anonymous reporting encourage 6 reporting of child -- excuse me -- encourage 7 reporting of sexual assault, correct? 8 A The phrase reads "confidential and 9 anonymous reporting." So you put an "or" there 10 instead of an "and." And the sentence applies to 11 college students. 12 Yes. I agree with the sentiment 13 expressed in the sentence. 14 Q Isn't it more important to report 15 pedophiles -- those preying on the children of our 16 society -- to law enforcement? 17 A More important than what? 18 Q Than college students reporting their 19 sexual assault. 20 A I believe so. Children have less 21 capacity, themselves, to make a report and less 22 capacity to protect themselves. So, as a society, we</p>	<p>1 report, "Campus Sexual Assault: How America's 2 Institutions of Higher Education Respond," by Heather 3 Karjaane -- K-A-R-J-A-N-E -- Bonnie S. Fisher, and 4 Francis T. Cullen. 5 Do you have that in front of you? 6 A I do. 7 Q Okay. And again, this is dealing with a 8 rape on college campuses and other forms of sexual 9 assault on college campuses. 10 A Yes. 11 Q It is not addressing child sexual abuse, 12 child molestation by pedophiles. 13 A Correct. 14 Q Okay. If you will, turn to page VI, the 15 first page under, "Executive Summary." 16 Do you have that? 17 A I will in one moment. 18 Yes. 19 Q Okay. About the center of the page -- 20 the paragraph in the center of the page, it notes the 21 Student Right-to-Know and Campus Security Act was 22 amended in 1992.</p>

45 (Pages 174 to 177)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
)
 MOTHER DOE A,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
)
 JOHN DOE CAMPER,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
)
 JOHN DOE 2,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

VOLUME I VIDEOTAPED
 30 (b) (6) DEPOSITION OF: MARK BRANDENBURG



1 Q. What were your goals for the
2 investigation?

3 A. To find out what had happened.

4 Q. Would you agree with me that preventing
5 harm to other young boys or victims was a goal of
6 the investigation?

7 A. Sure.

8 Q. Would you agree with me that by
9 undertaking the investigation, that The Citadel
10 was aiming to prevent harm to potential victims?

11 A. I assume so.

12 Q. In April of 2007, would you agree with
13 me that the names of sexual assault victims are
14 kept confidential by police agencies in South
15 Carolina?

16 A. I assume so. I'm not a police officer.
17 I don't -- I don't know what exactly their
18 policies are.

19 Q. Do you know what the law was in 2007,
20 whether they were required to keep the names of --

21 A. I don't.

22 Q. -- sexual assault victims --

23 A. I don't.

24 Q. -- confidential? Do you know what it is
25 now, the law?

1 the telephone directory and looked to see who is
2 in the Writing Center. I --

3 Q. But where did the Writing Center
4 information come from? Do you know?

5 A. I don't recall.

6 Q. You didn't know independently he was in
7 the Writing Center; you think you got that from
8 somebody else?

9 A. I believe so.

10 Q. And so you called over to the Writing
11 Center?

12 A. Apparently. I don't know.

13 Q. And he was there?

14 A. It looks like I reached him by his
15 mobile phone somehow. I don't know if he -- if he
16 was at the Writing Center when I called. I just
17 don't know. I don't recall.

18 Q. Do you recall calling the Writing Center
19 and asking for Skip ReVille?

20 A. I don't.

21 Q. Is it possible you did that?

22 A. It's possible.

23 Q. Okay. Do you have a phone record that
24 shows you reaching him by his cell phone or that
25 you called the Writing Center?

1 A. The only thing I have is what I think
2 you all have, and it's about three pages of notes
3 that have a name at the top, April 24th, and
4 telephone conference with Skip ReVille. Those are
5 -- that's all of the record that I have.

6 Q. And you've got a name (sic) for Jessica
7 Mixon, who is in the Writing Center, and then you
8 have Skip's cell phone number, right?

9 A. No. I have on -- I have -- the number
10 that I have for Jessica Mixon is a cell phone for
11 -- it looks like the Columbia area, and another
12 number which I don't know; it may be a local
13 telephone number here.

14 Q. Did Skip ReVille have a Citadel e-mail
15 address on April 23rd, 2007?

16 A. I believe he did. I -- based on
17 documents I've seen, you know, during discovery, I
18 think he did.

19 Q. Did you in any way contact him via
20 e-mail?

21 A. I don't believe I did. I don't know.
22 It does not appear I did, but maybe.

23 Q. Do you recall in 2008 Mr. ReVille
24 calling you?

25 A. No.

1 Q. Do you know whether the Margolis folks
2 talked to Skip ReVille?

3 A. I don't believe he's listed as one of
4 the people that they interviewed.

5 Q. Do you know whether they tried to?

6 A. I have no idea.

7 Q. It doesn't -- I mean, there's a section
8 that says people they wanted to talk to and
9 couldn't. I think one was your secretary or --

10 A. Was Ms. Shiel, yes.

11 Q. So it didn't say that they tried to talk
12 to him and he wouldn't talk, right?

13 A. It does not say that in the document,
14 right.

15 Q. Are your duties with regard to reporting
16 a child predator to the police any different if
17 the perpetrator is a Citadel employee or not a
18 Citadel employee?

19 A. No.

20 Q. It's not in your notes, so I want to ask
21 you, did ReVille, when you met with him on April
22 the 24th of 2007, did he at some point say that,
23 You know me, and you responded by saying, We
24 thought we knew Arpaio?

25 A. That sounds like something I would say.

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, SC 29404

MEMORANDUM
NUMBER 4

15 August 2005

THE CITADEL'S SEXUAL ASSAULT CRISIS INTERVENTION POLICY

1. INTRODUCTION:

The Citadel community strongly supports a policy that prohibits abuse of power by sexual assault. This unlawful act and the coercion, intimidation, and lack of respect it represents is the antithesis of The Citadel's mission, and this behavior will not be tolerated. **THE CITADEL WILL PUNISH ANY INDIVIDUAL(S) WHO IS FOUND TO HAVE COMMITTED A SEXUAL ASSAULT.** Furthermore, the College believes that preventive education is critical to both attempting to reduce the likelihood of sexual assault on campus and to supplementing the process of contemporary leadership development among cadets. Thus, The Citadel is committed to presenting a strong, ongoing sexual assault prevention program in an effort to educate all members of The Citadel Community. **THIS POLICY APPLIES TO ALL MEMBERS OF THE CITADEL COMMUNITY TO INCLUDE CGPS STUDENTS, FACULTY AND STAFF.**

2. DEFINITIONS:

- A. RAPE is defined as any sexual intercourse (i.e., anal, oral, or vaginal) however slight with any object without affirmative consent (see definition at 2c).
- B. SEXUAL ASSAULT includes rape and all other forms of unlawful sexual behavior and contact which is not mutually agreed upon (i.e., penetration with a foreign object including a finger; oral or anal sex; unwanted touching on skin or through clothing; or touching an intimate part of another person such as their genitals, buttocks, or breasts) without affirmative consent by all persons involved.
- C. AFFIRMATIVE CONSENT cannot be given in the following situations:
- 1) the person is unable to give consent (because the person is a minor under the 18 years of age);
 - 2) the person is unable to give consent because of his/her temporary or permanent mental handicap or physical incapacity, such as a person who is under the influence of alcohol or drugs, who has "passed out" or "blacked out", and/or who is unconscious or semiconscious;
 - 3) the person expressed by words or any other behavior a lack of agreement to engage in sexual activity;



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- 4) the person having formerly consented to sexual activity subsequently expresses by words or any other behavior a lack of agreement to continue engaging in sexual activity;
- 5) the person was induced to engage in sexual activity by the other person's
 - a. physical coercion, or
 - b. abuse of position of power, trust or authority; and/or use of artificial means (i.e., drugs such as Rohypnol);
- 6) and/or when the consent is expressed in words or conduct by a third party.

In summary, "No" means "No." The communication of "No" may be expressed verbally or non-verbally (i.e., physical resistance, body language, etc.). Rape and other forms of sexual assault are illegal, regardless of the relationship between the perpetrator and victim (i.e., acquaintance or date rape is as serious a crime as stranger rape).

3. GENERAL GUIDELINES OF THE SEXUAL ASSAULT CRISIS INTERVENTION POLICY:

- A. Upon enrollment and/or during orientation and annually thereafter, The Citadel will make available to each cadet, CGPS student, faculty, and employee the following:
 - 1) The Citadel's policies on cadet dating, cadet fraternization, sexual harassment, and sexual assault;
 - 2) information designed to reduce the risk of being sexually assaulted or committing sexual assault, (such information will also be displayed prominently on campus bulletin boards);
 - 3) guidelines which detail the range of formal and informal options for addressing a range of inappropriate behaviors including sexual assault; and
 - 4) data on the prevalence of these crimes, both at The Citadel and in the local area.
- B. The Citadel will make available educational programs to inform all students (both cadets and CGPS), staff, and faculty in the campus community about the nature of sexual assault and sexual harassment. These programs are detailed in the annual Plan of Instruction (POI) for the Corps of Cadets. Example programs are as follows:
 - 1) Guest speakers, seminars, discussion panels, and/or drama troupes may be utilized at various times in an attempt to maintain a preventive education program throughout the year;

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- 2) Academic psycho-educational classes on drug and alcohol abuse may be presented, which may include the discussion of the close relationship of substance use and sexual assault for all cadets.
 - 3) Faculty, staff, and CGPS students may attend any of the above on a voluntary basis. Contact the Assistant Commandant of Cadets for Administration and Coeducation at 953-6707 for information on these programs.
- C. Given that date/acquaintance rape is a particular problem on most college and university campuses, The Citadel will provide training and distribute literature, which focuses on assisting individuals who have been sexually assaulted. This program includes:
- 1) written protocol describing exact procedures for handling sexual assault cases (this policy);
 - 2) written guidelines for seeking immediate medical and psychological treatment (this policy);
 - 3) brochures which detail information about sexual assault and the options for addressing sexual assault in both a formal and informal manner; and
 - 4) procedures for coordinating the activities of campus and local law enforcement agencies (this policy).
- D. The Citadel's policy encourages individuals who have been sexually assaulted to formally report the incident to a member of the college's administration or to a Citadel Public Safety official (Campus Police). You are encouraged to report to a police official in order that you may preserve physical evidence that is proof that you were raped. However, you do not have to file a formal police report if you wish not to press charges. If you only want assistance with getting counseling and medical treatment, you may report the incident to the Ombudsman, the Infirmary, The Assistant Commandant for Administration and Coeducation, The Sexual Assault Response Coordinator (SARC) or Assistant SARC, or the Special Assistant to The President, and request this assistance as outlined in paragraph E below. It is critical that you report the incident to someone so you can get help. We do strongly encourage you to report the perpetrator since this individual may have a pattern of behavior where he/she has assaulted other victims.
- E. The Citadel strongly encourages all cadets, CGPS students, faculty and staff who have experienced a sexual assault or sexual harassment or have knowledge of another person's sexual assault or harassment to report such knowledge to either the Campus Police, the Commandant of Cadets or his/her representative, one of the Deans, the Ombudsperson, the Counseling Center staff, a member of the campus clergy, Human Resources, or the EEO/AA/Diversity Director. The report will not include the name of the individual who has been sexually assaulted or sexually harassed without the individual's permission, except when there is a known or a perceived future threat of

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imminent physical harm to the individual or others. This report may be done anonymously.

4. IMMEDIATE GUIDELINES IN THE EVENT YOU ARE SEXUALLY ASSAULTED (Refer to Annex A).

5. DO's AND DON'T's IN SUPPORTING A SEXUAL ASSAULT VICTIM (Refer to Annex B).

6. DUTIES AND RESPONSIBILITIES OF CAMPUS PERSONNEL:

A. The persons and agencies suggested in Annex A, Paragraph 1, are recommended initial points of contact for individuals who have been sexually assaulted. It is important to remember, however, that anyone on campus has the potential to be the first contact with someone who has been sexually assaulted, and thus everyone must be familiar with certain information and requirements. First and foremost, it is important to respect the wishes of the individual who has been sexually assaulted, especially as to whether to file a formal complaint or criminal charges. The healing process begins with this individual's control of decision-making that may affect his/her life dramatically.

B. Initial Contact. The Citadel community must be prepared to be the first contact in a sexual assault case. Handling a difficult situation is not easy. The guidelines at Annex B dealing with DO's and DON'T's, should be kept in mind. (NOTE: THIS LISTING OF DO's AND DON'T's IS AVAILABLE IN WALLET-CARD FORMAT AND IS RECOMMENDED TO BE CARRIED BY ALL MEMBERS OF THE CITADEL CAMPUS COMMUNITY.)

C. The Sexual Assault Response Coordinator (SARC) for The Citadel is LTC Kathy Jones in the Admissions Office. Her telephone number is (843) 953-5975. She will be assisted in these responsibilities by Assistant Sexual Response Coordinators (ASARC). These individuals are as follows:

- Assistant Commandant of Cadets for Administration and Coeducation, 953-6707
- Major Robert Pickering, Director of Multi-Cultural Student Services, 953-5096
- Ms. Mary Ellen Huddleston, Director of Intramural Programs, 953-7955
- Ms. Kelly Simpson, Assist. Athletic Director/Senior Women's Administrator, 953-6604
- Ms. Bridgette Beasley, Deputy Director, Human Resources, 953-6989

D. Sexual Assault Prevention Committee. This committee will consist of the Special Assistant to the President (Chair), Title IX Coordinator, Sexual Assault Response Coordinators, Director of the Counseling Center, The Citadel Physician, Assistant Commandant of Cadets for Coeducation, Director of

CITADEL 0002525

Student Activities, Dean of CGPS, Director of Human Resources, Chaplain to the Corps of Cadets, and Director of Public Safety. Responsibilities are as follows:

- 1) conduct an annual review of this policy and recommend changes as required;
 - 2) review contents of annual education program on sexual assault and recommend changes as required;
 - 3) review annual statistics on sexual assault on campus and in local area to discuss trends and lessons learned; and
 - 4) meet, as required, to discuss the latest educational material and issues related to sexual assault.
7. MYTHS AND REALITIES OF SEXUAL ASSAULT (Refer to Annex C).
8. FILING A SEXUAL ASSAULT COMPLAINT (Refer to Annex D).
9. FOLLOW-UP RESPONSIBILITIES IN THE AFTERMATH OF SEXUAL ASSAULT (Refer to Annex E)
10. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) AND THE CRIME AWARENESS AND CAMPUS SECURITY ACT OF 1990 (Refer to Annex F).
11. ADDITIONAL INFORMATION ON THE CITADEL'S SEXUAL HARRASSMENT POLICY MAY BE FOUND IN MEMORANDUM 15, SEXUAL HARASSMENT, DATED 30 AUGUST 2002.
12. RECOMMENDED CHANGES OR QUESTIONS REGARDING THIS POLICY SHOULD BE REFERRED TO THE SPECIAL ASSISTANT TO THE PRESIDENT, 953-4834.
13. RECISSION:

Memorandum Number 9, dated 3 July 2002, is rescinded.

FOR THE PRESIDENT:

OFFICIAL

CHARLES B. REGER
Colonel, USAF, Retired
Executive Assistant to the President

Attachments:

Annex A, "Immediate Guidelines in the Event You are Sexually Assaulted"
Annex B, "DO's and DON'T's in Supporting a Sexual Assault Victim"
Annex C, "Myths and Realities of Sexual Assault"

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Annex D, "Filing a Sexual Assault Complaint"
Annex E, "Follow-up Responsibilities in the Aftermath of Sexual Assault"
Appendix 1: "Protocol for Responding to Sexual Assault, Responsibilities of the
Initial Contact Person – All Cadets, Students, Staff and Faculty"
Appendix 2: "Protocol for Responding to Sexual Assault, Responsibilities of the
Sexual Assault Response Coordinator (SARC or Asst. SARC)"
Appendix 3: "Sexual Assault Incident Report Form"
Annex F, "FERPA and the Crime Awareness and Campus Security Act of 1990"

CITADEL 0002527

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, South Carolina 29409

MEMORANDUM
NUMBER 51*

30 June 2000

SEXUAL HARASSMENT

1. PURPOSE:

All employees and students are entitled to a positive learning and working environment free of any type of sexual harassment. The Citadel's administration has zero tolerance for any form of sexual harassment or sexual violence. In severe instances, cadets may be expelled or employees may have their employment terminated.

Sexual harassment between or among any members of The Citadel community is prohibited, including faculty-student and student-to-student harassment. Sexual harassment also violates federal and state laws.

The purpose of this memorandum is to define and prevent sexual harassment, to establish policies on sexual harassment, to establish procedures for reporting and investigating sexual harassment complaints by students, faculty or staff in a timely manner, and to describe sanctions.

Recommended changes to this memorandum should be submitted to the Title IX Coordinator, Office of the President, who is the proponent for this regulation.

2. REFERENCES:

A. Equal Employment Opportunity Commission (EEOC) Guidelines on Sexual Harassment in the Workplace (Title VII of the Civil Rights Act of 1964).

B. Office for Civil Rights, U.S. Department of Education; Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (Title IX of the Educational Amendments of 1972), dated 13 March 1997.

C. South Carolina Human Affairs Law, S.C. Code Ann. 1-13 10 to-100 (1990).

3. BEHAVIORAL AND LEGAL DEFINITIONS:

A. Behavioral. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment under the following conditions:

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment, or advancement, or other student opportunities.



Replaces Memorandum Number 20, SEXUAL HARASSMENT, dated 15 September 1997.

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2) Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting an individual's employment, or advancement, academic standing, or other student standing, or other student opportunities.

3) Such conduct has the purpose or effect of unreasonably interfering with a person's work, professional or academic performance or creates an intimidating, hostile, or offensive work, learning, or social environment.

B. Legal. Sexual harassment is a form of sexual discrimination and is prohibited by the following:

(1) Title VII of the Civil Rights Act of 1964. Title VII covers all employers, including educational institutions, and prohibits discrimination on the basis of race, color, national origin, religion, and sex. Only employees (including student employees) are covered. Title VII is enforced by the Equal Employment Opportunity Commission (EEOC).

(2) Title IX of the Educational Amendments of 1972. Title IX prohibits sex discrimination in schools receiving any federal assistance, including financial aid. Discrimination, including sexual harassment, is prohibited in the entire school, not just the program receiving federal funds. Students and employees are covered. In February 1992, the U.S. Supreme Court unanimously ruled that complainants under Title IX may sue for damages. Title IX is enforced by the Office for Civil Rights in the Department of Education.

(3) Individuals may also be sued under the provisions of state law for criminal behavior which may include crimes of rape, sexual assault, or sexual abuse.

C. Offending Behaviors. Sexual harassment is unwanted sexual attention. It is usually repeated behavior but it could be one serious incident. It is frequently a display of formal or informal power intended to demean, embarrass, intimidate or coerce a person. It includes, but is not limited to, unwanted requests or demands for sexual favors, propositions, questions about a person's sexual practices, lewd comments, leering, sexual insults or innuendoes and sexually explicit jokes. It also includes unwanted touching, fondling, patting, pinching or kissing, as well as blocking a person's way. Sexual graffiti and sexually explicit pictures, cartoons or objects can also constitute sexual harassment. Although some forms of sexual harassment may be unintentional, words and behaviors such as those described above may be harassing when viewed or heard by others. Words which are demeaning to one gender, such as calling men and women derogatory names or by names for body parts are forms of sexual harassment. Both men and women can be sexually harassed although women are most often the targets of sexual harassment. Sexual harassment can also occur between members of the same sex.

Additional examples of sexual harassment are given in the following list but sexual harassment is not limited to these examples:

1) Quid Pro Quo. One form of sexual harassment is direct or indirect pressure for sexual

activity with implicit or explicit threats or bribes such as a harasser asking a subordinate, co-worker, or peer to engage in sexual activity in order to receive improved work, learning, or social conditions (e.g., better grades, promotions, evaluations, etc.).

a) This form of harassment usually occurs when people use the power they have over others. Usually, the harasser asks a subordinate or co-worker to have sex in order to receive improved work conditions (e.g., better benefits, conditions, promotions, or performance ratings).

b) A school employee explicitly or implicitly ties a student's participation in an educational program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or verbal, nonverbal, or physical contact of a sexual nature.

c) Quid pro quo harassment is also unlawful when the student or employee resists and suffers the threatened harm or submits in order to avoid the threatened harm.

d) Quid pro quo cases are usually the most flagrant and clear-cut (although not the most frequent) kind of sexual harassment. Typically the person involved is a supervisor, faculty member, or someone with formal power who can provide or withhold a benefit, service or evaluation, and thus has the power to harm the person involved.

e) The major elements of quid pro quo harassment are as follows:

- the sexual advances or demands are unwanted, and submission is explicitly or implicitly a term or condition of employment or school status or is used as the basis for decisions about the individual's employment or school status.

2) Hostile Environment Sexual Harassment:

a) Sexually harassing conduct (which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by an employee, by another student (peer), or by a third party) is behavior which is sufficiently severe, persistent, or pervasive to create a hostile or abusive educational or work environment that limits a person's ability to work or participate in or benefit from an educational program or activity.

b) Harassment occurs when one or more people create an uncomfortable, intimidating, and demeaning atmosphere for others either in the work place or educational setting by engaging in unwelcome activities such as sexual remarks, gestures, sexist pictures or pornography.

c) The harasser who creates a hostile environment does not have to be a person with formal power. In fact, most peer-to-peer harassment is of a hostile environment type.

d) The behavior does not have to be sexual in nature; it could be simply demeaning

or intimidating; it could be general comments about the inferiority of females or males; or it could be physical threats or verbal abuse.

3) Examples of sexual harassment include, but are not limited to, the following:

- a) Engaging in sexual comments, sexual innuendoes, degrading language, profanity, or vulgar comments.
- b) Asking or commenting about a person's sexuality or spreading rumors about a person's sexual activities.
- c) Engaging in humor or jokes about sex or about women or men in general.
- d) Making sexually suggestive sounds or gestures, including winking, throwing kisses, making cat calls, licking lips, whistling, etc.
- e) Pestering a person for dates.
- f) Ogling, leering, or looking a person up and down (elevator eyes).
- g) Unnecessary touching, fondling, patting, or pinching, or deliberate brushing against a person.
- h) Shouting obscenities at a person.
- i) Publicly discussing a man or woman's sexual attributes.
- j) Mooning.
- k) Pulling down one's own shorts or pants or those of another.
- l) Creating a sexually demeaning atmosphere, such as displaying posters or pictures that are sexist or otherwise demeaning to women or men, or having social events that focus on sexuality.
- m) Showing petty hostility to a particular sex by making sexual remarks.
- n) Engaging in sexual banter or jokes.
- o) Leaving obscene messages on campus computers.
- p) Promising rewards or benefits to someone for cooperating with sexual advances.
- q) Displaying sexual graffiti and sexually explicit pictures, cartoons, or objects.
- r) Sexually touching or rubbing oneself in a suggestive way when around another person.
- s) Intentionally cornering or blocking another's passage or other "in your face" type of behavior.

- t) Offering repeated, unwelcome sexual attention.
- u) Making demands, threats and bribes -- implied or direct -- for sexual activity.
- v) Committing sexual assault.

4. CONFIDENTIALITY:

The confidentiality of the reporting party as well as those affected by the harassment (third party) will be observed to the greatest extent possible, with only those with a need to know being informed, provided it does not interfere with The Citadel's ability to investigate or take corrective actions.

5. INTENT:

The fact that someone did not intend sexual harassment of an individual is no defense to a complaint of sexual harassment. Regardless of intent, it is the effect and characteristics of the behavior that determine whether the behavior constitutes sexual harassment.

6. PROHIBITION AGAINST RETALIATION OR REPRISALS AGAINST ANYONE REPORTING SEXUAL HARASSMENT BEHAVIORS:

A. Retaliation against anyone reporting or thought to have reported sexual harassment behaviors or against anyone who is a witness or is otherwise involved in a sexual harassment complaint or proceeding is prohibited. Such retaliation shall be considered a serious violation of the policy and shall be independent of whether a charge or informal complaint is substantiated. Encouraging others to retaliate also violates this policy.

B. Examples of retaliation are as follows:

- 1) Threats or bribes.
- 2) Unfair grading.
- 3) Unfair evaluations.
- 4) Unfair assignments.
- 5) Withholding information or making it difficult to obtain in a timely manner.
- 6) Failure to inform the person about important events such as meetings or changes in policies.
- 7) Ridicule (public or private).
- 8) Oral or written threats or bribes.

9) Refusal to meet with a person even though that person has a right to a meeting.

10) Name calling.

11) Further harassment or intimidation of any nature.

7. SCOPE:

A. This policy covers all persons – including administrators, faculty, staff, cadets, students of the College of Graduate and Professional Studies and other employees of The Citadel. The harassment of students by faculty or staff as well as by other students (peer harassment) is also covered, as is the harassment of faculty, staff, or other employees by students. Prospective and former cadets or students as well as visitors to The Citadel campus are also covered.

B. The harassment of cadets, students, and employees by vendors, including contractors, is prohibited.

C. Males as well as females are covered by this policy, and may also be victims of same-sex harassment.

8. OTHER FORMS OF HARASSMENT:

Discrimination and harassment based on race, color, religion, or national origin is strictly prohibited.

9. OFF-CAMPUS VIOLATIONS:

The Citadel will treat in the same manner as on campus violations any off-campus violations of this policy by any cadet, student, or member of the faculty or staff in those cases involving Citadel off-campus athletic events, internships, or any Citadel-sponsored event or program. The Citadel will also not tolerate the harassment of its cadets, nor other students, nor members of the faculty or staff by non-Citadel personnel in programs sponsored or supported by The Citadel.

10. IMPACT OF SEXUAL HARASSMENT:

Sexual harassment is demeaning and degrading. It affects an individual's self-esteem and can have a negative impact on performance at work or in class. It can make an individual feel angry, powerless, and fearful, as well as cause physical reactions such as tension/stress.

11. FALSE CHARGES:

Any one who knowingly makes false charges of sexual harassment will be subject to discipline. Such charges will be considered a serious offense. However, a complaint that cannot be substantiated simply because of a lack of evidence shall not be considered a false complaint. The decision on whether or not false charges were submitted will be made at the Vice President level after a careful review of the available facts.

12. CONSENSUAL RELATIONSHIPS:

The Citadel strictly prohibits amorous relationships between a cadet and any individual with professional responsibility for that student – e.g., faculty, staff, or a member of the cadet's chain of command. The fact that a relationship may have been consensual at one time shall not be a defense to a subsequent charge of sexual harassment.

13. COMPLAINT PROCEDURES:

A. Options for Handling Complaints

- 1) The individual informally takes steps which may stop the behavior. (See Annex A.)
- 2) The Citadel initiates actions informally. (See Annex A.)
- 3) Formal charges under The Citadel's Sexual Harassment Procedures can be Filed against the offender by either the individual complaining or by The Citadel. (See Annex B.)
- 4) The person may file formal charges under federal and/or state laws.
- 5) The individual may seek advice or assistance from the Ombudsperson (See paragraph 21.)

B. Informal Complaints (See Annex A.)

- 1) Studies show that more than 90 percent of individuals who experience sexual harassment do not want to file formal charges.
- 2) Consequently, most complaints are handled informally, including those handled by the Ombudsperson.
- 3) Informal procedures are optional, and individuals can choose to bypass them, discontinue them, or initiate a formal complaint while using them.
- 4) The purpose of dealing with a complaint informally is to stop the offending behavior and to resolve the matter as expeditiously as possible.
- 5) Disciplinary action requires a formal charge and by the rules of due process requires a formal hearing. The Citadel cannot take disciplinary action using informal procedures.
- 6) Informal procedures are aimed at stopping the behavior rather than determining culpability.
- 7) Informal procedures are voluntary on the part of the victim, with no requirement that individuals use informal procedures before filing a formal charge.

-
- 8) There is no requirement that informal complaints be put into writing.
 - 9) In cases of severe harassment, The Citadel may bypass informal resolution by filing its own formal charges against offenders.
 - 10) In some cases, the identity of the complainant can be kept confidential and not be revealed to the alleged harasser without the person's permission.

C. Formal Complaint Procedures. (See Annex B.)

- 1) Formal complaint resolution procedures include conducting a thorough investigation that results in a formal written report of the investigator's findings of fact, conclusions of law, and recommended actions to resolve the complaint.
- 2) The parties to the complaint are interviewed as are witnesses and third parties.
- 3) Formal complaint procedures may be pursued by either the person complaining or by The Citadel.
- 4) A third party, who is not the direct victim of harassment but who feels that the sexual conduct of another in the educational or work environment has the purpose or effect of substantially interfering with the third party's welfare, academic, or work performance, may file a formal complaint.
- 5) A person who believes that he or she is a victim of sexual harassment should file the complaint within 180 days of the incident.
- 6) The formal complaint procedure should be completed within 30 days of the date of filing and within 60 days of the date of filing when the individual submits an appeal.
- 7) Formal complaints should be filed with The Citadel's Affirmative Action Officer who also serves as The Citadel's Title IX Coordinator. The Affirmative Action Officer is responsible for ensuring that the policy is followed, that time frames are observed, and that questions from all parties are answered.
- 8) Investigations of allegations involving a member of the faculty or staff will be conducted in a confidential manner by an Affirmative Action/Equal Employment Opportunity Advisory Committee, which is a three-person investigative committee appointed by the President or the Vice President who directed the investigation. The investigation will include questioning of the individual(s) accused of wrongdoing to afford them the opportunity to respond to the allegations of the complaint as well as any witnesses. The Advisory Committee will collect, record, and safeguard all information and/or evidence relative to the incident and report findings through the Vice President to the President for final disposition. If the recommendation is to terminate a faculty member for cause, the process will follow paragraph 4c of Section II of College Regulations and paragraphs 4c and 4d of General Order (GO) 14, dated 7 June 2000, Policies and Procedures: On Probationary Reappointment, Academic Tenure, Academic

Promotion, and Termination of Tenured Faculty, Proceedings involving (non-faculty) staff members will follow procedures outlined in The Citadel's Human Resources Policies and Procedures.

9) Investigations of allegations involving a cadet will be conducted through the use of a Commandant's Board or Hearing. The procedures outlined in the Blue Book will be followed for due process procedures. The results of the hearing or board will be forwarded to the Commandant of Cadets. Recommendations for suspension, dismissal, or expulsion will be forwarded to the President for final action.

10) A copy of all completed formal investigations of charges of sexual harassment will be forwarded to The Citadel's Affirmative Action Officer/Title IX Coordinator for filing.

11) All rights and procedures for appeals will be in accordance with paragraph 6 of College Regulations for cadets, paragraph 4c of Section II of the College Regulations and GO 14 for faculty members, and the State-approved, "The Citadel Employee Grievances Policy" for (non-faculty) staff members.

12) Hearings and boards will be either open or closed based on the desires of both the victim and the accused. Both must agree if the hearing is to be open based on their individual desires for confidentiality. If either party objects to the hearing being open, it will be closed.

13) The hearings or boards are administrative in nature; therefore, there is no right to legal representation. Appeal procedures are as stated in College Regulations.

14) The standard for findings of guilt or innocence is that of "a preponderance of evidence"- that is, there is sufficient evidence which is greater in weight or more convincing than the evidence, which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The Hearing Officer or Board will perceive the evidence of one side as outweighing the other based on which side has the most persuasive or impressive evidence. The strength or "weight" of evidence is not decided by the sheer number of witnesses but rather by the witnesses opportunity for knowledge, information possessed, and the manner of testifying.

14. SANCTIONS:

The following list of sanctions may be used when a person is found guilty of harassing behavior. The purpose of the sanctions will be reasonably calculated to end the sexual harassment, punish the harasser, and prevent recurrence of incidents. Although advice and counseling may be appropriate occasionally, they are not applied in lieu of sanctions. If alcohol were involved, attendance may be required at a program on alcohol abuse prevention. The sanctions listed below can be applied to cadets, faculty, students or staff. Those sanctions that specifically apply to a selected group are so designated, i.e., faculty/staff, cadets/students, cadets.

A. Applies to cadets, other students, faculty, or staff.

- 1) Written warning letter of reprimand.
- 2) Mandatory attendance at a sexual harassment training or counseling program. (This is not likely to be imposed as a single sanction.)
- 3) Change of job or class assignment (removes the person from being in a position to retaliate or further affect the victim).
- 4) A mandatory apology to the victim(s).
- 5) When ever there is an incident of sexual assault or sexual abuse, the incident will be reported to the police. Reporting an incident to the police will not affect any disciplinary proceeding conducted by The Citadel.
- 6) Required community service, such as preparing posters or disseminating information about harassment and/or sexual assault.

B. Applies only to faculty/staff.

Probation, suspension, dismissal or termination.

C. Applies only to cadets.

- 1) Prohibition from holding rank or participating in specific student activities, including sports, for a specified time period.
- 2) Transfer of the cadet or student to another academic class or company assignment.
- 3) Tours or confinements.
- 4) Suspension, dismissal, or expulsion.

15. PERSONS TO CONTACT IF AN INDIVIDUAL IS EXPERIENCING SEXUAL HARASSMENT:

A. There are several places to whom a person experiencing sexual harassment or one who is concerned about it can go for help. The person can choose the person with whom he or she feels most comfortable. The information will be kept confidential to the greatest extent possible. The persons listed in the following paragraphs can explain the policy and discuss options for handling the situation.

B. For faculty or staff members who feel that they have been sexually harassed or who are concerned about it, the following steps should be taken:

- 1) Discuss the matter with an immediate supervisor, an appropriate person

upward in the chain of command and/or the Affirmative Action Officer, the Director of Human Resources or the Ombudsperson (see paragraph 21). Assistance is also available through the Chaplain or the Counseling Center's counselors who may suggest options and help the person decide what steps need to be taken next. The President's Hotline 953-OUCH is also available to report problems. This line is available via voice mail 24 hours a day. (See TABS A and B for how complaints are handled both informally and formally.)

- 2) To ensure confidentiality, the faculty or staff members should not discuss the complaint with persons other than the persons receiving the complaint.
- 3) Detailed procedures for informal complaints are located at Annex A.
- 4) Detailed procedures for formal complaints are located at Annex B.

C. Individuals who have knowledge of sexual harassment or who feel they have been sexually harassed should discuss the behavior with any of the people listed below.

- 1) Discuss the matter with an immediate supervisor in the chain of command, an appropriate person upward in the chain of command, and/or a tactical officer, an Assistant Commandant, or the Commandant of Cadets. A cadet may also discuss the matter with the Ombudsperson (see paragraph 21), the Title IX Coordinator, a cadet Human Affairs Officer or a cadet Religious Officer, the Chaplain or any campus minister, a counselor in the Counseling Center, a member of The Citadel Faculty or Staff, or a Public Safety Officer. The important point is to report the alleged harassment to someone in authority.
- 2) It is the responsibility of the person receiving the complaint from a cadet to pass the information quickly (within 24 hours) to the officer listed below who will determine if an immediate investigation is required to determine the facts and circumstances surrounding the incident.

If the person accused is:

- A cadet
- CGPS or Sumner School student
- A member of the Faculty
- A member of The Citadel Staff

The complaint should be filed with:

- The Assistant Commandant of Cadets
- The Dean of Graduate and Professional Studies (CGPS)
- The Dean of Undergraduate Studies
- The Affirmative Action Officer

3) The victim should complete the appropriate harassment complaint form (formal complaints only, see Appendix 2 to Annex B of this Memorandum).

4) The accused will be informed of the charges and be given the opportunity to refute the charges (formal complaints only).

5) The complainant will receive a timely written response to the allegation or be informed of the results face to face from the person listed in paragraph 15c(2) or the person who conducted the investigation. The notice will inform the complainant that the allegation was either substantiated or not and to whom it was sent for action (formal complaints only).

6) Sexual harassment complaints against a member of The Citadel Faculty or Staff will be promptly investigated by The Citadel Affirmative Action/Equal Opportunity Advisory Committee (formal complaints only).

7) If the complaint, based on the investigation, is deemed valid, then it will be sent to the appropriate Vice President for review and appropriate action:

<u>If the accused is:</u>	<u>Review and action authority is:</u>
A cadet	The Commandant of Cadets
CGPS or Summer School Student	Dean of Graduate and Professional Studies (CGPS)
Faculty	VP for Academic Affairs
Staff	VP for Finance and Business Affairs

8) Throughout the process of investigation on harassment complaints, strict confidentiality will be maintained by all involved.

9) Final disposition on the matter will be taken by the President. The appropriate disciplinary action will be taken based on the facts, on a case-by-case basis.

10) Proven allegations of harassment may be considered as the commission of an act unbecoming a cadet which would tend to bring discredit to the institution or to the uniform.

16. RETALIATION:

Under no circumstances will retaliation, such as making threats or continued harassment, be tolerated when a person has reported an alleged sexual harassment violation.

17. REPORTING REQUIREMENTS:

A. The Citadel requires that all cadets, students, faculty, and administrators who have knowledge of sexual harassment to report it confidentially to the officials noted in paragraph 15 of this memorandum as soon as possible. The report will not include the name of the victim without the victim's permission unless there is a known or perceived threat of physical harm.

B. Such reporting enables Citadel administrators to identify problem areas that can, in some instances, be eliminated by initiating educational efforts for a particular unit without identifying the information that makes the educational efforts necessary. Such reporting also helps in identifying persons who may have a history of harassment, which requires stronger means of intervention.

C. At a minimum, the information should be reported to either the Affirmative Action Officer, who is The Citadel's Title VII and Title IX Coordinator, or one of the assistant coordinators listed in paragraph 18 of this memorandum.

18. TITLE VII AND IX COORDINATORS:

A. The Citadel's Title VII and Title IX Coordinator is Ms. Roberta Tracy. Her office phone number is 953-5252. Her office is located in Bond Hall.

B. The Assistant Title VII and Title IX Coordinators are: (1) The Assistant Commandant of Cadets for Coeducation and Administration -- office phone number is 953-6707; office located in Jenkins Hall; (2) The Multicultural Officer -- office phone number is 953-5096; office is located in the Counseling Center; (3) The Special Assistant to the VPAA for Cadet Matters -- office phone number is 953-4834; office is located in the Executive Wing of Bond Hall; and (4) the Dean of Undergraduate Studies -- office phone number is 953-5016; office is located in the Executive Wing of Bond Hall.

19. MAINTAINING RECORDS:

A. All complaints of sexual harassment will be recorded once they are reported to The Citadel. The records will remain confidential and will be kept in a secured, locked file.

B. Records will be maintained whether the complaint was made formally or informally. Records will be maintained on informal complaints only if reported to the Title IX Officer. For example, the Ombudsperson will not file reports because all the information that he/she has is confidential.

C. The records will be maintained in the following locations:

1) Records on faculty or staff will be maintained by the Director of Affirmative Action, Equal Opportunity and Diversity.

2) Records on cadets will be maintained by the Assistant Commandant of Cadets for Coeducation and Administration.

D. The information may be used in subsequent complaints against the same person to assess whether a pattern of harassment exists.

E. Before the complaint is filed, the custodian will ensure that the complaint is properly completed and that a determination was properly made as to whether the complaint was substantiated or not substantiated and that it is marked properly.

F. Records will be maintained for the time period required by institutional policy for the type of person identified (cadet, faculty or staff).

20. TRAINING REQUIREMENTS:

A. The Commandant of Cadets will publish an annual training program concerning sexual harassment no later than the start of each academic year that outlines training requirements for all classes within the Corps of Cadets. This training is mandatory for all cadets. Make-up classes are required for any cadet who misses the regularly scheduled training.

B. New faculty and staff will attend mandatory initial training on Title VII and Title IX during their new employee or faculty orientation session. Mandatory sustainment training will be held annually according to requirements set forth by the Director of Human Resources for members of the staff and by the VPAA for the faculty.

C. READMITTED cadets will be required to attend Sexual Harassment Training at the very start of the semester that they return to The Citadel.

21. THE OMBUDSPERSON:

A. The President of The Citadel will appoint an Ombudsperson at the beginning of each academic year.

B. All communications with the Ombudsperson shall be considered confidential. The Ombudsperson will not reveal any name(s) of people without their express permission in writing unless there is a perceived threat of imminent physical harm or of other illegal activity.

C. The Ombudsperson will have direct access to the President of The Citadel and to all vice presidents and directors.

D. All interactions with the Ombudsperson shall be voluntary.

E. The general duties and responsibilities of the Ombudsperson are as follows:

1) Act as a source of information and assistance to all students, faculty, and staff with regard to alleged inequities. (No individual shall be retaliated against for using the services of an Ombudsperson.)

2) Bring the complaint to the attention of the appropriate Citadel official.

3) Seek to resolve the difficulty between the individual and The Citadel.

4) Make recommendations to the President and appropriate authorities when necessary on policies, procedures actions.

5) Address matters using existing policies and procedures in an informal

manner. If the individual desires to use formal procedures, the Ombudsperson will direct the individual to the appropriate office or person.

6) Keep no case records on behalf of the organization. If notes are necessary to manage the work, the Ombudsperson will follow a consistent and standard practice for the destruction of any written notes as soon as possible.

7) Remain neutral and strive for objectivity and impartiality.

F. The Ombudsperson is LTC John Carter, Health and Physical Education Department. Office phone is 953-7453. Home phone is 577-6830.

22. MANDATORY POSTING REQUIREMENTS FOR THIS MEMORANDUM:

A. This regulation will be maintained in its entirety and permanently posted in the White Book binder located in each cadet's room. The presence of the booklet is an inspection item during Saturday Morning Inspections.

B. New faculty and staff will receive a copy of this memorandum during New Employee or Faculty Orientation.

C. A copy of this memorandum will be posted in the permanent section of every cadet company's bulletin board.

D. A copy of this memorandum will be located in every department's policy file in its administrative office.

E. Copies of this memorandum will be required reading for all staff and faculty on an annual basis. A roster indicating that the memorandum was read by all will be maintained in the department's administrative office.

23. Recession:
FOR THE PRESIDENT

OFFICIAL:

Charles B. Reger
CHARLES B. REGER
COL, USAF, RET
Executive Assistant to The President

Attachments:
Annex A: Informal Complaint Procedures
Annex B: Formal Complaint Procedures

Distribution:
1 each cadet
1 each staff member
1 each faculty member

Memo # _____ Dated, _____ is rescinded.

APPENDIX 1 TO ANNEX B:

General Procedures for Conducting
Formal Investigations of
Sexual Harassment Complaints

1. Respect the rights of all parties.
2. Provide the alleged harasser timely and adequate notice of the allegations and give the alleged harasser an opportunity to respond in person or in writing before a neutral person or panel.
3. Select an Investigator who:
 - A. Has knowledge and training in issues dealing with sexual harassment.
 - B. Is thoroughly familiar with The Citadel's Sexual Harassment Policy.
 - C. Has credibility with The Citadel community.
 - D. Is neutral to all parties and represent The Citadel in a fair manner.
 - E. Is fair and not reach a conclusion until the investigation is completed.
 - F. Is able to maintain confidentiality of information.
4. In selecting the panel or board members to hear the case use the following criteria:
 - A. Select members who have no conflict of interest preventing them from acting fairly toward either the alleged harasser or victim.
 - B. Select panel or board members who have received training instructions or adequate material on sexual harassment so that they are knowledgeable of what sexual harassment is and what The Citadel's policies are.
 - C. Procedures should be timely and follow the guidelines stated within this memorandum.
5. Confidentiality should be honored by all participants in the process to the greatest extent possible, keeping in mind that neither the complainant nor the alleged harasser is bound by confidentiality although both can be asked to observe it.
6. Plan the strategy for the Investigation.
 - A. Create a timeline (include when interviews will be taken, report prepared, and decision reached).
 - B. Identify specific issues or allegations to be addressed.
 - C. Identify witnesses to be interviewed.
 - D. Identify/obtain documents.



E. Prepare a list of general questions for each interview.

7. Inform the alleged harasser to avoid any unnecessary contact with the complainant and of the prohibitions of retaliation.

8. Inform the complainant about retaliation, provide examples, and request that any attempts at retaliation be reported immediately.

9. Arrange to tape record all interviews and appearances before a board or panel. If either party objects to recording the interview, make a written record of the fact and resort to taking written notes.

10. Reach a conclusion. There are four possible outcomes to the board or hearing process:

A. the harassment occurred; or

B. the harassment did not occur; or

C. the allegation was unsubstantiated but with probable cause; or

D. there was insufficient information to make a determination.

11. Write the report and provide it to the person (Vice President/President) who will make the decision.

IN THE EVENT OF EMPLOYEE MISCONDUCT...

As an employee, if you are accused of sexual misconduct, the following consequences may occur as a result of your actions:

- The allegation, the outcome of the investigation, and any disciplinary action stemming from the incident will go in your permanent employee file.
- The Citadel will not expunge molestation findings from your record.
- The Citadel will not terminate an investigation of sexual misconduct in exchange for resignation.
- The Citadel will report necessary information about the incident to state licensing entities and other clearinghouses.
- The Citadel will not provide you with positive referrals before concluding an investigation.
- The Citadel will refuse to negotiate gag order clauses in employee termination agreements.
- The Citadel will provide factual and candid responses to inquiries by other potential employees about your behavior.
- The Citadel will fully cooperate with law enforcement agencies that are conducting investigations.

Citadel 2821

CITADEL Box 443-B - 00351
(PHSW Tagged Doc's)



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

John Doe 2,) C/A No.: 2:12-cv-00794-RMG
)
Plaintiff,)
)
vs.)
)
President John W. Rosa, individually,)
)
Defendant.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

MOTHER DOE, on behalf of John Doe 3,) C/A No.: 2:12-cv-00795-RMG
)
Plaintiff,)
)
vs.)
)
President John W. Rosa, individually,)
)
Defendant.)

I, Louis Neal "Skip" ReVille, am providing this affidavit on Tuesday May 21 2013 at Perry Correctional Institution. I am making this statement on my own volition.



1. In April of 2007, I was on The Citadel campus and received a message at the writing center to meet with Mark Brandenburg in Bond Hall. At this time, I was working as a learning strategy consultant for the Writing Center.
 2. I was under the impression that this meeting would concern a project that LTC Weart and I were working on. This project was a leadership initiative within the Values and Respects Program, and I had talked over the project's scope with Col. Trez in his office earlier that year (incidentally, in that meeting, Col. Trez recommended I read a book, Small Unit Leadership, by Malone or a similar name).
 3. At Bond Hall, Mr Brandenburg met me and walked me to a conference room on the first floor of Bond Hall, which was only a few doors down from the President's office. It was at this time - outside the door
-

1 of 3

3 (cont.) of the conference room - when I saw in Mr. Brandenburg's hand a Citadel Summer Camp Bulletin.

4. Once inside the conference room, I took a seat on the left-hand side of the table and Mr. Brandenburg went to get Col. Trez.
5. Within a few minutes, both Mr. Brandenburg and Col. Trez returned - Brandenburg sat across from me and Col. Trez sat to my left. Mark began by telling me that there had been allegations ~~the~~^{from} from a camper that I had acted inappropriately with that camper. Although I denied any allegations, I had in fact sexually abused this camper.
6. During the course of the conversation, Col. Trez made it known to me that from the Citadel's standpoint, their main concern was to protect the institution.
7. At the conclusion of the meeting, I asked what I needed to do, and their reply was that, while they

(cont.) conduct their own investigation, I should lay low and stay off campus.

8. In the Fall (late) or Winter of the following year, I was invited by LTC Weart to speak on campus to the Honor Committee. I called Mr. Brandenburg's office in order to notify him and, more importantly, to gain an idea of ~~my~~^{or} the development of their investigation. I spoke to Ms. Jennifer Shiel and left my name and number. I never received a reply from Mr. Brandenburg.

9. Over the course of the next few years, I returned to the campus to speak with incoming freshmen as well as an invited visit, again by LTC Weart, in 2010 at the unveiling of the remodelled Honor Court.

Li ReVill 5/21/2013

Sworn before me this
21st day of May, 2013

Diode Arnold
Notary Public for SC
My Commission Expires:
10/10/13



EMPLOYMENT APPLICATION

Date:
Position Applied For:

Velocity Sports Performance is an Equal Opportunity Employer. Programs, services and employment are available to everyone. Please inform the Human Resources Department if you require reasonable accommodation to the application or interview.

Supplemental Data:

How were you referred to us: personal

Full Name: Louis Neal Reville

Address: 2011 Hwy 17N, Apt 1800D, Mount Pleasant, SC 29466

Phone: _____ Mobile/Beep/Other Phone: _____ E-Mail Address: coachsky@mac.com

Date Available to Start: immediately Social Security #: 420-29-0699 Salary Requirement: _____

If you are under 18 and we require a work permit, can you furnish one? Yes No

If no, please explain: _____

Have you ever worked or applied for this company? Yes No If yes, when? _____

Are you a citizen of the United States? Yes No If not, do you have work papers? Yes No

Type of employment desired: Full-time Part Time Temporary Season

Have you ever pled "guilty" to or been convicted of a crime in the last 10 years? Yes No

If yes, give dates and details: _____

Answering yes to these questions does not constitute an automatic rejection to employment. Date of the offense, seriousness and nature of the violation, rehabilitation and position applied for will be considered.

Driver's license number, if applicable to position: 1006441852 State: SC

High School: Mountain Brook High Address: 3650 BETHUNE DRIVE, MTN. BROOK, AL 35223

of Years Completed: 4 Did you graduate? Yes No Degree: ADVANCED

Major: - GPA: 3.0 Class Rank: -

College/University: THE CITADEL Address: 171 MOUTRIE STREET, CHARLESTON, SC 29409

of Years Completed: 4 Did you graduate? Yes No Degree: B.A. ENGLISH

Major: ENGLISH GPA: 3.1 Class Rank: -

Other: GONZAGA Address: online

of Years Completed: 2 Did you graduate? Yes No Degree: M.A.

Major: Organizational Leadership GPA: 3.6 Class Rank: -

Please furnish the names, addresses, and telephone numbers of two people whom you are not related and by whom you have not been employed:

1) Name: Jay Buddin Phone: 843 991 3125

Address: N. Chas. City: N. Chas State: SC Zip: 29420

2) Name: Tom Maynor Phone: 324 4870

Address: Mt. Pleasant City: Mt. P State: SC Zip: 29464

04/21/08 Velocity Sports-43



Summary of Special Skills and Qualifications

multi-sport background
pursuing NASE + CSCS certification

Employment History

Dates of employment: From 6/07 To: present Position(s) held: Teaching Pro
Business: Town of Mt. Pleasant Address: 889 Whipple Road 39464
Phone: 843 856 2162 Manager: Title: Asst. Teaching Pro
Responsibilities/Duties: instructor, planning
Starting Salary: \$16 per hour Ending Salary: \$21 per hour
Reason for Leaving: - May we contact this employer for reference? yes

Dates of employment: From: To: Position(s) held:
Business: The Citadel Address:
Phone: 843 953 5305 Manager: Title:
Responsibilities/Duties: presenter/facilitator
Starting Salary: \$19 per hour Ending Salary: \$15 per hour
Reason for Leaving: only contracted 1 year May we contact this employer for reference? yes

Dates of employment: From: 8/06 To: 5/07 Position(s) held:
Business: V-Enterprises Address: 1731 N. Main Street Suite B, Summerville
Phone: 843 873 5574 Manager: Title: owner
Responsibilities/Duties: operations, owner, instructor
Starting Salary: - Ending Salary: -
Reason for Leaving: sold May we contact this employer for reference? yes

I certify that my answers are true and complete to the best of my knowledge. I authorize you to make such investigations and inquiries of my personal, employment, educational, financial, or medical history and other related matters as may be necessary for an employment decision. I hereby release employers, schools or persons from all liability in responding to inquiries in connection with my application. In the event I am employed, I understand that false or misleading information given in my application or interview(s) may result in discharge.

Signature of applicant: Louis Reville Date: 4.28.08

Nothing in this application or in any other written statements of Velocity Sports Performance's general policies and procedures shall be construed or interpreted to constitute an employment contract with my prospective employee. Velocity Sports Performance in its sole discretion reserves the unconditional right to terminate any person's employment at any time for any reason. Velocity Sports Performance also reserves the unconditional right to modify, delete, or make any exception to any of its policies and procedures with or without notice at any time and for any reason. Oral statements, representations, or promises contrary to the foregoing, including promises of employment for any specified period of time, are not binding unless confirmed in writing by the President of Velocity Sports Performance. My signature below certifies that I have read the foregoing.

Signature of applicant: Louis Reville Date: 4.24.08

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
)
 MOTHER DOE A,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
)
 JOHN DOE CAMPER,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
)
 JOHN DOE 2,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

VOLUME I VIDEOTAPED
 30(b)(6) DEPOSITION OF: COLONEL JOSEPH W. TREZ



CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

Electronically signed by Eva Wilbanks (101-177-349-6970)

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<p>1 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS 2) 3 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1859 4 MOTHER DOE 2, ON BEHALF) 5 OF JOHN DOE 3,) 6 Plaintiff,) 7 vs.) 8 THE CITADEL,) 9 Defendant. 10 VOLUME I VIDEOTAPED 11 30(b) DEPOSITION OF COLONEL JOSEPH W. TREZ 12 DATE TAKEN: Monday, June 10, 2013 13 TIME: 10:15 a.m. 14 PLACE: Pierce Hems Sloan & Wilson 321 East Bay Street Charleston, South Carolina 15 REPORTED BY: EVE WILBANKS Registered Professional Reporter, Certified LiveNote Reporter and Notary Public 16 ***** 17 18 POST OFFICE BOX 21784 19 CHARLESTON, SOUTH CAROLINA 29413-1784 20 21 22 23 24 25</p>	<p>1 INDEX 2 TESTIMONY OF COLONEL JOSEPH W. TREZ 7 3 EXAMINATION BY ARL SLOAN 7 4 EXAMINATION BY MRS. HERNIS 97 5 REPORTER'S CERTIFICATE 229 6 ERRATA SHEET 230 7 8 INDEX OF EXHIBITS 9 10 Number Description Page 11 Deposition Exhibit No. 14Citel Box 82 443-B-00351 12 Deposition Exhibit No. 14Citel Box 110 443-B-00423 Bates 13 Deposition Exhibit No. 15Citel Box 142 443-B-00491 14 Deposition Exhibit No. 16Citel Box 143 443-B-00509 15 Deposition Exhibit No. 17Citel Box 145 295-00529 to 00100 16 Deposition Exhibit No. 18Citel Box 157 295-0023 17 Deposition Exhibit No. 19Citel Box 159 295-0027 to 0029 18 Deposition Exhibit No. 20Citel Box 161 295-0030 to 0044 19 Deposition Exhibit No. 21Citel Box 167 295-0054 to 0058 20 Deposition Exhibit No. 22Citel Box 168 295-00107 to 00108 21 Deposition Exhibit No. 23Citel Box 169 295-00109 to 00111 22 Deposition Exhibit No. 24Citel Box 170 295-00177 to 00178 23 Deposition Exhibit No. 25Citel Box 171 277-0026 to 0027 24 Deposition Exhibit No. 26Citel Box 172 277-0036 to 0067 25</p>
Page 3	Page 5
<p>1 APPEARANCERS 2 REPRESENTING THE PLAINTIFF MOTHER DOE 2 3 LOUIS P. HERNIS, ESQUIRE 4 ALLAN P. SLOAN, II, ESQUIRE KRISTEN B. FEHSENFELD, ESQUIRE Pierce Hems Sloan & Wilson, LLC 5 321 East Bay Street P.O. Box 22437 6 Charleston, South Carolina 29401 Chipdoan@phslaw.com 7 Louishernis@phslaw.com Kristenfehsenfeld@phslaw.com 8 9 REPRESENTING THE PLAINTIFFS JOHN DOE CAMPER, JOHN 10 DOE 2, MOTHER DOE 2 JULIE MOORE, ESQUIRE 11 D. ELLIS ROBERTS, ESQUIRE McLeod Law Group 12 134 Meeting Street, Suite 160 Charleston, South Carolina 29401 Ellis@mcLeod-lawgroup.com Julie@mcLeod-lawgroup.com 13 14 REPRESENTING MARK BRANDENBURG: 15 JOANNA BROOKS STROUD, ESQUIRE Young Clement Rivers 16 25 Calhoun Street, Suite 400 Charleston, South Carolina 29401 Jstroud@ycrllaw.com 17 18 REPRESENTING THE CITADEL: 19 RANDELL C. STONEY, JR., ESQUIRE Basswell, Whaley, Patterson & Helms 20 288 Meeting Street, Suite 200 Charleston, South Carolina 29401 Rrtoney@bwhpattlaw.com 21 22 ALSO PRESENT: DOUG WHITE, LEGAL VIDEOGRAPHER MARY GRONDINES, PARALEGAL 23 24 25</p>	<p>1 Deposition Exhibit No. 27Citel Box 173 277-0068 to 0070 2 Deposition Exhibit No. 28Citel Box 277-00159 175 3 Deposition Exhibit No. 29Citel Box 176 278-0057 to 0058 4 Deposition Exhibit No. 30Citel Box 177 279-0020 to 0021 5 Deposition Exhibit No. 31Citel Box 179 296-0065 to 0066 6 Deposition Exhibit No. 32Citel Box 180 296-008 to 009 7 Deposition Exhibit No. 33Citel Box 183 314-002 to 0010 8 Deposition Exhibit No. 34Citel Box 195 314-0050 to 0051 9 Deposition Exhibit No. 35Citel Box 196 314-0052 to 0053 10 Deposition Exhibit No. 36Citel Box 293-F 198 007 to 0010 11 Deposition Exhibit No. 37Citel Box 202 329-0080 to 0015 12 Deposition Exhibit No. 38Citel Box 215 329-0017 - 0020 13 Deposition Exhibit No. 39Citel Box 217 329-0029 - 0031 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: right;">Page 54</p> <p>1 (The deposition went off the record.) 2 THE VIDEOGRAPHER: This is tape No. 2 in 3 the deposition of Colonel Joseph Trez. We're 4 on the record at 11:38. 5 BY MR. SLOAN: 6 Q. All right. There was a question that 7 you were going to answer by looking at some stuff. 8 What is your answer? 9 A. Yes. I've reviewed two policies, one 10 the Sexual Harassment Policy memorandum No. 51, 11 dated 30 June 2000. It starts with Bates number 12 1694. I'm going specifically to page 1717 on 13 formal procedures. Annex B, Formal Procedures Are 14 Used, and it gets to C and it says, "Criminal laws 15 are involved, such as sexual assault or sexual 16 abuse (in some instances, the victim may not want 17 to prefer charges, leaving the college with the 18 option of handling the situation informally or 19 filing its own charges)." 20 Now I'm going to go to the Sexual 21 Assault Crisis Intervention Policy, 3 July 2002, 22 starting with Bates stamp 1743. I'm on page 1746. 23 Paragraph D says, "The Citadel's policy encourages 24 individuals who have been sexually assaulted to 25 formally report the incident to a member of the</p>	<p style="text-align: right;">Page 56</p> <p>1 decide" - this is advice to a victim - "decide 2 whether or not you wish to notify the police." 3 "The Citadel strongly encourages 4 individuals to formally report crimes. Keep in 5 mind that reporting the crime does not require the 6 filing of criminal charges." 7 On the top of page 1751, "Even if you do 8 not file criminal charges, information provided to 9 the police may help protect others. Remember, 10 many perpetrators of sexual assault" may commit 11 this crime repeatedly. 12 I'm now on Do's and Don'ts in Supporting 13 a Sexual Assault Victim, Annex B, Bates stamp 14 1752. "Do review with the victim the options, 15 then respect the choices regarding the options the 16 victim wishes to implement." 17 And that's one of my points that we -- 18 as we wrote the policies, it's to honor the wishes 19 of the alleged victim. 20 I'm on Annex D, page 1754. "If the 21 alleged victim requests, describe the process of 22 seeking formal and informal action and the process 23 of filing criminal charges." 24 On 1759, paragraph 4-C, Nothing in this 25 policy will prevent the student (sic), staff or</p>
<p style="text-align: right;">Page 55</p> <p>1 college administration or to a Citadel Public 2 Safety official." 3 The Citadel strongly encourages all 4 cadets, students, faculty and staff who have 5 knowledge of a sexual assault or have knowledge of 6 another person's sexual assault to report to 7 either the campus safety, the Commandant, the 8 counseling center, a member of the campus clergy 9 and so forth. The report will not include the 10 name of the individual who has been assaulted or 11 sexually harassed. This report may be done 12 anonymously. 13 Down to Duties of Campus Personnel, 14 paragraph 6-A, "First and foremost, it is 15 important to respect the wishes of the individual 16 who has been sexually assaulted, especially as to 17 whether to file a formal complaint or criminal 18 charges." And that is a key point, and I can go 19 back and explain that as the policy writer. 20 Q. Okay. 21 A. I'm not -- 22 Q. Go ahead. 23 A. I'm still going. I'm now on Annex A, 24 page 2 to that policy that's Bates stamped 1750. 25 "With the assistance of a qualified professional,</p>	<p style="text-align: right;">Page 57</p> <p>1 students from exercising their legal rights. 2 The Protocol for Responding to Sexual 3 Assault, Bates stamp 1760, "Encourage the 4 individual to go to The Citadel Public Safety to 5 file a report and offer to accompany the 6 individual or encourage the individual to contact" 7 their police -- "the local police to file a 8 report." 9 And then finally, on Responsibilities of 10 the Sexual Assault Response Coordinator, who is 11 not involved in here, in this matter, 1761 12 encourages the individual to contact local police 13 to report. 14 So within our policies, both sexual 15 harassment and sexual assault, it was written to 16 give the victim or the alleged victim the decision 17 of whether or not to report it to the police. We 18 found, talking with all of our consultants, as we 19 put the policies together, that we had to give 20 that power to the alleged victim, and that we 21 could not usurp that power and have a policy that 22 didn't have a chilling effect. 23 Q. On 1761 you were just talking about, 24 Responding to Sexual Assault -- 25 A. 1761?</p>

15 (Pages 54 to 57)

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Electronically signed by Eve Wilbanks (101-177-349-6970)

1 those are the ones that I'm aware of.

2 Q. Okay. Were you ever -- were you aware
3 that after Skip ReVille graduated, that he would
4 come back and talk to the Honor Council?

5 A. I did not have any interaction with him.

6 Q. You never heard him speak on campus?

7 A. I don't remember. I don't remember him
8 as a graduate doing it.

9 Q. Does that happen from time to time,
10 where a former -- where graduates are asked to
11 come back and speak to different --

12 A. Yes.

13 Q. -- associations?

14 A. Yes.

15 Q. When a graduate is asked to do that on a
16 repetitive basis, would you consider that that
17 graduate has a special relationship with The
18 Citadel?

19 A. I would consider that, yes.

20 Q. Different than a normal ordinance --

21 A. Sure.

22 Q. Same --

23 A. I mean, the person would have been
24 called back for an area of expertise. So dealing

25 with ReVille, if he came back to speak to honor

1. classes or to the Honor Committee, that would be
2 normal. We do that frequently.

3 Q. But that's a different relationship than
4 just if somebody graduated from The Citadel and
5 hasn't been back on the campus in 30 years?

6 A. Certainly.

7 (Deposition Exhibit No. 13, Citadel Box
8 443-B-00351, was marked for identification.)

9 Q. I'm handing you what is marked Exhibit
10 13. And this is a document that The Citadel
11 provided to us in the Arpaio boxes. Have you ever
12 seen this document before?

13 A. I don't remember it.

14 Q. It says, As an employee, if you're
15 accused of sexual misconduct, the following
16 consequences may occur as a result of your
17 actions. So you haven't seen this before?

18 A. I don't recall it.

19 Q. Do you recognize it as a policy of The
20 Citadel?

21 A. It certainly says The Citadel, but I
22 don't know what it's -- you know, what it's part
23 of. It's not part of the sexual harassment policy
24 or any policies that I'm familiar with.

25 Q. Let me ask you this, if you're accused

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1 Q. -- the counselors that are going to be
 2 running The Citadel Summer Camp in 2003?
 3 A. Correct. And the camp staff.
 4 Q. And the camp staff. And item B
 5 indicates that, "It is highly likely that you know
 6 an abuser," and she lists three points there.
 7 Would you take a look at them and tell me if you
 8 agree with those three points?
 9 A. I agree with those points.
 10 Q. And the same for item C, "The greatest
 11 risk to children doesn't come from strangers but
 12 from trusted adult friends." Item 3, "A pedophile
 13 typically creates opportunities for contact with
 14 children." Look at the others and tell me -- and
 15 there are three more on the other page -- if you
 16 agree with those points?
 17 A. I've been through Darkness to Light
 18 training. I agree with all these points.
 19 Q. And did The Citadel Summer Camp create
 20 the opportunity for Michael Arpaio to pursue his
 21 pedophile activities?
 22 A. That's what the lawsuit was all about.
 23 Q. And did The Citadel Summer Camp provide
 24 Skip ReVille contact with children that enabled
 25 him to pursue his pedophile activities?

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1 A. We know that today.
 2 Q. Okay. And let's turn to page 00103, and
 3 under step 5 it says, item A, Don't overreact
 4 (sic) and offer support. This is when a camper
 5 comes forward. And if you would read those items
 6 and tell me if you agree or disagree with them.
 7 A. I agree.
 8 Q. Let's look at the last one on page
 9 00103. Is it Mrs. Hewett?
 10 A. Dr. Hewett.
 11 Q. Dr. Hewett was telling the counselors of
 12 the 2003 Citadel Summer Camp that, quote, You have
 13 a duty to report the abuse, closed quote. Did I
 14 read that correctly?
 15 A. You did, sir.
 16 Q. So it was a requirement for each
 17 counselor to report abuse if they were so informed
 18 by a camper or somebody else that the abuse was
 19 taking place?
 20 A. Yes.
 21 Q. And it goes on to state, "All 50 states
 22 require that professionals who work with children
 23 report reasonable suspicions of child abuse." Not
 24 that child abuse took place; just reasonable
 25 suspicions? Did I read that correctly?

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1 A. That's what it says.
 2 Q. And when that parent called in 2007 and
 3 said that his son reported to him that he had been
 4 abused in 2002, you don't consider that was a
 5 reasonable suspicion of child abuse?
 6 A. It certainly was, based on what we know
 7 today. And the point that Brandenburg was making
 8 to the board, that I remember, was that, but The
 9 Citadel was not a mandatory reporter. So as I've
 10 gone through the training on child abuse, taught
 11 by the South Carolina School of Law Children's Law
 12 Center, what we've just read here applies to
 13 categories of people to include, and then its
 14 listed, and we're not one of those reporters.
 15 Q. But you made your counselors, the people
 16 that were going to run your camp, you made them
 17 have the absolute duty to report abuse, correct?
 18 A. Well, I don't know if that's true. I
 19 believe --
 20 Q. It says it right there, under step 5,
 21 page 00103, "You have a duty to report the abuse,"
 22 correct?
 23 A. That's what it says.
 24 Q. And that's what was required of your
 25 counselors?

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1 A. That's what it says.
 2 Q. And then on page 00104, it's in all
 3 caps, "Remember, sexual abuse is a crime." Do you
 4 agree with that?
 5 A. I agree.
 6 Q. And if the counselor did not want to
 7 report it to somebody in the camp, wow, she
 8 provides several means for the abuse to be
 9 reported. She can go to Public Safety at The
 10 Citadel and report it?
 11 A. Correct.
 12 Q. Or there are one, two, three -- four
 13 toll-free numbers that the counselor could call to
 14 report the abuse?
 15 A. Correct.
 16 Q. Okay.
 17 MR. HERNES: If we can have this marked
 18 as next Exhibit 18, please.
 19 (Deposition Exhibit No. 18, Citadel
 20 Citadel Box 295-0023, was marked for
 21 identification.)
 22 BY MR. HERNES:
 23 Q. Okay. The next document is Exhibit 18
 24 to the deposition. It is identified Citadel
 25 Citadel Box 295-0023, a one-page document. At the

1 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO. 12-CP-10-1859

3
4 Mother Doe 2, on behalf of John)
5 Doe 3,)
6 Plaintiff,)
7 vs.)
8 The Citadel,)
9 Defendant.)

9

10

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14 VIDEOTAPED DEPOSITION OF: GENERAL JOHN W. ROSA - VOL. I

15 DATE TAKEN: Monday, July 29, 2013

16 TIME: 10:00 a.m.

17 PLACE: 321 East Bay Street
Charleston, SC

18

19 REPORTED BY: TERI L. SAMPSON, RPR,
20 Notary Public and Certified
Live Note Reporter

20

* * * * *

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CHARLESTON, SOUTH CAROLINA 29413-1784

1 A That was my assessment.

2 Q All right. Did you do a review of all
3 Citadel policies when you arrived at The Citadel?

4 A Not -- not all, I wouldn't say 100 percent,
5 but we reviewed several of them, several of what --
6 what is considered key policies. I can't -- I can't
7 sit here and name them.

8 Q Uh-huh (affirmative).

9 A But that first year was a year of trying to
10 understand the institution, how the institution was
11 run, but a state institution is considerably different
12 than a federal institution.

13 Q Okay. When you arrived at The Citadel, did
14 you review the serious incidents policy?

15 A No.

16 Q Four lines down says, "We brought in Janet
17 Shealy, sexual violence prevention coordinator." It's
18 really sexual assault response coordinator --

19 A Right.

20 Q -- SARC, isn't that -- is that correct?

21 A She was initially called the SARC and now her
22 acronym is CARE.

23 Q And what does CARE stand for?

24 A Citadel advocate response -- I don't know the
25 acronym.

1 Q All right. So were you ever told by Mark
2 Brandenburg what -- what Doe wanted as opposed to Doe's
3 father?

4 A No, not that I recall, because his -- I think
5 he did speak with the -- with the young man --

6 Q Uh-huh (affirmative).

7 A -- but most of his conversations related to
8 me that he had -- was with the father.

9 Q Okay. Well, it seems to me from reading your
10 Margolis interview that you put quite a bit of weight
11 on the fact that Doe was an adult as opposed to a minor
12 at the time he made the report, right?

13 A Yes.

14 Q All right. So I take it with regard to
15 whether or not the -- The Citadel should report this to
16 law enforcement, you would defer to Doe, the adult
17 victim, as opposed to Doe's father?

18 A Correct.

19 Q Okay. And so -- and Mark Brandenburg should
20 have as well?

21 A Right. But --

22 Q All right.

23 A -- I think they were both together when Mark
24 spoke to them. I'm not sure of that.

25 Q Uh-huh (affirmative). Have you spoken to

1 agree with me that Mark Brandenburg knew or should have
2 known that he was dealing with a pedophile at that
3 time?

4 A I'm not sure what he knew. I can't speak for
5 Mark, but if he knew all of that information, clearly
6 it appears that he should have.

7 Q Okay. And when this -- you would agree with
8 me that when that -- when those allegations come in to
9 Mark Brandenburg and he knows all of that, isn't there
10 a current -- and -- and -- and Skip ReVille is on
11 campus, the next day when he tries to find ReVille,
12 he's on The Citadel campus, wouldn't you agree that if
13 that person who has been accused of being a pedophile
14 is on The Citadel campus, that that's a current threat
15 to not only The Citadel, but the public at large?

16 A Possibly, but I don't think that's the way
17 they looked at -- that's not the way that it was
18 interpreted. It was looked at as a five-year-old
19 incident.

20 Q Uh-huh (affirmative).

21 A Whether that's right or wrong, I believe
22 that's the way it was looked at.

23 Q And I understand you're saying that's the way
24 it's interpreted. But the -- I mean, the fact of the
25 matter is when the allegation came in, it was a current

1 threat of a child sexual predator?

2 MR. COOKE: Objection to the --

3 BY MR. SLOAN:

4 Q Right?

5 MR. COOKE: -- form of the question.

6 BY MR. SLOAN:

7 Q He wasn't -- he wasn't locked up like he is
8 now, a guy who repeatedly was inappropriate sexually
9 with children and he's on the campus, that's a current
10 threat, isn't it?

11 MR. COOKE: Objection to the form.

12 A (Continuing) If we knew all of that, it
13 would be a current threat.

14 Q Just like if there was a -- if there was a
15 fire at The Citadel and it was close to a neighborhood,
16 you -- you wouldn't just keep the fire to yourself and
17 try to put it out yourself, you'd warn your neighboring
18 community, wouldn't you?

19 A Sure.

20 Q All right. And why isn't a child sexual
21 predator the same?

22 A It should --

23 Q If you have a child sexual predator on
24 campus, you ought to warn people about it, it's a
25 current threat, not only to The Citadel, but the

1 STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
2 \ COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT
CASE NO. 12-CP-10-1859

3 Mother Doe 2, on behalf of John)
4 Doe 3,)
5 Plaintiff,)
6 vs.)
7 The Citadel,)
8 Defendant.)

9

10

11

12

* * * * *

13

VIDEOTAPED

14 DEPOSITION OF: GENERAL JOHN W. ROSA - VOL. II

15 DATE TAKEN: Tuesday, July 30, 2013

16 TIME: 10:00 a.m.

17 PLACE: 321 East Bay Street
Charleston, SC

18

19 REPORTED BY: TERI L. SAMPSON, RPR,
Notary Public and Certified
20 Live Note Reporter

20

* * * * *

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25 CHARLESTON, SOUTH CAROLINA 29413-1784

1 A I'm somewhat familiar with it.

2 Q Uh-huh (affirmative). Are you aware that
3 Mr. ReVille was asked to come and speak to Citadel
4 freshmen as a guest speaker at the 101 course between
5 2007 and 2011?

6 A No, I was not.

7 Q If you had known that, would you have allowed
8 it?

9 A I don't know that.

10 Q I think we established this yesterday, but
11 you would agree with me that Mr. ReVille, who, after
12 graduating The Citadel, actually worked at The Citadel
13 and came back to induct other cadets into the honor
14 committee and came back to teach freshmen as a guest
15 speaker at the 101 Citadel course between 2007 and
16 2011, would you agree with me that that is a Citadel
17 graduate who has a special relationship with The
18 Citadel?

19 A First of all, I didn't know that. I didn't
20 know that he was invited --

21 Q Okay.

22 A -- to both of those venues. And by -- in
23 this community just by being an alumnus --

24 Q Uh-huh (affirmative).

25 A -- you have a relationship. We're not a big

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

JOHN DOE 2,	)	CIVIL ACTION NO:
	)	2:12-cv-00794-RMG
Plaintiff,)	
)	
vs.)	
)	
PRESIDENT JOHN W. ROSA,)	
INDIVIDUALLY,)	
)	
Defendant.)	
	)	CIVIL ACTION NO:
MOTHER DOE,	)	2:12-cv-00795-RMG
)	
Plaintiff,)	
)	
vs.)	
)	
PRESIDENT JOHN W. ROSA,)	
INDIVIDUALLY,)	
)	
Defendant.)	

* * * * *

DEPOSITION OF: JENNIFER SHIEL
DATE TAKEN: Tuesday, January 21, 2014
TIME: 12:06 p.m.
PLACE: McLeod Law Group, LLC
3 Morris Street
Charleston, South Carolina

REPORTED BY: EVE WILBANKS
Registered Professional
Reporter, Certified LiveNote
Reporter and Notary Public

* * * * *

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(177-349-6970)

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1 Q. -- do you understand that?

2 A. Yes.

3 Q. So from the beginning, was it clear to
4 you that President Rosa did not want this report
5 of sexual abuse to be leaked or to get out of the
6 President's office?

7 MR. KOVACH: Objection.

8 A. Yes.

9 Q. And during the time period from when the
10 report was made until the time that you left The
11 Citadel, having lived through it, do you believe
12 there was a conscious effort to cover up or
13 conceal this report of sexual abuse?

14 MR. KOVACH: Objection.

15 A. Yes.

16 Q. And was President Rosa in charge
17 ultimately of making sure that this report was
18 concealed and covered up?

19 MR. KOVACH: Objection.

20 A. In my opinion, yes.

21 Q. Let me ask you this, when the report
22 came in, the school had a Title IX coordinator,
23 right?

24 A. Yes.

25 Q. The report could have gone to the Title

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1 civil matter against The Citadel, did The Citadel
2 just stop doing the disciplinary investigation
3 that they'd typically do?

4 MR. KOVACH: Objection.

5 A. No.

6 Q. So based upon your personal knowledge, a
7 civil matter generally did not have any impact on
8 The Citadel instituting or following its own
9 policies and procedures?

10 A. No.

11 MR. KOVACH: Object.

12 Q. Having worked in the President's office
13 during this time period, was there ever any doubt
14 in your mind that President Rosa wanted this
15 report of sexual abuse to be kept under wraps?

16 MR. KOVACH: Objection.

17 A. No. It was very clear that -- the term
18 that was used about it was "close hold." I mean,
19 only people that needed to know about it were
20 supposed to know about it. That was it.

21 Q. Had you heard that phrase "close hold"
22 used prior to this report of sexual abuse?

23 A. In reference to other matters, yes.

24 Q. Right. And, like, what other matters do
25 you remember "close hold" being the orders from

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Jennifer Shiel - January 21, 2014

8 Q. And I recognize that you learned a lot
9 about -- you learned additional information about
10 what happened with regard to ReVille sometime
11 after you left The Citadel. But my question is,
12 as far as the priorities during this time period
13 when President Rosa's office responded to the
14 report of sexual abuse, was it ever made known to
15 you that one of the priorities was making sure
16 ReVille didn't abuse anybody else?

17 MR. KOVACH: Objection.

18 Q. Did that even make the priority list?

19 A. No. I never heard that discussed.

20 Q. Looking back on the period of time when
21 you were working within the President's office,
22 helping respond in an administrative role to the
23 report of sexual abuse, do you believe that
24 President Rosa was indifferent towards concerns
25 that he should have been worried about; for

Page 50

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1 example, other victims who may be abused?

2 MR. KOVACH: Objection.

3 A. Yeah. I do think he was indifferent to
4 it.

5 Q. Do you believe -- not do you believe.
6 Was his indifference the result of his desire to
7 protect The Citadel?

8 MR. KOVACH: Objection.

9 A. I don't know if it was that, or I don't
10 know if it was -- it may have been that they
11 weren't -- they didn't take this -- this report of
12 sexual abuse seriously.

13 Q. And that was -- that was going to be my
14 next question. The report came in on April 23rd,
15 2007, and Mr. Brandenburg went to interview the
16 family on July 1st, 2007. Forget about -- well,
17 if Mr. Brandenburg and President Rosa, based upon
18 your knowledge of having worked with them, if they
19 thought the school was at imminent risk of a
20 problem, would they have waited approximately four
21 months to go interview the family?

22 MR. KOVACH: Objection.

23 A. In my mind, I mean, no. And that's one
24 of the -- one of the reasons why I didn't get --
25 you know -- I just didn't get the feeling through

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STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

COPY

MOTHER DOE A,)	
Plaintiff,)	
-versus-	)	Case 11-CP-10-9200
THE CITADEL,)	
Defendant.	)	Scanned Exhibits
JOHN DOE CAMPER,	)	on Attached CD
Plaintiff,)	
-versus-	)	Case 11-CP-10-1860
THE CITADEL,)	
Defendant.)	
JOHN DOE 2,)	
Plaintiff,	)	Case 11-CP-10-1858
-versus-)	
THE CITADEL,)	
Defendant.)	
MOTHER DOE 2, on behalf of)	
JOHN DOE 3,)	
Plaintiff,	)	Case 12-CP-10-1859
-versus-)	
THE CITADEL,)	
Defendant.)	

THE DEPOSITION OF LT. COL. CHRISTINE FUDGE
was taken as a witness on behalf of the Plaintiffs,

Janice Ohlendorf Darby, RPR
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1 suicide?
 2 A Yes.
 3 Q That's one of the hazards of the victims
 4 who are sexually molested and abused?
 5 A Yes.
 6 Q If you look down, second-to-the-last line
 7 discussing sexual predators, 20 to 25 percent have
 8 10 to 40 victims. Is that your understanding?
 9 A Yes, it is.
 10 Q So child sexual predators, specifically
 11 pedophiles, aren't just one and done.
 12 A No.
 13 Q They go after several?
 14 A Yes.
 15 Q Now, pedophilia, child sexual predators,
 16 is that just something that recently came up, or has
 17 it been around for a long, long time?
 18 MR. STONEY: Objection.
 19 A I've been in education since 1972, and it
 20 has been around for a long, long time.
 21 BY MR. HERNS:
 22 Q Even back in 1957 when Mark Clark started
 23 The Citadel summer camp?
 24 A Yes.
 25 MR. HERNS: If we could have this

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1 marked as the next exhibit, please. This will be
 2 Fudge 112.
 3 (Exhibit No. 112 marked for
 4 identification.)
 5 BY MR. HERNS:
 6 Q I printed this off of The Citadel
 7 website, and it is setting forth information
 8 concerning The Citadel's Office of the General
 9 Counsel. If you look down to about the bottom of
 10 the first paragraph, and I'll read it, "The role of
 11 the Office of the General Counsel is to prevent or
 12 minimize legal risk in the performance of the daily
 13 business of the college." Did I read that
 14 correctly?
 15 A Yes.
 16 Q What's that telling you?
 17 A That the general counsel -- exactly what
 18 it says. It's trying to prevent or minimize risk.
 19 Q Doesn't want The Citadel to get sued?
 20 MR. STONEY: Objection.
 21 A I don't interpret it that way.
 22 BY MR. HERNS:
 23 Q Well, prevent legal risk. Getting sued
 24 is a legal risk, isn't it?
 25 A Yes, it is.

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1 Q So one of his duties is to prevent The
 2 Citadel from getting sued?
 3 MR. STONEY: Objection.
 4 A I guess that could be inferred, yes.
 5 BY MR. HERNS:
 6 Q And if it does get sued, to minimize the
 7 liability, the risk to The Citadel?
 8 MR. STONEY: Objection.
 9 A It can be interpreted that way, yes.
 10 BY MR. HERNS:
 11 Q Well, how else could it be interpreted?
 12 A I always interpret that office to
 13 minimize the risk to the people at The Citadel.
 14 Q How about the people outside The Citadel?
 15 A And the people outside The Citadel.
 16 Q Because The Citadel is a state
 17 institution. Correct?
 18 A Yes.
 19 Q And its reach goes beyond the gray walls
 20 of The Citadel?
 21 A Yes, it does.
 22 Q To the people in Mt. Pleasant?
 23 A Yes.
 24 Q To the people in Columbia. Everywhere in
 25 the state of South Carolina. Correct?

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1 A Right.
 2 Q The duty, honor, loyalty of The Citadel
 3 doesn't stop at the gate?
 4 A No.
 5 Q Spreads far outside?
 6 A Yes.
 7 Q So his role is to protect the college by
 8 preventing or minimizing legal risk?
 9 A That's what it says.
 10 Q Now I'm going to read from your April 9,
 11 2013 transcript that was taken in the John Doe 2
 12 versus President John Rosa case by the McLeod Law
 13 Group, and specifically halfway down page 73
 14 starting at line 16.
 15 "QUESTION: Would you agree with me that
 16 it should have been obvious to any official at The
 17 Citadel that if ReVile went undetected he would
 18 have abused more boys?"
 19 Mr. Stoney objects at line 19. And your
 20 answer at line 20 is, "No."
 21 Do you still hold to that answer that
 22 the -- Well, let me try this. Do you still agree
 23 with that?
 24 A Can I see that?
 25 Q Sure. Right there (indicating). Starts

**REVISED SEXUAL HARASSMENT GUIDANCE:
HARASSMENT OF STUDENTS
BY SCHOOL EMPLOYEES, OTHER STUDENTS,
OR THIRD PARTIES**

TITLE IX



January 2001

U.S. Department of Education
Office for Civil Rights



PREAMBLE

Summary

The Assistant Secretary for Civil Rights, U.S. Department of Education (Department), issues a new document (revised guidance) that replaces the 1997 document entitled "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," issued by the Office for Civil Rights (OCR) on March 13, 1997 (1997 guidance). We revised the guidance in limited respects in light of subsequent Supreme Court cases relating to sexual harassment in schools.

The revised guidance reaffirms the compliance standards that OCR applies in investigations and administrative enforcement of Title IX of the Education Amendments of 1972 (Title IX) regarding sexual harassment. The revised guidance re-grounds these standards in the Title IX regulations, distinguishing them from the standards applicable to private litigation for money damages and clarifying their regulatory basis as distinct from Title VII of the Civil Rights Act of 1964 (Title VII) agency law. In most other respects the revised guidance is identical to the 1997 guidance. Thus, we intend the revised guidance to serve the same purpose as the 1997 guidance. It continues to provide the principles that a school¹ should use to recognize and effectively respond to sexual harassment of students in its program as a condition of receiving Federal financial assistance.

Purpose and Scope of the Revised Guidance

In March 1997, we published in the Federal Register "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." 62 FR 12034. We issued the guidance pursuant to our authority under Title IX, and our Title IX implementing regulations, to eliminate discrimination based on sex in education programs and activities receiving Federal financial assistance. It was grounded in longstanding legal authority establishing that sexual harassment of students can be a form of sex discrimination covered by Title IX. The guidance was the product of extensive consultation with interested parties, including students, teachers, school administrators, and researchers. We also made the document available for public comment.

Since the issuance of the 1997 guidance, the Supreme Court (Court) has issued several important decisions in sexual harassment cases, including two decisions specifically addressing sexual harassment of students under Title IX: Gebser v. Lago Vista Independent School District (Gebser), 524 U.S. 274 (1998), and Davis v. Monroe County Board of Education (Davis), 526 U.S. 629 (1999). The Court held in Gebser that a school can be liable for monetary damages if a teacher sexually harasses a student, an

¹ As in the 1997 guidance, the revised guidance uses the term "school" to refer to all schools, colleges, universities, and other educational institutions that receive Federal funds from the Department.

official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment. In Davis, the Court announced that a school also may be liable for monetary damages if one student sexually harasses another student in the school's program and the conditions of Gebser are met.

The Court was explicit in Gebser and Davis that the liability standards established in those cases are limited to private actions for monetary damages. See, e.g., Gebser, 524 U.S. 283, and Davis, 526 U.S. at 639. The Court acknowledged, by contrast, the power of Federal agencies, such as the Department, to "promulgate and enforce requirements that effectuate [Title IX's] nondiscrimination mandate," even in circumstances that would not give rise to a claim for money damages. See, Gebser, 524 U.S. at 292.

In an August 1998 letter to school superintendents and a January 1999 letter to college and university presidents, the Secretary of Education informed school officials that the Gebser decision did not change a school's obligations to take reasonable steps under Title IX and the regulations to prevent and eliminate sexual harassment as a condition of its receipt of Federal funding. The Department also determined that, although in most important respects the substance of the 1997 guidance was reaffirmed in Gebser and Davis, certain areas of the 1997 guidance could be strengthened by further clarification and explanation of the Title IX regulatory basis for the guidance.

On November 2, 2000, we published in the Federal Register a notice requesting comments on the proposed revised guidance (62 FR 66092). A detailed explanation of the Gebser and Davis decisions, and an explanation of the proposed changes in the guidance, can be found in the preamble to the proposed revised guidance. In those decisions and a third opinion, Oncale v. Sundowner Offshore Services, Inc. (Oncale), 523 U.S. 75 (1998) (a sexual harassment case decided under Title VII), the Supreme Court confirmed several fundamental principles we articulated in the 1997 guidance. In these areas, no changes in the guidance were necessary. A notice regarding the availability of this final document appeared in the Federal Register on January 19, 2001.

Enduring Principles from the 1997 Guidance

It continues to be the case that a significant number of students, both male and female, have experienced sexual harassment, which can interfere with a student's academic performance and emotional and physical well-being. Preventing and remedying sexual harassment in schools is essential to ensuring a safe environment in which students can learn. As with the 1997 guidance, the revised guidance applies to students at every level of education. School personnel who understand their obligations under Title IX, e.g., understand that sexual harassment can be sex discrimination in violation of Title IX, are in the best position to prevent harassment and to lessen the harm to students if, despite their best efforts, harassment occurs.

One of the fundamental aims of both the 1997 guidance and the revised guidance has been to emphasize that, in addressing allegations of sexual harassment, the good judgment and common sense of teachers and school administrators are important elements of a response that meets the requirements of Title IX.

A critical issue under Title IX is whether the school recognized that sexual harassment has occurred and took prompt and effective action calculated to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. If harassment has occurred, doing nothing is always the wrong response. However, depending on the circumstances, there may be more than one right way to respond. The important thing is for school employees or officials to pay attention to the school environment and not to hesitate to respond to sexual harassment in the same reasonable, commonsense manner as they would to other types of serious misconduct.

It is also important that schools not overreact to behavior that does not rise to the level of sexual harassment. As the Department stated in the 1997 guidance, a kiss on the cheek by a first grader does not constitute sexual harassment. School personnel should consider the age and maturity of students in responding to allegations of sexual harassment.

Finally, we reiterate the importance of having well-publicized and effective grievance procedures in place to handle complaints of sex discrimination, including sexual harassment complaints. Nondiscrimination policies and procedures are required by the Title IX regulations. In fact, the Supreme Court in Gebser specifically affirmed the Department's authority to enforce this requirement administratively in order to carry out Title IX's nondiscrimination mandate. 524 U.S. at 292. Strong policies and effective grievance procedures are essential to let students and employees know that sexual harassment will not be tolerated and to ensure that they know how to report it.

Analysis of Comments Received Concerning the Proposed Revised Guidance and the Resulting Changes

In response to the Assistant Secretary's invitation to comment, OCR received approximately 11 comments representing approximately 15 organizations and individuals. Commenters provided specific suggestions regarding how the revised guidance could be clarified. Many of these suggested changes have been incorporated. Significant and recurring issues are grouped by subject and discussed in the following sections:

Distinction Between Administrative Enforcement and Private Litigation for Monetary Damages

In Gebser and Davis, the Supreme Court addressed for the first time the appropriate standards for determining when a school district is liable under Title IX for money damages in a private lawsuit brought by or on behalf of a student who has been sexually harassed. As explained in the preamble to the proposed revised guidance, the Court was explicit in Gebser and Davis that the liability standards established in these cases are limited to private actions for monetary damages. See, e.g., Gebser, 524 U.S. at 283, and Davis, 526 U.S. at 639. The Gebser Court recognized and contrasted lawsuits for money damages with the incremental nature of administrative enforcement of Title IX. In Gebser, the Court was concerned with the possibility of a money damages award against a school for harassment about which it had not known. In contrast, the process of administrative enforcement requires enforcement agencies such as OCR to make schools

aware of potential Title IX violations and to seek voluntary corrective action before pursuing fund termination or other enforcement mechanisms.

Commenters uniformly agreed with OCR that the Court limited the liability standards established in Gebser and Davis to private actions for monetary damages. See, e.g., Gebser, 524 U.S. 283, and Davis, 526 U.S. at 639. Commenters also agreed that the administrative enforcement standards reflected in the 1997 guidance remain valid in OCR enforcement actions.² Finally, commenters agreed that the proposed revisions provided important clarification to schools regarding the standards that OCR will use and that schools should use to determine compliance with Title IX as a condition of the receipt of Federal financial assistance in light of Gebser and Davis.

Harassment by Teachers and Other School Personnel

Most commenters agreed with OCR's interpretation of its regulations regarding a school's responsibility for harassment of students by teachers and other school employees. These commenters agreed that Title IX's prohibitions against discrimination are not limited to official policies and practices governing school programs and activities. A school also engages in sex-based discrimination if its employees, in the context of carrying out their day-to-day job responsibilities for providing aid, benefits, or services to students (such as teaching, counseling, supervising, and advising students) deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex. Under the Title IX regulations, the school is responsible for discrimination in these cases, whether or not it knew or should have known about it, because the discrimination occurred as part of the school's undertaking to provide nondiscriminatory aid, benefits, and services to students. The revised guidance distinguishes these cases from employee harassment that, although taking place in a school's program, occurs outside of the context of the employee's provision of aid, benefits, and services to students. In these latter cases, the school's responsibilities are not triggered until the school knew or should have known about the harassment.

One commenter expressed concern that it was inappropriate ever to find a school out of compliance for harassment about which it knew nothing. We reiterate that, although a school may in some cases be responsible for harassment caused by an employee that occurred before other responsible employees of the school knew or should have known about it, OCR always provides the school with actual notice and the opportunity to take appropriate corrective action before issuing a finding of violation. This is consistent with the Court's underlying concern in Gebser and Davis.

Most commenters acknowledged that OCR has provided useful factors to determine whether harassing conduct took place "in the context of providing aid, benefits, or services." However, some commenters stated that additional clarity and examples regarding the issue were needed. Commenters also suggested clarifying

² It is the position of the United States that the standards set out in OCR's guidance for finding a violation and seeking voluntary corrective action also would apply to private actions for injunctive and other equitable relief. See brief of the United States as Amicus Curiae in Davis v. Monroe County.

references to quid pro quo and hostile environment harassment as these two concepts, though useful, do not determine the issue of whether the school itself is considered responsible for the harassment. We agree with these concerns and have made significant revisions to the sections "Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program" and "Harassment by Teachers and Other Employees" to clarify the guidance in these respects.

Gender-based Harassment, Including Harassment Predicated on Sex-stereotyping

Several commenters requested that we expand the discussion and include examples of gender-based harassment predicated on sex stereotyping. Some commenters also argued that gender-based harassment should be considered sexual harassment, and that we have "artificially" restricted the guidance only to harassment in the form of conduct of a sexual nature, thus, implying that gender-based harassment is of less concern and should be evaluated differently.

We have not further expanded this section because, while we are also concerned with the important issue of gender-based harassment, we believe that harassment of a sexual nature raises unique and sufficiently important issues that distinguish it from other types of gender-based harassment and warrants its own guidance.

Nevertheless, we have clarified this section of the guidance in several ways. The guidance clarifies that gender-based harassment, including that predicated on sex-stereotyping, is covered by Title IX if it is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program. Thus, it can be discrimination on the basis of sex to harass a student on the basis of the victim's failure to conform to stereotyped notions of masculinity and femininity. Although this type of harassment is not covered by the guidance, if it is sufficiently serious, gender-based harassment is a school's responsibility, and the same standards generally will apply. We have also added an endnote regarding Supreme Court precedent for the proposition that sex stereotyping can constitute sex discrimination.

Several commenters also suggested that we state that sexual and non-sexual (but gender-based) harassment should not be evaluated separately in determining whether a hostile environment exists. We note that both the proposed revised guidance and the final revised guidance indicate in several places that incidents of sexual harassment and non-sexual, gender-based harassment can be combined to determine whether a hostile environment has been created. We also note that sufficiently serious harassment of a sexual nature remains covered by Title IX, as explained in the guidance, even though the hostile environment may also include taunts based on sexual orientation.

Definition of Harassment

One commenter urged OCR to provide distinct definitions of sexual harassment to be used in administrative enforcement as distinguished from criteria used to maintain private actions for monetary damages. We disagree. First, as discussed in the preamble to the proposed revised guidance, the definition of hostile environment sexual harassment used by the Court in Davis is consistent with the definition found in the proposed guidance. Although the terms used by the Court in Davis are in some ways different from

the words used to define hostile environment harassment in the 1997 guidance (see, e.g., 62 FR 12041, "conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program, or to create a hostile or abusive educational environment"), the definitions are consistent. Both the Court's and the Department's definitions are contextual descriptions intended to capture the same concept -- that under Title IX, the conduct must be sufficiently serious that it adversely affects a student's ability to participate in or benefit from the school's program. In determining whether harassment is actionable, both Davis and the Department tell schools to look at the "constellation of surrounding circumstances, expectations, and relationships" (526 U.S. at 651 (citing Oncale)), and the Davis Court cited approvingly to the underlying core factors described in the 1997 guidance for evaluating the context of the harassment. Second, schools benefit from consistency and simplicity in understanding what is sexual harassment for which the school must take responsive action. A multiplicity of definitions would not serve this purpose.

Several commenters suggested that we develop a unique Title IX definition of harassment that does not rely on Title VII and that takes into account the special relationship of schools to students. Other commenters, by contrast, commended OCR for recognizing that Gebser and Davis did not alter the definition of hostile environment sexual harassment found in OCR's 1997 guidance, which derives from Title VII caselaw, and asked us to strengthen the point. While Gebser and Davis made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the Davis Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX. We also believe that the factors described in both the 1997 guidance and the revised guidance to determine whether sexual harassment has occurred provide the necessary flexibility for taking into consideration the age and maturity of the students involved and the nature of the school environment.

Effective Response

One commenter suggested that the change in the guidance from "appropriate response" to "effective response" implies a change in OCR policy that requires omniscience of schools. We disagree. Effectiveness has always been the measure of an adequate response under Title IX. This does not mean a school must overreact out of fear of being judged inadequate. Effectiveness is measured based on a reasonableness standard. Schools do not have to know beforehand that their response will be effective. However, if their initial steps are ineffective in stopping the harassment, reasonableness may require a series of escalating steps.

The Relationship Between FERPA and Title IX

In the development of both the 1997 guidance and the current revisions to the guidance, commenters raised concerns about the interrelation of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and Title IX. The concerns relate to two issues: (1) the harassed student's right to information about the outcome of a sexual harassment complaint against another student, including information about sanctions imposed on a student found guilty of harassment; and (2) the due process rights of

individuals, including teachers, accused of sexual harassment by a student, to obtain information about the identity of the complainant and the nature of the allegations.

FERPA generally forbids disclosure of information from a student's "education record" without the consent of the student (or the student's parent). Thus, FERPA may be relevant when the person found to have engaged in harassment is another student, because written information about the complaint, investigation, and outcome is part of the harassing student's education record. Title IX is also relevant because it is an important part of taking effective responsive action for the school to inform the harassed student of the results of its investigation and whether it counseled, disciplined, or otherwise sanctioned the harasser. This information can assure the harassed student that the school has taken the student's complaint seriously and has taken steps to eliminate the hostile environment and prevent the harassment from recurring.

The Department currently interprets FERPA as not conflicting with the Title IX requirement that the school notify the harassed student of the outcome of its investigation, i.e., whether or not harassment was found to have occurred, because this information directly relates to the victim. It has been the Department's position that there is a potential conflict between FERPA and Title IX regarding disclosure of sanctions, and that FERPA generally prevents a school from disclosing to a student who complained of harassment information about the sanction or discipline imposed upon a student who was found to have engaged in that harassment.³

There is, however, an additional statutory provision that may apply to this situation. In 1994, as part of the Improving America's Schools Act, Congress amended the General Education Provisions Act (GEPA) -- of which FERPA is a part -- to state that nothing in GEPA "shall be construed to affect the applicability of ... title IX of the Education Amendments of 1972...."⁴ The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between requirements of FERPA and requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. The Department is in the process of developing a consistent approach and specific factors for implementing this provision. OCR and the Department's Family Policy Compliance Office (FPCO) intend to issue joint guidance, discussing specific areas of potential conflict between FERPA and Title IX.

³ Exceptions include the case of a sanction that directly relates to the person who was harassed (e.g., an order that the harasser stay away from the harassed student), or sanctions related to offenses for which there is a statutory exception, such as crimes of violence or certain sex offenses in postsecondary institutions.

⁴ 20 U.S.C. 1221(d). A similar amendment was originally passed in 1974 but applied only to Title VI of the Civil Rights Act of 1964 (prohibiting race discrimination by recipients). The 1994 amendments also extended 20 U.S.C. 1221(d) to Section 504 of the Rehabilitation Act of 1973 (prohibiting disability-based discrimination by recipients) and to the Age Discrimination Act.

FERPA is also relevant when a student accuses a teacher or other employee of sexual harassment, because written information about the allegations is contained in the student's education record. The potential conflict arises because, while FERPA protects the privacy of the student accuser, the accused individual may need the name of the accuser and information regarding the nature of the allegations in order to defend against the charges. The 1997 guidance made clear that neither FERPA nor Title IX override any federally protected due process rights of a school employee accused of sexual harassment.

Several commenters urged the Department to expand and strengthen this discussion. They argue that in many instances a school's failure to provide information about the name of the student accuser and the nature of the allegations seriously undermines the fairness of the investigative and adjudicative process. They also urge the Department to include a discussion of the need for confidentiality as to the identity of the individual accused of harassment because of the significant harm that can be caused by false accusations. We have made several changes to the guidance, including an additional discussion regarding the confidentiality of a person accused of harassment and a new heading entitled "Due Process Rights of the Accused," to address these concerns.

**REVISED SEXUAL HARASSMENT GUIDANCE:
HARASSMENT OF STUDENTS¹
BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES**

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I. Introduction

Title IX of the Education Amendments of 1972 (Title IX) and the Department of Education's (Department) implementing regulations prohibit discrimination on the basis of sex in federally assisted education programs and activities.² The Supreme Court, Congress, and Federal executive departments and agencies, including the Department, have recognized that sexual harassment of students can constitute discrimination prohibited by Title IX.³ This guidance focuses on a school's⁴ fundamental compliance responsibilities under Title IX and the Title IX regulations to address sexual harassment of students as a condition of continued receipt of Federal funding. It describes the regulatory basis for a school's compliance responsibilities under Title IX, outlines the circumstances under which sexual harassment may constitute discrimination prohibited by the statute and regulations, and provides information about actions that schools should take to prevent sexual harassment or to address it effectively if it does occur.⁵

II. Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.⁶ Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX under the circumstances described in this guidance.

It is important to recognize that Title IX's prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct. For example, a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee will not be considered sexual harassment.⁷ Similarly, one student's demonstration of a sports maneuver or technique requiring contact with another student will not be considered sexual harassment. However, in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, a teacher's repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment.

III. Applicability of Title IX

Title IX applies to all public and private educational institutions that receive Federal funds, i.e., recipients, including, but not limited to, elementary and secondary schools, school districts, proprietary schools, colleges, and universities. The guidance uses the terms "recipients" and "schools" interchangeably to refer to all of those institutions. The "education program or activity" of a school includes all of the school's operations.⁸ This means that Title IX protects students in connection with all of the academic, educational, extra-curricular, athletic, and other programs of the school,

whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

A student may be sexually harassed by a school employee,⁹ another student, or a non-employee third party (e.g., a visiting speaker or visiting athletes). Title IX protects any "person" from sex discrimination. Accordingly, both male and female students are protected from sexual harassment¹⁰ engaged in by a school's employees, other students, or third parties. Moreover, Title IX prohibits sexual harassment regardless of the sex of the harasser, i.e., even if the harasser and the person being harassed are members of the same sex.¹¹ An example would be a campaign of sexually explicit graffiti directed at a particular girl by other girls.¹²

Although Title IX does not prohibit discrimination on the basis of sexual orientation,¹³ sexual harassment directed at gay or lesbian students that is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's program constitutes sexual harassment prohibited by Title IX under the circumstances described in this guidance.¹⁴ For example, if a male student or a group of male students target a gay student for physical sexual advances, serious enough to deny or limit the victim's ability to participate in or benefit from the school's program, the school would need to respond promptly and effectively, as described in this guidance, just as it would if the victim were heterosexual. On the other hand, if students heckle another student with comments based on the student's sexual orientation (e.g., "gay students are not welcome at this table in the cafeteria"), but their actions do not involve conduct of a sexual nature, their actions would not be sexual harassment covered by Title IX.¹⁵

Though beyond the scope of this guidance, gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping,¹⁶ but not involving conduct of a sexual nature, is also a form of sex discrimination to which a school must respond, if it rises to a level that denies or limits a student's ability to participate in or benefit from the educational program.¹⁷ For example, the repeated sabotaging of female graduate students' laboratory experiments by male students in the class could be the basis of a violation of Title IX. A school must respond to such harassment in accordance with the standards and procedures described in this guidance.¹⁸ In assessing all related circumstances to determine whether a hostile environment exists, incidents of gender-based harassment combined with incidents of sexual harassment could create a hostile environment, even if neither the gender-based harassment alone nor the sexual harassment alone would be sufficient to do so.¹⁹

IV. Title IX Regulatory Compliance Responsibilities

As a condition of receiving funds from the Department, a school is required to comply with Title IX and the Department's Title IX regulations, which spell out prohibitions against sex discrimination. The law is clear that sexual harassment may constitute sex discrimination under Title IX.²⁰

Recipients specifically agree, as a condition for receiving Federal financial assistance from the Department, to comply with Title IX and the Department's Title IX regulations. The regulatory provision requiring this agreement, known as an assurance of

compliance, specifies that recipients must agree that education programs or activities operated by the recipient will be operated in compliance with the Title IX regulations, including taking any action necessary to remedy its discrimination or the effects of its discrimination in its programs.²¹

The regulations set out the basic Title IX responsibilities a recipient undertakes when it accepts Federal financial assistance, including the following specific obligations.²² A recipient agrees that, in providing any aid, benefit, or service to students, it will not, on the basis of sex—

- Treat one student differently from another in determining whether the student satisfies any requirement or condition for the provision of any aid, benefit, or service;²³
- Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;²⁴
- Deny any student any such aid, benefit, or service;²⁵
- Subject students to separate or different rules of behavior, sanctions, or other treatment;²⁶
- Aid or perpetuate discrimination against a student by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to students;²⁷ and
- Otherwise limit any student in the enjoyment of any right, privilege, advantage, or opportunity.²⁸

For the purposes of brevity and clarity, this guidance generally summarizes this comprehensive list by referring to a school's obligation to ensure that a student is not denied or limited in the ability to participate in or benefit from the school's program on the basis of sex.

The regulations also specify that, if a recipient discriminates on the basis of sex, the school must take remedial action to overcome the effects of the discrimination.²⁹

In addition, the regulations establish procedural requirements that are important for the prevention or correction of sex discrimination, including sexual harassment. These requirements include issuance of a policy against sex discrimination³⁰ and adoption and publication of grievance procedures providing for prompt and equitable resolution of complaints of sex discrimination.³¹ The regulations also require that recipients designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging noncompliance.³²

To comply with these regulatory requirements, schools need to recognize and respond to sexual harassment of students by teachers and other employees, by other students, and by third parties. This guidance explains how the requirements of the Title IX regulations apply to situations involving sexual harassment of a student and outlines measures that schools should take to ensure compliance.

V. Determining a School's Responsibilities

In assessing sexually harassing conduct, it is important for schools to recognize that two distinct issues are considered. The first issue is whether, considering the types of harassment discussed in the following section, the conduct denies or limits a student's ability to participate in or benefit from the program based on sex. If it does, the second issue is the nature of the school's responsibility to address that conduct. As discussed in a following section, this issue depends in part on the identity of the harasser and the context in which the harassment occurred.

A. Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program

This guidance moves away from specific labels for types of sexual harassment.³³ In each case, the issue is whether the harassment rises to a level that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. However, an understanding of the different types of sexual harassment can help schools determine whether or not harassment has occurred that triggers a school's responsibilities under, or violates, Title IX or its regulations.

The type of harassment traditionally referred to as quid-pro quo harassment occurs if a teacher or other employee conditions an educational decision or benefit on the student's submission to unwelcome sexual conduct.³⁴ Whether the student resists and suffers the threatened harm or submits and avoids the threatened harm, the student has been treated differently, or the student's ability to participate in or benefit from the school's program has been denied or limited, on the basis of sex in violation of the Title IX regulations.³⁵

By contrast, sexual harassment can occur that does not explicitly or implicitly condition a decision or benefit on submission to sexual conduct. Harassment of this type is generally referred to as hostile environment harassment.³⁶ This type of harassing conduct requires a further assessment of whether or not the conduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program based on sex.³⁷

Teachers and other employees can engage in either type of harassment. Students and third parties are not generally given responsibility over other students and, thus, generally can only engage in hostile environment harassment.

1. Factors Used to Evaluate Hostile Environment Sexual Harassment

As outlined in the following paragraphs, OCR considers a variety of related factors to determine if a hostile environment has been created, i.e., if sexually harassing conduct by an employee, another student, or a third party is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. OCR considers the conduct from both a subjective³⁸ and objective³⁹ perspective. In evaluating the severity and pervasiveness of the conduct, OCR considers all relevant circumstances, i.e., "the constellation of surrounding circumstances, expectations, and relationships."⁴⁰ Schools should also use these factors to evaluate conduct in order to draw commonsense distinctions between conduct that constitutes

sexual harassment and conduct that does not rise to that level. Relevant factors include the following:

- The degree to which the conduct affected one or more students' education. OCR assesses the effect of the harassment on the student to determine whether it has denied or limited the student's ability to participate in or benefit from the school's program. For example, a student's grades may go down or the student may be forced to withdraw from school because of the harassing behavior.⁴¹ A student may also suffer physical injuries or mental or emotional distress.⁴² In another situation, a student may have been able to keep up his or her grades and continue to attend school even though it was very difficult for him or her to do so because of the teacher's repeated sexual advances. Similarly, a student may be able to remain on a sports team, despite experiencing great difficulty performing at practices and games from the humiliation and anger caused by repeated sexual advances and intimidation by several team members that create a hostile environment. Harassing conduct in these examples would alter a reasonable student's educational environment and adversely affect the student's ability to participate in or benefit from the school's program on the basis of sex.

A hostile environment can occur even if the harassment is not targeted specifically at the individual complainant.⁴³ For example, if a student, group of students, or a teacher regularly directs sexual comments toward a particular student, a hostile environment may be created not only for the targeted student, but also for others who witness the conduct.

- The type, frequency, and duration of the conduct. In most cases, a hostile environment will exist if there is a pattern or practice of harassment, or if the harassment is sustained and nontrivial.⁴⁴ For instance, if a young woman is taunted by one or more young men about her breasts or genital area or both, OCR may find that a hostile environment has been created, particularly if the conduct has gone on for some time, or takes place throughout the school, or if the taunts are made by a number of students. The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. For instance, if the conduct is more severe, e.g., attempts to grab a female student's breasts or attempts to grab any student's genital area or buttocks, it need not be as persistent to create a hostile environment. Indeed, a single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment.⁴⁵ On the other hand, conduct that is not severe will not create a hostile environment, e.g., a comment by one student to another student that she has a nice figure. Indeed, depending on the circumstances, this may not even be conduct of a sexual nature.⁴⁶ Similarly, because students date one another, a request for a date or a gift of flowers, even if unwelcome, would not create a hostile environment. However, there may be circumstances in which repeated, unwelcome requests for dates or similar conduct could create a hostile environment. For example, a person, who has been refused previously, may request dates in an intimidating or threatening manner.
- The identity of and relationship between the alleged harasser and the subject or subjects of the harassment. A factor to be considered, especially in cases involving allegations of sexual harassment of a student by a school employee, is the identity of

and relationship between the alleged harasser and the subject or subjects of the harassment. For example, due to the power a professor or teacher has over a student, sexually based conduct by that person toward a student is more likely to create a hostile environment than similar conduct by another student.⁴⁷

- The number of individuals involved. Sexual harassment may be committed by an individual or a group. In some cases, verbal comments or other conduct from one person might not be sufficient to create a hostile environment, but could be if done by a group. Similarly, while harassment can be directed toward an individual or a group,⁴⁸ the effect of the conduct toward a group may vary, depending on the type of conduct and the context. For certain types of conduct, there may be "safety in numbers." For example, following an individual student and making sexual taunts to him or her may be very intimidating to that student, but, in certain circumstances, less so to a group of students. On the other hand, persistent unwelcome sexual conduct still may create a hostile environment if directed toward a group.
- The age and sex of the alleged harasser and the subject or subjects of the harassment. For example, in the case of younger students, sexually harassing conduct is more likely to be intimidating if coming from an older student.⁴⁹
- The size of the school, location of the incidents, and context in which they occurred. Depending on the circumstances of a particular case, fewer incidents may have a greater effect at a small college than at a large university campus. Harassing conduct occurring on a school bus may be more intimidating than similar conduct on a school playground because the restricted area makes it impossible for students to avoid their harassers.⁵⁰ Harassing conduct in a personal or secluded area, such as a dormitory room or residence hall, can have a greater effect (e.g., be seen as more threatening) than would similar conduct in a more public area. On the other hand, harassing conduct in a public place may be more humiliating. Each incident must be judged individually.
- Other incidents at the school. A series of incidents at the school, not involving the same students, could — taken together — create a hostile environment, even if each by itself would not be sufficient.⁵¹
- Incidents of gender-based, but nonsexual harassment. Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment.⁵²

It is the totality of the circumstances in which the behavior occurs that is critical in determining whether a hostile environment exists. Consequently, in using the factors discussed previously to evaluate incidents of alleged harassment, it is always important to use common sense and reasonable judgement in determining whether a sexually hostile environment has been created.

2. Welcomeness

The section entitled "Sexual Harassment" explains that in order for conduct of a sexual nature to be sexual harassment, it must be unwelcome. Conduct is unwelcome if

the student did not request or invite it and “regarded the conduct as undesirable or offensive.”⁵³ Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.⁵⁴ For example, a student may decide not to resist sexual advances of another student or may not file a complaint out of fear. In addition, a student may not object to a pattern of demeaning comments directed at him or her by a group of students out of a concern that objections might cause the harassers to make more comments. The fact that a student may have accepted the conduct does not mean that he or she welcomed it.⁵⁵ Also, the fact that a student willingly participated in conduct on one occasion does not prevent him or her from indicating that the same conduct has become unwelcome on a subsequent occasion. On the other hand, if a student actively participates in sexual banter and discussions and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome.⁵⁶

If younger children are involved, it may be necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. Accordingly, OCR will consider the age of the student, the nature of the conduct involved, and other relevant factors in determining whether a student had the capacity to welcome sexual conduct.

Schools should be particularly concerned about the issue of welcomeness if the harasser is in a position of authority. For instance, because students may be encouraged to believe that a teacher has absolute authority over the operation of his or her classroom, a student may not object to a teacher’s sexually harassing comments during class; however, this does not necessarily mean that the conduct was welcome. Instead, the student may believe that any objections would be ineffective in stopping the harassment or may fear that by making objections he or she will be singled out for harassing comments or other retaliation.

In addition, OCR must consider particular issues of welcomeness if the alleged harassment relates to alleged “consensual” sexual relationships between a school’s adult employees and its students. If elementary students are involved, welcomeness will not be an issue: OCR will never view sexual conduct between an adult school employee and an elementary school student as consensual. In cases involving secondary students, there will be a strong presumption that sexual conduct between an adult school employee and a student is not consensual. In cases involving older secondary students, subject to the presumption,⁵⁷ OCR will consider a number of factors in determining whether a school employee’s sexual advances or other sexual conduct could be considered welcome.⁵⁸ In addition, OCR will consider these factors in all cases involving postsecondary students in making those determinations.⁵⁹ The factors include the following:

- The nature of the conduct and the relationship of the school employee to the student, including the degree of influence (which could, at least in part, be affected by the student’s age), authority, or control the employee has over the student.
- Whether the student was legally or practically unable to consent to the sexual conduct in question. For example, a student’s age could affect his or her ability to do so. Similarly, certain types of disabilities could affect a student’s ability to do so.

If there is a dispute about whether harassment occurred or whether it was welcome — in a case in which it is appropriate to consider whether the conduct would be welcome — determinations should be made based on the totality of the circumstances. The following types of information may be helpful in resolving the dispute:

- Statements by any witnesses to the alleged incident.
- Evidence about the relative credibility of the allegedly harassed student and the alleged harasser. For example, the level of detail and consistency of each person's account should be compared in an attempt to determine who is telling the truth. Another way to assess credibility is to see if corroborative evidence is lacking where it should logically exist. However, the absence of witnesses may indicate only the unwillingness of others to step forward, perhaps due to fear of the harasser or a desire not to get involved.
- Evidence that the alleged harasser has been found to have harassed others may support the credibility of the student claiming the harassment; conversely, the student's claim will be weakened if he or she has been found to have made false allegations against other individuals.
- Evidence of the allegedly harassed student's reaction or behavior after the alleged harassment. For example, were there witnesses who saw the student immediately after the alleged incident who say that the student appeared to be upset? However, it is important to note that some students may respond to harassment in ways that do not manifest themselves right away, but may surface several days or weeks after the harassment. For example, a student may initially show no signs of having been harassed, but several weeks after the harassment, there may be significant changes in the student's behavior, including difficulty concentrating on academic work, symptoms of depression, and a desire to avoid certain individuals and places at school.
- Evidence about whether the student claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred. However, failure to immediately complain may merely reflect a fear of retaliation or a fear that the complainant may not be believed rather than that the alleged harassment did not occur.
- Other contemporaneous evidence. For example, did the student claiming harassment write about the conduct and his or her reaction to it soon after it occurred (e.g., in a diary or letter)? Did the student tell others (friends, parents) about the conduct (and his or her reaction to it) soon after it occurred?

B. Nature of the School's Responsibility to Address Sexual Harassment

A school has a responsibility to respond promptly and effectively to sexual harassment. In the case of harassment by teachers or other employees, the nature of this responsibility depends in part on whether the harassment occurred in the context of the employee's provision of aid, benefits, or services to students.

1. Harassment by Teachers and Other Employees

Sexual harassment of a student by a teacher or other school employee can be discrimination in violation of Title IX.⁶⁰ Schools are responsible for taking prompt and effective action to stop the harassment and prevent its recurrence. A school also may be responsible for remedying the effects of the harassment on the student who was harassed. The extent of a recipient's responsibilities if an employee sexually harasses a student is determined by whether or not the harassment occurred in the context of the employee's provision of aid, benefits, or services to students.

A recipient is responsible under the Title IX regulations for the nondiscriminatory provision of aid, benefits, and services to students. Recipients generally provide aid, benefits, and services to students through the responsibilities they give to employees. If an employee who is acting (or who reasonably appears to be acting) in the context of carrying out these responsibilities over students engages in sexual harassment – generally this means harassment that is carried out during an employee's performance of his or her responsibilities in relation to students, including teaching, counseling, supervising, advising, and transporting students – and the harassment denies or limits a student's ability to participate in or benefit from a school program on the basis of sex,⁶¹ the recipient is responsible for the discriminatory conduct.⁶² The recipient is, therefore, also responsible for remedying any effects of the harassment on the victim, as well as for ending the harassment and preventing its recurrence. This is true whether or not the recipient has "notice" of the harassment. (As explained in the section on "Notice of Employee, Peer, or Third Party Harassment," for purposes of this guidance, a school has notice of harassment if a responsible school employee actually knew or, in the exercise of reasonable care, should have known about the harassment.) Of course, under OCR's administrative enforcement, recipients always receive actual notice and the opportunity to take appropriate corrective action before any finding of violation or possible loss of federal funds.

Whether or not sexual harassment of a student occurred within the context of an employee's responsibilities for providing aid, benefits, or services is determined on a case-by-case basis, taking into account a variety of factors. If an employee conditions the provision of an aid, benefit, or service that the employee is responsible for providing on a student's submission to sexual conduct, i.e., conduct traditionally referred to as quid pro quo harassment, the harassment is clearly taking place in the context of the employee's responsibilities to provide aid, benefits, or services. In other situations, i.e., when an employee has created a hostile environment, OCR will consider the following factors in determining whether or not the harassment has taken place in this context, including:

- The type and degree of responsibility given to the employee, including both formal and informal authority, to provide aids, benefits, or services to students, to direct and control student conduct, or to discipline students generally;
- the degree of influence the employee has over the particular student involved, including in the circumstances in which the harassment took place;
- where and when the harassment occurred;
- the age and educational level of the student involved; and

- as applicable, whether, in light of the student's age and educational level and the way the school is run, it would be reasonable for the student to believe that the employee was in a position of responsibility over the student, even if the employee was not.

These factors are applicable to all recipient educational institutions, including elementary and secondary schools, colleges, and universities. Elementary and secondary schools, however, are typically run in a way that gives teachers, school officials, and other school employees a substantial degree of supervision, control, and disciplinary authority over the conduct of students.⁶³ Therefore, in cases involving allegations of harassment of elementary and secondary school-age students by a teacher or school administrator during any school activity,⁶⁴ consideration of these factors will generally lead to a conclusion that the harassment occurred in the context of the employee's provision of aid, benefits, or services.

For example, a teacher sexually harasses an eighth-grade student in a school hallway. Even if the student is not in any of the teacher's classes and even if the teacher is not designated as a hall monitor, given the age and educational level of the student and the status and degree of influence of teachers in elementary and secondary schools, it would be reasonable for the student to believe that the teacher had at least informal disciplinary authority over students in the hallways. Thus, OCR would consider this an example of conduct that is occurring in the context of the employee's responsibilities to provide aid, benefits, or services.

Other examples of sexual harassment of a student occurring in the context of an employee's responsibilities for providing aid, benefits, or services include, but are not limited to -- a faculty member at a university's medical school conditions an intern's evaluation on submission to his sexual advances and then gives her a poor evaluation for rejecting the advances; a high school drama instructor does not give a student a part in a play because she has not responded to sexual overtures from the instructor; a faculty member withdraws approval of research funds for her assistant because he has rebuffed her advances; a journalism professor who supervises a college newspaper continually and inappropriately touches a student editor in a sexual manner, causing the student to resign from the newspaper staff; and a teacher repeatedly asks a ninth grade student to stay after class and attempts to engage her in discussions about sex and her personal experiences while they are alone in the classroom, causing the student to stop coming to class. In each of these cases, the school is responsible for the discriminatory conduct, including taking prompt and effective action to end the harassment, prevent it from recurring, and remedy the effects of the harassment on the victim.

Sometimes harassment of a student by an employee in the school's program does not take place in the context of the employee's provision of aid, benefits, or services, but nevertheless is sufficiently serious to create a hostile educational environment. An example of this conduct might occur if a faculty member in the history department at a university, over the course of several weeks, repeatedly touches and makes sexually suggestive remarks to a graduate engineering student while waiting at a stop for the university shuttle bus, riding on the bus, and upon exiting the bus. As a result, the student stops using the campus shuttle and walks the very long distances between her classes. In this case, the school is not directly responsible for the harassing conduct because it did not occur in the context of the employee's responsibilities for the provision

of aid, benefits, or services to students. However, the conduct is sufficiently serious to deny or limit the student in her ability to participate in or benefit from the recipient's program. Thus, the school has a duty, upon notice of the harassment,⁶⁵ to take prompt and effective action to stop the harassment and prevent its recurrence.

If the school takes these steps, it has avoided violating Title IX. If the school fails to take the necessary steps, however, its failure to act has allowed the student to continue to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program. The school, therefore, has engaged in its own discrimination. It then becomes responsible, not just for stopping the conduct and preventing it from happening again, but for remedying the effects of the harassment on the student that could reasonably have been prevented if the school had responded promptly and effectively. (For related issues, see the sections on "OCR Case Resolution" and "Recipient's Response.")

2. Harassment by Other Students or Third Parties

If a student sexually harasses another student and the harassing conduct is sufficiently serious to deny or limit the student's ability to participate in or benefit from the program, and if the school knows or reasonably should know⁶⁶ about the harassment, the school is responsible for taking immediate effective action to eliminate the hostile environment and prevent its recurrence.⁶⁷ As long as the school, upon notice of the harassment, responds by taking prompt and effective action to end the harassment and prevent its recurrence, the school has carried out its responsibility under the Title IX regulations. On the other hand, if, upon notice, the school fails to take prompt, effective action, the school's own inaction has permitted the student to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program on the basis of sex.⁶⁸ In this case, the school is responsible for taking effective corrective actions to stop the harassment, prevent its recurrence, and remedy the effects on the victim that could reasonably have been prevented had it responded promptly and effectively.

Similarly, sexually harassing conduct by third parties, who are not themselves employees or students at the school (e.g., a visiting speaker or members of a visiting athletic team), may also be of a sufficiently serious nature to deny or limit a student's ability to participate in or benefit from the education program. As previously outlined in connection with peer harassment, if the school knows or should know⁶⁹ of the harassment, the school is responsible for taking prompt and effective action to eliminate the hostile environment and prevent its recurrence.

The type of appropriate steps that the school should take will differ depending on the level of control that the school has over the third party harasser.⁷⁰ For example, if athletes from a visiting team harass the home school's students, the home school may not be able to discipline the athletes. However, it could encourage the other school to take appropriate action to prevent further incidents; if necessary, the home school may choose not to invite the other school back. (This issue is discussed more fully in the section on "Recipient's Response.")

If, upon notice, the school fails to take prompt and effective corrective action, its own failure has permitted the student to be subjected to a hostile environment that limits

the student's ability to participate in or benefit from the education program.⁷¹ In this case, the school is responsible for taking corrective actions to stop the harassment, prevent its recurrence, and remedy the effects on the victim that could reasonably have been prevented had the school responded promptly and effectively.

C. Notice of Employee, Peer, or Third Party Harassment

As described in the section on "Harassment by Teachers and Other Employees," schools may be responsible for certain types of employee harassment that occurred before the school otherwise had notice of the harassment. On the other hand, as described in that section and the section on "Harassment by Other Students or Third Parties," in situations involving certain other types of employee harassment, or harassment by peers or third parties, a school will be in violation of the Title IX regulations if the school "has notice" of a sexually hostile environment and fails to take immediate and effective corrective action.⁷²

A school has notice if a responsible employee "knew, or in the exercise of reasonable care should have known," about the harassment.⁷³ A responsible employee would include any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility.⁷⁴ Accordingly, schools need to ensure that employees are trained so that those with authority to address harassment know how to respond appropriately, and other responsible employees know that they are obligated to report harassment to appropriate school officials. Training for employees should include practical information about how to identify harassment and, as applicable, the person to whom it should be reported.

A school can receive notice of harassment in many different ways. A student may have filed a grievance with the Title IX coordinator⁷⁵ or complained to a teacher or other responsible employee about fellow students harassing him or her. A student, parent, or other individual may have contacted other appropriate personnel, such as a principal, campus security, bus driver, teacher, affirmative action officer, or staff in the office of student affairs. A teacher or other responsible employee of the school may have witnessed the harassment. The school may receive notice about harassment in an indirect manner, from sources such as a member of the school staff, a member of the educational or local community, or the media. The school also may have learned about the harassment from flyers about the incident distributed at the school or posted around the school. For the purposes of compliance with the Title IX regulations, a school has a duty to respond to harassment about which it reasonably should have known, i.e., if it would have learned of the harassment if it had exercised reasonable care or made a "reasonably diligent inquiry."⁷⁶

For example, in some situations if the school knows of incidents of harassment, the exercise of reasonable care should trigger an investigation that would lead to a discovery of additional incidents.⁷⁷ In other cases, the pervasiveness of the harassment may be enough to conclude that the school should have known of the hostile environment — if the harassment is widespread, openly practiced, or well-known to students and staff

(such as sexual harassment occurring in the hallways, graffiti in public areas, or harassment occurring during recess under a teacher's supervision.)⁷⁸

If a school otherwise knows or reasonably should know of a hostile environment and fails to take prompt and effective corrective action, a school has violated Title IX even if the student has failed to use the school's existing grievance procedures or otherwise inform the school of the harassment.

D. The Role of Grievance Procedures

Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination.⁷⁹ (These issues are discussed in the section on "Prompt and Equitable Grievance Procedures.") These procedures provide a school with a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems, as required by the Title IX regulations. By having a strong policy against sex discrimination and accessible, effective, and fairly applied grievance procedures, a school is telling its students that it does not tolerate sexual harassment and that students can report it without fear of adverse consequences.

Without a disseminated policy and procedure, a student does not know either of the school's policy against and obligation to address this form of discrimination, or how to report harassment so that it can be remedied. If the alleged harassment is sufficiently serious to create a hostile environment and it is the school's failure to comply with the procedural requirements of the Title IX regulations that hampers early notification and intervention and permits sexual harassment to deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex,⁸⁰ the school will be responsible under the Title IX regulations, once informed of the harassment, to take corrective action, including stopping the harassment, preventing its recurrence, and remedying the effects of the harassment on the victim that could reasonably have been prevented if the school's failure to comply with the procedural requirements had not hampered early notification.

VI. OCR Case Resolution

If OCR is asked to investigate or otherwise resolve incidents of sexual harassment of students, including incidents caused by employees, other students, or third parties, OCR will consider whether — (1) the school has a disseminated policy prohibiting sex discrimination under Title IX⁸¹ and effective grievance procedures;⁸² (2) the school appropriately investigated or otherwise responded to allegations of sexual harassment;⁸³ and (3) the school has taken immediate and effective corrective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.⁸⁴ (Issues related to appropriate investigative and corrective actions are discussed in detail in the section on "Recipient's Response.")

If the school has taken, or agrees to take, each of these steps, OCR will consider the case against the school resolved and will take no further action, other than monitoring compliance with an agreement, if any, between the school and OCR. This is true in cases

in which the school was in violation of the Title IX regulations (e.g., a teacher sexually harassed a student in the context of providing aid, benefits, or services to students), as well as those in which there has been no violation of the regulations (e.g., in a peer sexual harassment situation in which the school took immediate, reasonable steps to end the harassment and prevent its recurrence). This is because, even if OCR identifies a violation, Title IX requires OCR to attempt to secure voluntary compliance.⁸⁵ Thus, because a school will have the opportunity to take reasonable corrective action before OCR issues a formal finding of violation, a school does not risk losing its Federal funding solely because discrimination occurred.

VII. Recipient's Response

Once a school has notice of possible sexual harassment of students — whether carried out by employees, other students, or third parties — it should take immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps

reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. These steps are the school's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action.⁸⁶ As described in the next section, in appropriate circumstances the school will also be responsible for taking steps to remedy the effects of the harassment on the individual student or students who were harassed. What constitutes a reasonable response to information about possible sexual harassment will differ depending upon the circumstances.

A. Response to Student or Parent Reports of Harassment; Response to Direct Observation of Harassment by a Responsible Employee

If a student or the parent of an elementary or secondary student provides information or complains about sexual harassment of the student, the school should initially discuss what actions the student or parent is seeking in response to the harassment. The school should explain the avenues for informal and formal action, including a description of the grievance procedure that is available for sexual harassment complaints and an explanation of how the procedure works. If a responsible school employee has directly observed sexual harassment of a student, the school should contact the student who was harassed (or the parent, depending upon the age of the student),⁸⁷ explain that the school is responsible for taking steps to correct the harassment, and provide the same information described in the previous sentence.

Regardless of whether the student who was harassed, or his or her parent, decides to file a formal complaint or otherwise request action on the student's behalf (including in cases involving direct observation by a responsible employee), the school must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. The specific steps in an investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. However, in all cases the inquiry must be prompt, thorough, and impartial. (Requests by the student who

was harassed for confidentiality or for no action to be taken, responding to notice of harassment from other sources, and the components of a prompt and equitable grievance procedure are discussed in subsequent sections of this guidance.)

It may be appropriate for a school to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to place the students immediately in separate classes or in different housing arrangements on a campus, pending the results of the school's investigation. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate. In cases involving potential criminal conduct, school personnel should determine whether appropriate law enforcement authorities should be notified. In all cases, schools should make every effort to prevent disclosure of the names of all parties involved -- the complainant, the witnesses, and the accused -- except to the extent necessary to carry out an investigation.

If a school determines that sexual harassment has occurred, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation.⁸⁸ Appropriate steps should be taken to end the harassment. For example, school personnel may need to counsel, warn, or take disciplinary action against the harasser, based on the severity of the harassment or any record of prior incidents or both.⁸⁹ A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.⁹⁰ In some cases, it may be appropriate to further separate the harassed student and the harasser, e.g., by changing housing arrangements⁹¹ or directing the harasser to have no further contact with the harassed student. Responsive measures of this type should be designed to minimize, as much as possible, the burden on the student who was harassed. If the alleged harasser is not a student or employee of the recipient, OCR will consider the level of control the school has over the harasser in determining what response would be appropriate.⁹²

Steps should also be taken to eliminate any hostile environment that has been created. For example, if a female student has been subjected to harassment by a group of other students in a class, the school may need to deliver special training or other interventions for that class to repair the educational environment. If the school offers the student the option of withdrawing from a class in which a hostile environment occurred, the school should assist the student in making program or schedule changes and ensure that none of the changes adversely affect the student's academic record. Other measures may include, if appropriate, directing a harasser to apologize to the harassed student. If a hostile environment has affected an entire school or campus, an effective response may need to include dissemination of information, the issuance of new policy statements, or other steps that are designed to clearly communicate the message that the school does not tolerate harassment and will be responsive to any student who reports that conduct.

In some situations, a school may be required to provide other services to the student who was harassed if necessary to address the effects of the harassment on that student.⁹³ For example, if an instructor gives a student a low grade because the student failed to respond to his sexual advances, the school may be required to make arrangements for an independent reassessment of the student's work, if feasible, and change the grade accordingly; make arrangements for the student to take the course again

with a different instructor; provide tutoring; make tuition adjustments; offer reimbursement for professional counseling; or take other measures that are appropriate to the circumstances. As another example, if a school delays responding or responds inappropriately to information about harassment, such as a case in which the school ignores complaints by a student that he or she is being sexually harassed by a classmate, the school will be required to remedy the effects of the harassment that could have been prevented had the school responded promptly and effectively.

Finally, a school should take steps to prevent any further harassment⁹⁴ and to prevent any retaliation against the student who made the complaint (or was the subject of the harassment), against the person who filed a complaint on behalf of a student, or against those who provided information as witnesses.⁹⁵ At a minimum, this includes making sure that the harassed students and their parents know how to report any subsequent problems and making follow-up inquiries to see if there have been any new incidents or any retaliation. To prevent recurrences, counseling for the harasser may be appropriate to ensure that he or she understands what constitutes harassment and the effects it can have. In addition, depending on how widespread the harassment was and whether there have been any prior incidents, the school may need to provide training for the larger school community to ensure that students, parents, and teachers can recognize harassment if it recurs and know how to respond.⁹⁶

B. Confidentiality

The scope of a reasonable response also may depend upon whether a student, or parent of a minor student, reporting harassment asks that the student's name not be disclosed to the harasser or that nothing be done about the alleged harassment. In all cases, a school should discuss confidentiality standards and concerns with the complainant initially. The school should inform the student that a confidentiality request may limit the school's ability to respond. The school also should tell the student that Title IX prohibits retaliation and that, if he or she is afraid of reprisals from the alleged harasser, the school will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs. If the student continues to ask that his or her name not be revealed, the school should take all reasonable steps to investigate and respond to the complaint consistent with the student's request as long as doing so does not prevent the school from responding effectively to the harassment and preventing harassment of other students.

OCR enforces Title IX consistent with the federally protected due process rights of public school students and employees. Thus, for example, if a student, who was the only student harassed, insists that his or her name not be revealed, and the alleged harasser could not respond to the charges of sexual harassment without that information, in evaluating the school's response, OCR would not expect disciplinary action against an alleged harasser.

At the same time, a school should evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The factors that a school may consider in this regard include the seriousness of the alleged harassment, the age of the student harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the

accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result.⁹⁷

Similarly, a school should be aware of the confidentiality concerns of an accused employee or student. Publicized accusations of sexual harassment, if ultimately found to be false, may nevertheless irreparably damage the reputation of the accused. The accused individual's need for confidentiality must, of course, also be evaluated based on the factors discussed in the preceding paragraph in the context of the school's responsibility to ensure a safe environment for students.

Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual complaint of harassment, other means may be available to address the harassment. There are steps a recipient can take to limit the effects of the alleged harassment and prevent its recurrence without initiating formal action against the alleged harasser or revealing the identity of the complainant. Examples include conducting sexual harassment training for the school site or academic department where the problem occurred, taking a student survey concerning any problems with harassment, or implementing other systemic measures at the site or department where the alleged harassment has occurred.

In addition, by investigating the complaint to the extent possible — including by reporting it to the Title IX coordinator or other responsible school employee designated pursuant to Title IX — the school may learn about or be able to confirm a pattern of harassment based on claims by different students that they were harassed by the same individual. In some situations there may be prior reports by former students who now might be willing to come forward and be identified, thus providing a basis for further corrective action. In instances affecting a number of students (for example, a report from a student that an instructor has repeatedly made sexually explicit remarks about his or her personal life in front of an entire class), an individual can be put on notice of allegations of harassing behavior and counseled appropriately without revealing, even indirectly, the identity of the student who notified the school. Those steps can be very effective in preventing further harassment.

C. Response to Other Types of Notice

The previous two sections deal with situations in which a student or parent of a student who was harassed reports or complains of harassment or in which a responsible school employee directly observes sexual harassment of a student. If a school learns of harassment through other means, for example, if information about harassment is received from a third party (such as from a witness to an incident or an anonymous letter or telephone call), different factors will affect the school's response. These factors include the source and nature of the information; the seriousness of the alleged incident; the specificity of the information; the objectivity and credibility of the source of the report; whether any individuals can be identified who were subjected to the alleged harassment; and whether those individuals want to pursue the matter. If, based on these factors, it is reasonable for the school to investigate and it can confirm the allegations, the considerations described in the previous sections concerning interim measures and appropriate responsive action will apply.

For example, if a parent visiting a school observes a student repeatedly harassing a group of female students and reports this to school officials, school personnel can speak with the female students to confirm whether that conduct has occurred and whether they view it as unwelcome. If the school determines that the conduct created a hostile environment, it can take reasonable, age-appropriate steps to address the situation. If on the other hand, the students in this example were to ask that their names not be disclosed or indicate that they do not want to pursue the matter, the considerations described in the previous section related to requests for confidentiality will shape the school's response.

In a contrasting example, a student newspaper at a large university may print an anonymous letter claiming that a professor is sexually harassing students in class on a daily basis, but the letter provides no clue as to the identity of the professor or the department in which the conduct is allegedly taking place. Due to the anonymous source and lack of specificity of the information, a school would not reasonably be able to investigate and confirm these allegations. However, in response to the anonymous letter, the school could submit a letter or article to the newspaper reiterating its policy against sexual harassment, encouraging persons who believe that they have been sexually harassed to come forward, and explaining how its grievance procedures work.

VIII. Prevention

A policy specifically prohibiting sexual harassment and separate grievance procedures for violations of that policy can help ensure that all students and employees understand the nature of sexual harassment and that the school will not tolerate it. Indeed, they might even bring conduct of a sexual nature to the school's attention so that the school can address it before it becomes sufficiently serious as to create a hostile environment. Further, training for administrators, teachers, and staff and age-appropriate classroom information for students can help to ensure that they understand what types of conduct can cause sexual harassment and that they know how to respond.

IX. Prompt and Equitable Grievance Procedures

Schools are required by the Title IX regulations to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex.⁹⁸ Accordingly, regardless of whether harassment occurred, a school violates this requirement of the Title IX regulations if it does not have those procedures and policy in place.⁹⁹

A school's sex discrimination grievance procedures must apply to complaints of sex discrimination in the school's education programs and activities filed by students against school employees, other students, or third parties.¹⁰⁰ Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment. Thus, if, because of the lack of a policy or procedure specifically addressing sexual harassment, students are unaware of what kind of conduct constitutes sexual harassment or that such conduct is

prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination complaints will not be considered effective.¹⁰¹

OCR has identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable, including whether the procedures provide for —

- Notice to students, parents of elementary and secondary students, and employees of the procedure, including where complaints may be filed;
- Application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- Designated and reasonably prompt timeframes for the major stages of the complaint process;
- Notice to the parties of the outcome of the complaint;¹⁰² and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.¹⁰³

Many schools also provide an opportunity to appeal the findings or remedy, or both. In addition, because retaliation is prohibited by Title IX, schools may want to include a provision in their procedures prohibiting retaliation against any individual who files a complaint or participates in a harassment inquiry.

Procedures adopted by schools will vary considerably in detail, specificity, and components, reflecting differences in audiences, school sizes and administrative structures, State or local legal requirements, and past experience. In addition, whether complaint resolutions are timely will vary depending on the complexity of the investigation and the severity and extent of the harassment. During the investigation it is a good practice for schools to inform students who have alleged harassment about the status of the investigation on a periodic basis.

A grievance procedure applicable to sexual harassment complaints cannot be prompt or equitable unless students know it exists, how it works, and how to file a complaint. Thus, the procedures should be written in language appropriate to the age of the school's students, easily understood, and widely disseminated. Distributing the procedures to administrators, or including them in the school's administrative or policy manual, may not by itself be an effective way of providing notice, as these publications are usually not widely circulated to and understood by all members of the school community. Many schools ensure adequate notice to students by having copies of the procedures available at various locations throughout the school or campus; publishing the procedures as a separate document; including a summary of the procedures in major publications issued by the school, such as handbooks and catalogs for students, parents of elementary and secondary students, faculty, and staff; and identifying individuals who can explain how the procedures work.

A school must designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities.¹⁰⁴ The school must notify all of its students and employees of the name, office address, and telephone number of the employee or employees designated.¹⁰⁵ Because it is possible that an employee designated to handle Title IX complaints may himself or herself engage in harassment, a school may want to designate more than one employee to be responsible for handling complaints in order to ensure that students have an effective means of reporting harassment.¹⁰⁶ While a school may choose to have a number of employees responsible for Title IX matters, it is also advisable to give one official responsibility for overall coordination and oversight of all sexual harassment complaints to ensure consistent practices and standards in handling complaints. Coordination of recordkeeping (for instance, in a confidential log maintained by the Title IX coordinator) will also ensure that the school can and will resolve recurring problems and identify students or employees who have multiple complaints filed against them.¹⁰⁷ Finally, the school must make sure that all designated employees have adequate training as to what conduct constitutes sexual harassment and are able to explain how the grievance procedure operates.¹⁰⁸

Grievance procedures may include informal mechanisms for resolving sexual harassment complaints to be used if the parties agree to do so.¹⁰⁹ OCR has frequently advised schools, however, that it is not appropriate for a student who is complaining of harassment to be required to work out the problem directly with the individual alleged to be harassing him or her, and certainly not without appropriate involvement by the school (e.g., participation by a counselor, trained mediator, or, if appropriate, a teacher or administrator). In addition, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In some cases, such as alleged sexual assaults, mediation will not be appropriate even on a voluntary basis. Title IX also permits the use of a student disciplinary procedure not designed specifically for Title IX grievances to resolve sex discrimination complaints, as long as the procedure meets the requirement of affording a complainant a "prompt and equitable" resolution of the complaint.

In some instances, a complainant may allege harassing conduct that constitutes both sex discrimination and possible criminal conduct. Police investigations or reports may be useful in terms of fact gathering. However, because legal standards for criminal investigations are different, police investigations or reports may not be determinative of whether harassment occurred under Title IX and do not relieve the school of its duty to respond promptly and effectively.¹¹⁰ Similarly, schools are cautioned about using the results of insurance company investigations of sexual harassment allegations. The purpose of an insurance investigation is to assess liability under the insurance policy, and the applicable standards may well be different from those under Title IX. In addition, a school is not relieved of its responsibility to respond to a sexual harassment complaint filed under its grievance procedure by the fact that a complaint has been filed with OCR.¹¹¹

X. Due Process Rights of the Accused

A public school's employees have certain due process rights under the United States Constitution. The Constitution also guarantees due process to students in public and State-supported schools who are accused of certain types of infractions. The rights established under Title IX must be interpreted consistent with any federally guaranteed due process rights involved in a complaint proceeding. Furthermore, the Family Educational Rights and Privacy Act (FERPA) does not override federally protected due process rights of persons accused of sexual harassment. Procedures that ensure the Title IX rights of the complainant, while at the same time according due process to both parties involved, will lead to sound and supportable decisions. Of course, schools should ensure that steps to accord due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant. In both public and private schools, additional or separate rights may be created for employees or students by State law, institutional regulations and policies, such as faculty or student handbooks, and collective bargaining agreements. Schools should be aware of these rights and their legal responsibilities to individuals accused of harassment.

XI. First Amendment

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved.¹¹² Free speech rights apply in the classroom (e.g., classroom lectures and discussions)¹¹³ and in all other education programs and activities of public schools (e.g., public meetings and speakers on campus; campus debates, school plays and other cultural events¹¹⁴; and student newspapers, journals, and other publications¹¹⁵). In addition, First Amendment rights apply to the speech of students and teachers.¹¹⁶

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX.¹¹⁷ In order to establish a violation of Title IX, the harassment must be sufficiently serious to deny or limit a student's ability to participate in or benefit from the education program.¹¹⁸

Moreover, in regulating the conduct of its students and its faculty to prevent or redress discrimination prohibited by Title IX (e.g., in responding to harassment that is sufficiently serious as to create a hostile environment), a school must formulate, interpret, and apply its rules so as to protect academic freedom and free speech rights. For instance, while the First Amendment may prohibit a school from restricting the right of students to express opinions about one sex that may be considered derogatory, the school can take steps to denounce those opinions and ensure that competing views are heard. The age of the students involved and the location or forum may affect how the school can respond consistently with the First Amendment.¹¹⁹ As an example of the application of free speech rights to allegations of sexual harassment, consider the following:

Example 1: In a college level creative writing class, a professor's required reading list includes excerpts from literary classics that contain descriptions of explicit

sexual conduct, including scenes that depict women in submissive and demeaning roles. The professor also assigns students to write their own materials, which are read in class. Some of the student essays contain sexually derogatory themes about women. Several female students complain to the Dean of Students that the materials and related classroom discussion have created a sexually hostile environment for women in the class. What must the school do in response?

Answer: Academic discourse in this example is protected by the First Amendment even if it is offensive to individuals. Thus, Title IX would not require the school to discipline the professor or to censor the reading list or related class discussion.

Example 2: A group of male students repeatedly targets a female student for harassment during the bus ride home from school, including making explicit sexual comments about her body, passing around drawings that depict her engaging in sexual conduct, and, on several occasions, attempting to follow her home off the bus. The female student and her parents complain to the principal that the male students' conduct has created a hostile environment for girls on the bus and that they fear for their daughter's safety. What must a school do in response?

Answer: Threatening and intimidating actions targeted at a particular student or group of students, even though they contain elements of speech, are not protected by the First Amendment. The school must take prompt and effective actions, including disciplinary action if necessary, to stop the harassment and prevent future harassment.

Endnotes

¹ This guidance does not address sexual harassment of employees, although that conduct may be prohibited by Title IX. 20 U.S.C. 1681 *et seq.*; 34 CFR part 106, subpart E. If employees file Title IX sexual harassment complaints with OCR, the complaints will be processed pursuant to the Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance. 28 CFR 42.604. Employees are also protected from discrimination on the basis of sex, including sexual harassment, by Title VII of the Civil Rights Act of 1964. For information about Title VII and sexual harassment, see the Equal Employment Opportunity Commission's (EEOC's) Guidelines on Sexual Harassment, 29 CFR 1604.11, for information about filing a Title VII charge with the EEOC, see 29 CFR 1601.7–1607.13, or see the EEOC's website at www.eeoc.gov.

² 20 U.S.C. 1681; 34 CFR part 106.

³ See, e.g., Davis v. Monroe County Bd. of Educ., 526 U.S. 629, 649-50 (1999); Gebser v. Lago Vista Ind. Sch. Dist., 524 U.S. 274, 281 (1998); Franklin v. Gwinnett County Pub. Sch., 503 U.S. 60, 75 (1992); S. REP. NO. 100-64, 100th Cong., 1st Sess. 14 (1987); Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (1997 guidance), 62 FR 12034 (1997).

⁴ As described in the section on “Applicability,” this guidance applies to all levels of education.

⁵ For practical information about steps that schools can take to prevent and remedy all types of harassment, including sexual harassment, see “Protecting Students from Harassment and Hate Crime, A Guide for Schools,” which we issued jointly with the National Association of Attorneys General. This Guide is available at our web site at: www.ed.gov/pubs/Harassment.

⁶ See, e.g., Davis, 526 U.S. at 653 (alleged conduct of a sexual nature that would support a sexual harassment claim included verbal harassment and “numerous acts of objectively offensive touching;” Franklin, 503 U.S. at 63 (conduct of a sexual nature found to support a sexual harassment claim under Title IX included kissing, sexual intercourse); Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 60-61 (1986) (demands for sexual favors, sexual advances, fondling, indecent exposure, sexual intercourse, rape, sufficient to raise hostile environment claim under Title VII); Ellison v. Brady, 924 F.2d 872, 873-74, 880 (9th Cir. 1991) (allegations sufficient to state sexual harassment claim under Title VII included repeated requests for dates, letters making explicit references to sex and describing the harasser's feelings for plaintiff); Lipsett v. University of Puerto Rico, 864 F.2d 881, 904-5 (1st Cir. 1988) (sexually derogatory comments, posting of sexually explicit drawing of plaintiff, sexual advances may support sexual harassment claim); Kadiki v. Virginia Commonwealth University, 892 F.Supp. 746, 751 (E.D. Va. 1995)

(professor's spanking of university student may constitute sexual conduct under Title IX); Doe v. Petaluma, 830 F.Supp. 1560, 1564-65 (N.D. Cal. 1996) (sexually derogatory taunts and innuendo can be the basis of a harassment claim); Denver School Dist. #2, OCR Case No. 08-92-1007 (same to allegations of vulgar language and obscenities, pictures of nude women on office walls and desks, unwelcome touching, sexually offensive jokes, bribery to perform sexual acts, indecent exposure); Nashoba Regional High School, OCR Case No. 01-92-1377 (same as to year-long campaign of derogatory, sexually explicit graffiti and remarks directed at one student).

⁷ See also Shoreline School Dist., OCR Case No. 10-92-1002 (a teacher's patting a student on the arm, shoulder, and back, and restraining the student when he was out of control, not conduct of a sexual nature); Dartmouth Public Schools, OCR Case No. 01-90-1058 (same as to contact between high school coach and students); San Francisco State University, OCR Case No. 09-94-2038 (same as to faculty advisor placing her arm around a graduate student's shoulder in posing for a picture); Analy Union High School Dist., OCR Case No. 09-92-1249 (same as to drama instructor who put his arms around both male and female students who confided in him).

⁸ 20 U.S.C. 1687 (codification of the amendment to Title IX regarding scope of jurisdiction, enacted by the Civil Rights Restoration Act of 1987). See 65 FR 68049 (November 13, 2000) (Department's amendment of the Title IX regulations to incorporate the statutory definition of "program or activity").

⁹ If a school contracts with persons or organizations to provide benefits, services, or opportunities to students as part of the school's program, and those persons or employees of those organizations sexually harass students, OCR will consider the harassing individual in the same manner that it considers the school's employees, as described in this guidance. (See section on "Harassment by Teachers and Other Employees.") See Brown v. Hot, Sexy, and Safer Products, Inc., 68 F.3d 525, 529 (1st Cir. 1995) (Title IX sexual harassment claim brought for school's role in permitting contract consultant hired by it to create allegedly hostile environment).

In addition, if a student engages in sexual harassment as an employee of the school, OCR will consider the harassment under the standards described for employees. (See section on "Harassment by Teachers and Other Employees.") For example, OCR would consider it harassment by an employee if a student teaching assistant who is responsible for assigning grades in a course, i.e., for providing aid, benefits, or services to students under the recipient's program, required a student in his or her class to submit to sexual advances in order to obtain a certain grade in the class.

¹⁰ Cf. John Does 1 v. Covington County Sch. Bd., 884 F.Supp. 462, 464-65 (M.D. Ala. 1995) (male students alleging that a teacher sexually harassed and abused them stated cause of action under Title IX).

¹¹ Title IX and the regulations implementing it prohibit discrimination "on the basis of sex;" they do not restrict protection from sexual harassment to those circumstances in

which the harasser only harasses members of the opposite sex. See 34 CFR 106.31. In Oncale v. Sundowner Offshore Services, Inc., the Supreme Court held unanimously that sex discrimination consisting of same-sex sexual harassment can violate Title VII's prohibition against discrimination because of sex. 523 U.S. 75, 82 (1998). The Supreme Court's holding in Oncale is consistent with OCR policy, originally stated in its 1997 guidance, that Title IX prohibits sexual harassment regardless of whether the harasser and the person being harassed are members of the same sex. 62 FR 12039. See also Kinman v. Omaha Public School Dist., 94 F.3d 463, 468 (8th Cir. 1996), rev'd on other grounds, 171 F.3d 607 (1999) (female student's allegation of sexual harassment by female teacher sufficient to raise a claim under Title IX); Doc v. Petaluma, 830 F.Supp. 1560, 1564-65, 1575 (N.D. Cal. 1996) (female junior high student alleging sexual harassment by other students, including both boys and girls, sufficient to raise a claim under Title IX); John Does 1, 884 F.Supp. at 465 (same as to male students' allegations of sexual harassment and abuse by a male teacher.) It can also occur in certain situations if the harassment is directed at students of both sexes. Chiapuzo v. BLT Operating Corp., 826 F.Supp. 1334, 1337 (D.Wyo. 1993) (court found that if males and females were subject to harassment, but harassment was based on sex, it could violate Title VII); but see Holman v. Indiana, 211 F.3d 399, 405 (7th Cir. 2000) (if male and female both subjected to requests for sex, court found it could not violate Title VII).

In many circumstances, harassing conduct will be on the basis of sex because the student would not have been subjected to it at all had he or she been a member of the opposite sex; e.g., if a female student is repeatedly propositioned by a male student or employee (or, for that matter, if a male student is repeatedly propositioned by a male student or employee.) In other circumstances, harassing conduct will be on the basis of sex if the student would not have been affected by it in the same way or to the same extent had he or she been a member of the opposite sex; e.g., pornography and sexually explicit jokes in a mostly male shop class are likely to affect the few girls in the class more than it will most of the boys.

In yet other circumstances, the conduct will be on the basis of sex in that the student's sex was a factor in or affected the nature of the harasser's conduct or both. Thus, in Chiapuzo, a supervisor made demeaning remarks to both partners of a married couple working for him, e.g., as to sexual acts he wanted to engage in with the wife and how he would be a better lover than the husband. In both cases, according to the court, the remarks were based on sex in that they were made with an intent to demean each member of the couple because of his or her respective sex. 826 F.Supp. at 1337. See also Steiner v. Showboat Operating Co., 25 F.3d 1459, 1463-64 (9th Cir. 1994), cert. denied, 115 S.Ct. 733 (1995); but see Holman, 211 F.3d at 405 (finding that if male and female both subjected to requests for sex, Title VII could not be violated).

¹² Nashoba Regional High School, OCR Case No. 01-92-1397. In Concjo Valley School Dist., OCR Case No. 09-93-1305, female students allegedly taunted another female student about engaging in sexual activity; OCR found that the alleged comments were sexually explicit and, if true, would be sufficiently severe, persistent, and pervasive to create a hostile environment.

¹³ See Williamson v. A.G. Edwards & Sons, Inc., 876 F.2d 69, 70 (8th Cir. 1989, cert. denied 493 U.S. 1089 (1990)); DeSantis v. Pacific Tel. & Tel. Co., Inc., 608 F.2d 327, 329-30 (9th Cir. 1979)(same); Blum v. Gulf Oil Corp., 597 F.2d 936, 938 (5th Cir. 1979)(same).

¹⁴ It should be noted that some State and local laws may prohibit discrimination on the basis of sexual orientation. Also, under certain circumstances, courts may permit redress for harassment on the basis of sexual orientation under other Federal legal authority. See Nabozny v. Podlesny, 92 F.3d 446, 460 (7th Cir. 1996) (holding that a gay student could maintain claims alleging discrimination based on both gender and sexual orientation under the Equal Protection Clause of the United States Constitution in a case in which a school district failed to protect the student to the same extent that other students were protected from harassment and harm by other students due to the student's gender and sexual orientation).

¹⁵ However, sufficiently serious sexual harassment is covered by Title IX even if the hostile environment also includes taunts based on sexual orientation.

¹⁶ See also, Price Waterhouse v. Hopkins, 490 U.S. 228, 251 (1989) (plurality opinion) (where an accounting firm denied partnership to a female candidate, the Supreme Court found Title VII prohibits an employer from evaluating employees by assuming or insisting that they match the stereotype associated with their sex).

¹⁷ See generally Gebser; Davis; See also Meritor Savings Bank, FSB v. Vinson 477 U.S. 57, 65-66 (1986); Harris v. Forklift Systems Inc., 510 U.S. 14, 22 (1993); see also Hicks v. Gates Rubber Co., 833 F.2d 1406, 1415 (10th Cir. 1987) (concluding that harassment based on sex may be discrimination whether or not it is sexual in nature); McKinney v. Dole, 765 F.2d 1129, 1138 (D.C. Cir. 1985) (physical, but nonsexual, assault could be sex-based harassment if shown to be unequal treatment that would not have taken place but for the employee's sex); Cline v. General Electric Capital Auto Lease, Inc., 757 F.Supp. 923, 932-33 (N.D. Ill. 1991).

¹⁸ See, e.g., sections on "Harassment by Teachers and Other Employees," "Harassment by Other Students or Third Parties," "Notice of Employee, Peer, or Third Party Harassment," "Factors Used to Evaluate a Hostile Environment," "Recipient's Response," and "Prompt and Equitable Grievance Procedures."

¹⁹ See Lipsett, 864 F.2d at 903-905 (general antagonism toward women, including stated goal of eliminating women from surgical program, statements that women shouldn't be in the program, and assignment of menial tasks, combined with overt sexual harassment); Harris, 510 U.S. at 23; Andrews v. City of Philadelphia, 895 F.2d 1469, 1485-86 (3rd Cir. 1990) (court directed trial court to consider sexual conduct as well as theft of female employees' files and work, destruction of property, and anonymous phone calls in determining if there had been sex discrimination); see also Hall v. Gus Construction Co., 842 F.2d 1010, 1014 (8th Cir. 1988) (affirming that harassment due to the employee's sex

may be actionable even if the harassment is not sexual in nature); Hicks, 833 F.2d at 1415; Eden Prairie Schools, Dist. #272, OCR Case No. 05-92-1174 (the boys made lewd comments about male anatomy and tormented the girls by pretending to stab them with rubber knives; while the stabbing was not sexual conduct, it was directed at them because of their sex, i.e., because they were girls).

²⁰ Davis, 526 U.S. at 650 (“Having previously determined that ‘sexual harassment’ is ‘discrimination’ in the school context under Title IX, we are constrained to conclude that student-on-student sexual harassment, if sufficiently severe, can likewise rise to the level of discrimination actionable under the statute.”); Franklin, 503 U.S. at 75 (“Unquestionably, Title IX placed on the [school] the duty not to discriminate on the basis of sex, and ‘when a supervisor sexually harasses a subordinate because of the subordinate’s sex, that supervisor “discriminate[s]” on the basis of sex.’ ... We believe the same rule should apply when a teacher sexually harasses and abuses a student.” (citation omitted)).

OCR’s longstanding interpretation of its regulations is that sexual harassment may constitute a violation. 34 CFR 106.31; See Sexual Harassment Guidance, 62 FR 12034 (1997). When Congress enacted the Civil Rights Restoration Act of 1987 to amend Title IX to restore institution-wide coverage over federally assisted education programs and activities, the legislative history indicated not only that Congress was aware that OCR interpreted its Title IX regulations to prohibit sexual harassment, but also that one of the reasons for passing the Restoration Act was to enable OCR to investigate and resolve cases involving allegations of sexual harassment. S. REP. NO. 64, 100th Cong., 1st Sess. at 12 (1987). The examples of discrimination that Congress intended to be remedied by its statutory change included sexual harassment of students by professors, id. at 14, and these examples demonstrate congressional recognition that discrimination in violation of Title IX can be carried out by school employees who are providing aid, benefits, or services to students. Congress also intended that if discrimination occurred, recipients needed to implement effective remedies. S. REP. NO. 64 at 5.

²¹ 34 CFR 106.4.

²² These are the basic regulatory requirements. 34 CFR 106.31(a)(b). Depending upon the facts, sexual harassment may also be prohibited by more specific regulatory prohibitions. For example, if a college financial aid director told a student that she would not get the student financial assistance for which she qualified unless she slept with him, that also would be covered by the regulatory provision prohibiting discrimination on the basis of sex in financial assistance, 34 CFR 106.37(a).

²³ 34 CFR 106.31(b)(1).

²⁴ 34 CFR 106.31(b)(2).

²⁵ 34 CFR 106.31(b)(3).

²⁶ 34 CFR 106.31(b)(4).

²⁷ 34 CFR 106.31(b)(6).

²⁸ 34 CFR 106.31(b)(7).

²⁹ 34 CFR 106.3(a).

³⁰ 34 CFR 106.9.

³¹ 34 CFR 106.8(b).

³² 34 CFR 106.8(a).

³³ The 1997 guidance referred to quid pro quo harassment and hostile environment harassment. 62 FR 12038-40.

³⁴ See Alexander v. Yale University, 459 F.Supp. 1, 4 (D.Conn. 1977), aff'd, 631 F.2d 178 (2nd Cir. 1980)(stating that a claim “that academic advancement was conditioned upon submission to sexual demands constitutes [a claim of] sex discrimination in education...”); Crandell v. New York College, Osteopathic Medicine, 87 F.Supp.2d 304, 318 (S.D.N.Y. 2000) (finding that allegations that a supervisory physician demanded that a student physician spend time with him and have lunch with him or receive a poor evaluation, in light of the totality of his alleged sexual comments and other inappropriate behavior, constituted a claim of quid pro quo harassment); Kadiki, 892 F.Supp. at 752 (reexamination in a course conditioned on college student’s agreeing to be spanked should she not attain a certain grade may constitute quid pro quo harassment).

³⁵ 34 CFR 106.31(b).

³⁶ Davis, 526 U.S. at 651 (confirming, by citing approvingly both to Title VII cases (Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57,67 (1986) (finding that hostile environment claims are cognizable under Title VII), and Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 82 (1998)) and OCR’s 1997 guidance, 62 FR at 12041-42, that determinations under Title IX as to what conduct constitutes hostile environment sexual harassment may continue to rely on Title VII caselaw).

³⁷ 34 CFR 106.31(b). See Davis, 526 U.S. at 650 (concluding that allegations of student-on-student sexual harassment that is “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits” supports a claim for money damages in an implied right of action).

³⁸ In Harris, the Supreme Court explained the requirement for considering the “subjective perspective” when determining the existence of a hostile environment. The Court stated— “... if the victim does not subjectively perceive the environment to be abusive, the

conduct has not actually altered the conditions of the victim's employment, and there is no Title VII violation." 510 U.S. at 21-22.

³⁹ See Davis, 526 U.S. at 650 (conduct must be "objectively offensive" to trigger liability for money damages); Elgamil v. Syracuse University, 2000 U.S. Dist. LEXIS 12598 at 17 (N.D.N.Y. 2000) (citing Harris); Booher v. Board of Regents, 1998 U.S. Dist. LEXIS 11404 at 25 (E.D. Ky. 1998) (same). See Oncale, 523 U.S. at 81, in which the Court "emphasized ... that the objective severity of harassment should be judged from the perspective of a reasonable person in the [victim's] position, considering 'all the circumstances,'" and citing Harris, 510 U.S. at 20, in which the Court indicated that a "reasonable person" standard should be used to determine whether sexual conduct constituted harassment. This standard has been applied under Title VII to take into account the sex of the subject of the harassment, see, e.g., Ellison, 924 F.2d at 878-79 (applying a "reasonable woman" standard to sexual harassment), and has been adapted to sexual harassment in education under Title IX, Patricia H. v. Berkeley Unified School Dist., 830 F.Supp. 1288, 1296 (N.D. Cal. 1993) (adopting a "reasonable victim" standard and referring to OCR's use of it).

⁴⁰ See Davis, 526 U.S. at 651, citing both Oncale, 523 U.S. at 82, and OCR's 1997 guidance (62 FR 12041-12042).

⁴¹ See, e.g., Davis, 526 U.S. at 634 (as a result of the harassment, student's grades dropped and she wrote a suicide note); Doe v. Petaluma, 830 F. Supp. at 1566 (student so upset about harassment by other students that she was forced to transfer several times, including finally to a private school); Modesto City Schools, OCR Case No. 09-93-1391 (evidence showed that one girl's grades dropped while the harassment was occurring); Weaverville Elementary School, OCR Case No. 09-91-1116 (students left school due to the harassment). Compare with College of Alameda, OCR Case No. 09-90-2104 (student not in instructor's class and no evidence of any effect on student's educational benefits or service, so no hostile environment).

⁴² Doe v. Petaluma, 830 F.Supp. at 1566.

⁴³ See Waltman v. Int'l Paper Co., 875 F.2d 468, 477 (5th Cir. 1989) (holding that although not specifically directed at the plaintiff, sexually explicit graffiti on the walls was "relevant to her claim"); Monteiro v. Tempe Union High School, 158 F.3d 1022, 1033-34 (9th Cir. 1998) (Title VI racial harassment case, citing Waltman; see also Hall, 842 F. 2d at 1015 (evidence of sexual harassment directed at others is relevant to show hostile environment under Title VII).

⁴⁴ See, e.g., Elgmil 2000 U.S. Dist. LEXIS at 19 ("in order to be actionable, the incidents of harassment must occur in concert or with a regularity that can reasonably be termed pervasive"); Andrews, 895 F.2d at 1484 ("Harassment is pervasive when 'incidents of harassment occur either in concert or with regularity'"); Moylan v. Maries County, 792 F.2d 746, 749 (8th Cir. 1986).

⁴⁵ 34 CFR 106.31(b). See Vance v. Spencer County Public School District, 231 F.3d 253 (6th Cir. 2000); Doe v. School Admin. Dist. No. 19, 66 F.Supp.2d 57, 62 (D. Me. 1999). See also statement of the U.S. Equal Employment Opportunity Commission (EEOC): "The Commission will presume that the unwelcome, intentional touching of [an employee's] intimate body areas is sufficiently offensive to alter the conditions of her working environment and constitute a violation of Title VII. More so than in the case of verbal advances or remarks, a single unwelcome physical advance can seriously poison the victim's working environment." EEOC Policy Guidance on Current Issues of Sexual Harassment, 17. Barrett v. Omaha National Bank, 584 F. Supp. 22, 30 (D. Neb. 1983), aff'd, 726 F. 2d 424 (8th Cir. 1984) (finding that hostile environment was created under Title VII by isolated events, i.e., occurring while traveling to and during a two-day conference, including the co-worker's talking to plaintiff about sexual activities and touching her in an offensive manner while they were inside a vehicle from which she could not escape).

⁴⁶ See also Ursuline College, OCR Case No. 05-91-2068 (a single incident of comments on a male student's muscles arguably not sexual; however, assuming they were, not severe enough to create a hostile environment).

⁴⁷ Davis, 526 U.S. at 653 ("The relationship between the harasser and the victim necessarily affects the extent to which the misconduct can be said to breach Title IX's guarantee of equal access to educational benefits and to have a systemic effect on a program or activity. Peer harassment, in particular, is less likely to satisfy these requirements than is teacher student harassment."); Patricia H., 830 F. Supp. at 1297 (stating that the "grave disparity in age and power" between teacher and student contributed to the creation of a hostile environment); Summerfield Schools, OCR Case No. 15-92-1929 ("impact of the ... remarks was heightened by the fact that the coach is an adult in a position of authority"); cf. Doe v. Taylor I.S.D., 15 F.3d 443, 460 (5th Cir. 1994) (Sec. 1983 case; taking into consideration the influence that the teacher had over the student by virtue of his position of authority to find that a sexual relationship between a high school teacher and a student was unlawful).

⁴⁸ See, e.g., McKinney, 765 F.2d at 1138-49; Robinson v. Jacksonville Shipyards, 760 F. Supp. 1486, 1522 (M.D. Fla. 1991).

⁴⁹ Cf. Patricia H., 830 F. Supp. at 1297.

⁵⁰ See, e.g., Barrett, 584 F. Supp. at 30 (finding harassment occurring in a car from which the victim could not escape particularly severe).

⁵¹ See Hall, 842 F. 2d at 1015 (stating that "evidence of sexual harassment directed at employees other than the plaintiff is relevant to show a hostile environment") (citing Hicks, 833 F. 2d, 1415-16). Cf. Midwest City-Del City Public Schools, OCR Case No. 06-92-1012 (finding of racially hostile environment based in part on several racial incidents at school shortly before incidents in complaint, a number of which involved the same student involved in the complaint).

⁵² In addition, incidents of racial or national origin harassment directed at a particular individual may also be aggregated with incidents of sexual or gender harassment directed at that individual in determining the existence of a hostile environment. Hicks, 833 F.2d at 1416; Jefferies v. Harris County Community Action Ass'n, 615 F.2d 1025, 1032 (5th Cir. 1980).

⁵³ Does v. Covington Sch. Bd. of Educ., 930 F.Supp. 554, 569 (M.D. Ala. 1996); Henson v. City of Dundee, 682 F.2d 897, 903 (11th Cir. 1982).

⁵⁴ See Meritor Savings Bank, 477 U.S. at 68. "[T]he fact that sex-related conduct was 'voluntary,' in the sense that the complainant was not forced to participate against her will, is not a defense to a sexual harassment suit brought under Title VII.... The correct inquiry is whether [the subject of the harassment] by her conduct indicated that the alleged sexual advances were unwelcome, not whether her actual participation in sexual intercourse was voluntary."

⁵⁵ Lipsett, 864 F.2d at 898 (while, in some instances, a person may have the responsibility for telling the harasser "directly" that the conduct is unwelcome, in other cases a "consistent failure to respond to suggestive comments or gestures may be sufficient...."); Danna v. New York Tel. Co., 752 F.Supp. 594, 612 (despite a female employee's own foul language and participation in graffiti writing, her complaints to management indicated that the harassment was not welcome); see also Carr v. Allison Gas Turbine Div. GMC., 32 F.3d 1007, 1011 (7th Cir. 1994) (finding that cursing and dirty jokes by a female employee did not show that she welcomed the sexual harassment, given her frequent complaints about it: "Even if ... [the employee's] testimony that she talked and acted as she did [only] in an effort to be one of the boys is ... discounted, her words and conduct cannot be compared to those of the men and used to justify their conduct.... The 'asymmetry of positions must be considered. She was one woman; they were many men. Her use of [vulgar] terms ... could not be deeply threatening....").

⁵⁶ See Reed v. Shepard, 939 F.2d 484, 486-87, 491-92 (7th Cir. 1991) (no harassment found under Title VII in a case in which a female employee not only tolerated, but also instigated the suggestive joking activities about which she was now complaining); Weinsheimer v. Rockwell Int'l Corp., 754 F.Supp. 1559, 1563-64 (M.D. Fla. 1990) (same, in case in which general shop banter was full of vulgarity and sexual innuendo by men and women alike, and plaintiff contributed her share to this atmosphere.) However, even if a student participates in the sexual banter, OCR may in certain circumstances find that the conduct was nevertheless unwelcome if, for example, a teacher took an active role in the sexual banter and a student reasonably perceived that the teacher expected him or her to participate.

⁵⁷ The school bears the burden of rebutting the presumption.

⁵⁸ Of course, nothing in Title IX would prohibit a school from implementing policies prohibiting sexual conduct or sexual relationships between students and adult employees.

⁵⁹ See note 58.

⁶⁰ Gebser, 524 U.S. at 281 (“Franklin ... establishes that a school district can be held liable in damages [in an implied action under Title IX] in cases involving a teacher’s sexual harassment of a student...”; 34 CFR 106.31; See 1997 Sexual Harassment Guidance, 62 FR 12034.

⁶¹ See Davis, 526 U.S. at 653 (stating that harassment of a student by a teacher is more likely than harassment by a fellow student to constitute the type of effective denial of equal access to educational benefits that can breach the requirements of Title IX).

⁶² 34 CFR 106.31(b). Cf. Gebser, 524 U.S. at 283-84 (Court recognized in an implied right of action for money damages for teacher sexual harassment of a student that the question of whether a violation of Title IX occurred is a separate question from the scope of appropriate remedies for a violation).

⁶³ Davis, 526 U.S. at 646.

⁶⁴ See section on “Applicability of Title IX” for scope of coverage.

⁶⁵ See section on “Notice of Employee, Peer, or Third Party Harassment.”

⁶⁶ See section on “Notice of Employee, Peer, or Third Party Harassment.”

⁶⁷ 34 CFR 106.31(b).

⁶⁸ 34 CFR 106.31(b).

⁶⁹ See section on “Notice of Employee, Peer, or Third Party Harassment.”

⁷⁰ Cf. Davis, 526 U.S. at 646.

⁷¹ 34 CFR 106.31(b).

⁷² 34 CFR 106.31(b).

⁷³ Consistent with its obligation under Title IX to protect students, cf. Gebser, 524 U.S. at 287, OCR interprets its regulations to ensure that recipients take reasonable action to address, rather than neglect, reasonably obvious discrimination. Cf. Gebser, 524 U.S. at 287-88; Davis, 526 U.S. at 650 (actual notice standard for obtaining money damages in private lawsuit).

⁷⁴ Whether an employee is a responsible employee or whether it would be reasonable for a student to believe the employee is, even if the employee is not, will vary depending on

factors such as the age and education level of the student, the type of position held by the employee, and school practices and procedures, both formal and informal.

The Supreme Court held that a school will only be liable for money damages in a private lawsuit where there is actual notice to a school official with the authority to address the alleged discrimination and take corrective action. Gebser, 524 U.S. at 290, and Davis, 526 U.S. at 642. The concept of a "responsible employee" under our guidance is broader. That is, even if a responsible employee does not have the authority to address the discrimination and take corrective action, he or she does have the obligation to report it to appropriate school officials.

⁷⁵ The Title IX regulations require that recipients designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the regulations, including complaint investigations. 34 CFR 106.8(a).

⁷⁶ 34 CFR 106.31. See Yates v. Avco Corp., 819 F.2d 630, 636 (6th Cir. 1987); Katz v. Dole, 709 F.2d 251, 256 (4th Cir. 1983).

⁷⁷ For example, a substantiated report indicating that a high school coach has engaged in inappropriate physical conduct of a sexual nature in several instances with different students may suggest a pattern of conduct that should trigger an inquiry as to whether other students have been sexually harassed by that coach. See also Doe v. School Administrative Dist. No. 19, 66 F.Supp.2d 57, 63-64 and n.6 (D.Me. 1999) (in a private lawsuit for money damages under Title IX in which a high school principal had notice that a teacher may be engaging in a sexual relationship with one underage student and did not investigate, and then the same teacher allegedly engaged in sexual intercourse with another student, who did not report the incident, the court indicated that the school's knowledge of the first relationship may be sufficient to serve as actual notice of the second incident).

⁷⁸ Cf. Katz, 709 F.2d at 256 (finding that the employer "should have been aware of the problem both because of its pervasive character and because of [the employee's] specific complaints ..."); Smolsky v. Consolidated Rail Corp., 780 F.Supp. 283, 293 (E.D. Pa. 1991), reconsideration denied, 785 F.Supp. 71 (E.D. Pa. 1992) "where the harassment is apparent to all others in the work place, supervisors and coworkers, this may be sufficient to put the employer on notice of the sexual harassment" under Title VII); Jensen v. Eveleth Taconite Co., 824 F.Supp. 847, 887 (D.Minn. 1993); "[s]exual harassment ... was so pervasive that an inference of knowledge arises The acts of sexual harassment detailed herein were too common and continuous to have escaped Eveleth Mines had its management been reasonably alert."; Cummings v. Walsh Construction Co., 561 F.Supp. 872, 878 (S.D. Ga. 1983) ("... allegations not only of the [employee] registering her complaints with her foreman ... but also that sexual harassment was so widespread that defendant had constructive notice of it" under Title VII); but see Murray v. New York Univ. College of Dentistry, 57 F.3d 243, 250-51 (2nd Cir. 1995) (concluding that other students' knowledge of the conduct was not enough to charge the school with notice, particularly because these students may not have been aware that the conduct was offensive or abusive).

⁷⁹ 34 CFR 106.9 and 106.8(b).

⁸⁰ 34 CFR 106.8(b) and 106.31(b).

⁸¹ 34 CFR 106.9.

⁸² 34 CFR 106.8(b).

⁸³ 34 CFR 106.31.

⁸⁴ 34 CFR 106.31 and 106.3. Gebser, 524 U.S. at 288 (“In the event of a violation, [under OCR’s administrative enforcement scheme] a funding recipient may be required to take ‘such remedial action as [is] deem[ed] necessary to overcome the effects of [the] discrimination.’ §106.3.”).

⁸⁵ 20 U.S.C. 1682. In the event that OCR determines that voluntary compliance cannot be secured, OCR may take steps that may result in termination of Federal funding through administrative enforcement, or, alternatively, OCR may refer the case to the Department of Justice for judicial enforcement.

⁸⁶ Schools have an obligation to ensure that the educational environment is free of discrimination and cannot fulfill this obligation without determining if sexual harassment complaints have merit.

⁸⁷ In some situations, for example, if a playground supervisor observes a young student repeatedly engaging in conduct toward other students that is clearly unacceptable under the school’s policies, it may be appropriate for the school to intervene without contacting the other students. It still may be necessary for the school to talk with the students (and parents of elementary and secondary students) afterwards, e.g., to determine the extent of the harassment and how it affected them.

⁸⁸ Gebser, 524 U.S. at 288; Bundy v. Jackson, 641 F.2d 934, 947 (D.C. Cir. 1981) (employers should take corrective and preventive measures under Title VII); accord, Jones v. Flagship Int’l, 793 F.2d 714, 719-720 (5th Cir. 1986) (employer should take prompt remedial action under Title VII).

⁸⁹ See Doe ex rel. Doe v. Dallas Indep. Sch. Dist., 220 F.3d 380 (5th Cir. 2000) (citing Waltman); Waltman, 875 F.2d at 479 (appropriateness of employer’s remedial action under Title VII will depend on the “severity and persistence of the harassment and the effectiveness of any initial remedial steps”); Domhecker v. Malibu Grand Prix Corp., 828 F.2d 307, 309-10 (5th Cir. 1987); holding that a company’s quick decision to remove the harasser from the victim was adequate remedial action).

⁹⁰ See Intlekofer v. Turnage, 973 F.2d 773, 779-780 (9th Cir. 1992) (holding that the employer’s response was insufficient and that more severe disciplinary action was

necessary in situations in which counseling, separating the parties, and warnings of possible discipline were ineffective in ending the harassing behavior).

⁹¹ Offering assistance in changing living arrangements is one of the actions required of colleges and universities by the Campus Security Act in cases of rape and sexual assault. See 20 U.S.C. 1092(f).

⁹² See section on "Harassment by Other Students or Third Parties."

⁹³ University of California at Santa Cruz, OCR Case No. 09-93-2141 (extensive individual and group counseling); Eden Prairie Schools, Dist. #272, OCR Case No. 05-92-1174 (counseling).

⁹⁴ Even if the harassment stops without the school's involvement, the school may still need to take steps to prevent or deter any future harassment — to inform the school community that harassment will not be tolerated. Wills v. Brown University, 184 F.3d 20, 28 (1st Cir. 1999) (difficult problems are posed in balancing a student's request for anonymity or limited disclosure against the need to prevent future harassment); Fuller v. City of Oakland, 47 F.3d 1522, 1528-29 (9th Cir. 1995) (Title VII case).

⁹⁵ 34 CFR 106.8(b) and 106.71, incorporating by reference 34 CFR 100.7(e). The Title IX regulations prohibit intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX.

⁹⁶ Tacoma School Dist. No. 10, OCR Case No. 10-94-1079 (due to the large number of students harassed by an employee, the extended period of time over which the harassment occurred, and the failure of several of the students to report the harassment, the school committed as part of corrective action plan to providing training for students); Los Medanos College, OCR Case No. 09-84-2092 (as part of corrective action plan, school committed to providing sexual harassment seminar for campus employees); Sacramento City Unified School Dist., OCR Case No. 09-83-1063 (same as to workshops for management and administrative personnel and in-service training for non-management personnel).

⁹⁷ In addition, if information about the incident is contained in an "education record" of the student alleging the harassment, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, the school should consider whether FERPA would prohibit the school from disclosing information without the student's consent. *Id.* In evaluating whether FERPA would limit disclosure, the Department does not interpret FERPA to override any federally protected due process rights of a school employee accused of harassment.

⁹⁸ 34 CFR 106.8(b). This requirement has been part of the Title IX regulations since their inception in 1975. Thus, schools have been required to have these procedures in place since that time. At the elementary and secondary level, this responsibility generally lies

with the school district. At the postsecondary level, there may be a procedure for a particular campus or college or for an entire university system.

⁹⁹ Fenton Community High School Dist. #100, OCR Case 05-92-1104.

¹⁰⁰ While a school is required to have a grievance procedure under which complaints of sex discrimination (including sexual harassment) can be filed, the same procedure may also be used to address other forms of discrimination.

¹⁰¹ See generally Meritor, 477 U.S. at 72-73 (holding that "mere existence of a grievance procedure" for discrimination does not shield an employer from a sexual harassment claim).

¹⁰² The Family Educational Rights and Privacy Act (FERPA) does not prohibit a student from learning the outcome of her complaint, i.e., whether the complaint was found to be credible and whether harassment was found to have occurred. It is the Department's current position under FERPA that a school cannot release information to a complainant regarding disciplinary action imposed on a student found guilty of harassment if that information is contained in a student's education record unless — (1) the information directly relates to the complainant (e.g., an order requiring the student harasser not to have contact with the complainant); or (2) the harassment involves a crime of violence or a sex offense in a postsecondary institution. See note 97. If the alleged harasser is a teacher, administrator, or other non-student employee, FERPA would not limit the school's ability to inform the complainant of any disciplinary action taken.

¹⁰³ The section in the guidance on "Recipient's Response" provides examples of reasonable and appropriate corrective action.

¹⁰⁴ 34 CFR 106.8(a).

¹⁰⁵ Id.

¹⁰⁶ See Meritor, 477 U.S. at 72-73.

¹⁰⁷ University of California, Santa Cruz, OCR Case No. 09-93-2131. This is true for formal as well as informal complaints. See University of Maine at Machias, OCR Case No. 01-94-6001 (school's new procedures not found in violation of Title IX in part because they require written records for informal as well as formal resolutions). These records need not be kept in a student's or employee's individual file, but instead may be kept in a central confidential location.

¹⁰⁸ For example, in Cape Cod Community College, OCR Case No. 01-93-2047, the College was found to have violated Title IX in part because the person identified by the school as the Title IX coordinator was unfamiliar with Title IX, had no training, and did not even realize he was the coordinator.

¹⁰⁹ Indeed, in University of Maine at Machias, OCR Case No. 01-94-6001, OCR found the school's procedures to be inadequate because only formal complaints were investigated. While a school isn't required to have an established procedure for resolving informal complaints, they nevertheless must be addressed in some way. However, if there are indications that the same individual may be harassing others, then it may not be appropriate to resolve an informal complaint without taking steps to address the entire situation.

¹¹⁰ Academy School Dist. No 20, OCR Case No. 08-93-1023 (school's response determined to be insufficient in a case in which it stopped its investigation after complaint filed with police); Mills Public School Dist., OCR Case No. 01-93-1123, (not sufficient for school to wait until end of police investigation).

¹¹¹ Cf. EEOC v. Board of Governors of State Colleges and Universities, 957 F.2d 424 (7th Cir. 1992), cert. denied, 506 U.S. 906 (1992).

¹¹² The First Amendment applies to entities and individuals that are State actors. The receipt of Federal funds by private schools does not directly subject those schools to the U.S. Constitution. See Rendell-Baker v. Kohn, 457 U.S. 830, 840 (1982). However, all actions taken by OCR must comport with First Amendment principles, even in cases involving private schools that are not directly subject to the First Amendment.

¹¹³ See, e.g., George Mason University, OCR Case No. 03-94-2086 (law professor's use of a racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment); Portland School Dist. 1J, OCR Case No. 10-94-1117 (reading teacher's choice to substitute a less offensive term for a racial slur when reading an historical novel aloud in class constituted an academic decision on presentation of curriculum, not racial harassment).

¹¹⁴ See Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University, 993 F.2d 386 (4th Cir. 1993) (fraternity skit in which white male student dressed as an offensive caricature of a black female constituted student expression).

¹¹⁵ See Florida Agricultural and Mechanical University, OCR Case No. 04-92-2054 (no discrimination in case in which campus newspaper, which welcomed individual opinions of all sorts, printed article expressing one student's viewpoint on white students on campus.)

¹¹⁶ Tinker v. Des Moines Indep. Community Sch. Dist., 393 U.S. 503, 506 (1969) (neither students nor teachers shed their constitutional rights to freedom of expression at the schoolhouse gates); Cf. Cohen v. San Bernardino Valley College, 92 F.3d 968, 972 (9th Cir. 1996) (holding that a college professor could not be punished for his longstanding teaching methods, which included discussion of controversial subjects such as obscenity and consensual sex with children, under an unconstitutionally vague sexual harassment policy); George Mason University, OCR Case No. 03-94-2086 (law professor's use of a

racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment.)

¹¹⁷ See, e.g., University of Illinois, OCR Case No. 05-94-2104 (fact that university's use of Native American symbols was offensive to some Native American students and employees was not dispositive, in and of itself, in assessing a racially hostile environment claim under Title VI.)

¹¹⁸ See Meritor, 477 U.S. at 67 (the "mere utterance of an ethnic or racial epithet which engenders offensive feelings in an employee" would not affect the conditions of employment to a sufficient degree to violate Title VII), quoting Henson, 682 F.2d at 904; cf. R.A.V. v. City of St. Paul, 505 U.S. 377, 389 (1992) (citing with approval EEOC's sexual harassment guidelines); Monteiro, 158 F.3d at 1032-34 (9th Cir. 1998) (citing with approval OCR's racial harassment investigative guidance).

¹¹⁹ Compare Bethel School Dist. No. 403 v. Fraser, 478 U.S. 675, 685 (1986) (Court upheld discipline of high school student for making lewd speech to student assembly, noting that "[t]he undoubted freedom to advocate unpopular and controversial issues in schools must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate behavior."), with Iota Xi, 993 F.2d 386 (holding that, notwithstanding a university's mission to create a culturally diverse learning environment and its substantial interest in maintaining a campus free of discrimination, it could not punish students who engaged in an offensive skit with racist and sexist overtones).



Sexual Violence Definition

• Sexual violence is a form of sexual harassment prohibited by Title IX.

- Sexual violence refers to physical sexual acts **perpetrated against a person's will** or where a person is **incapable of giving consent** due to the victim's use of drugs or alcohol
- An individual also may be unable to give consent due to an intellectual or other disability
- May include rape, sexual assault, **sexual battery**, and sexual coercion



Bottom Line

- If your institution knows or reasonably should know about sexual harassment that creates a hostile environment, Title IX **requires immediate action** to eliminate the harassment, prevent its recurrence, and address its effects.

- Regardless of whether a harassed student, his or her parent, or a third party files a complaint



Preparing to Investigate

Impartial investigator

- No bias or conflict of interest
- Consider giving the parties an opportunity to object to the investigator
- Use a different investigator if you feel there is a possible or actual conflict
- Per OCR, should not be Title IX Coordinator or college/university attorney, which could present a conflict of interest
- Per OCR, should have adequate training or knowledge regarding sexual violence
- Per OCR, do not rely on police or insurance investigations. The institution needs to conduct its own review

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
)
 MOTHER DOE A,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
)
 JOHN DOE CAMPER,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
)
 JOHN DOE 2,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)



VIDEOTAPED
 30(b)(6) DEPOSITION OF: COLONEL WILLIAM A. FLETCHER

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1 correct?
 2 A. That's correct.
 3 Q. You never had any training on what to
 4 look for, you never had any training on how to
 5 interview a potential child sexual predator, to
 6 make sure that it would be done right; is that
 7 correct?
 8 A. That's correct.
 9 Q. Now, also, my understanding would be, if
 10 -- if you had a report of a child sexual predator,
 11 that since you didn't have -- let me ask it this
 12 way, first: You would agree with me that if there
 13 is a potential child sexual predator, that that is
 14 a -- that's a serious matter at The Citadel,
 15 correct?
 16 A. Anywhere, yes.
 17 Q. Anywhere. All right. And my
 18 understanding is if you didn't feel like you had
 19 the proper training to be the person who should be
 20 investigating a child sexual predator or doing an
 21 interview of a child sexual predator, that you
 22 would call in someone -- an agency that had
 23 expertise in that, like SLED; is that correct?
 24 A. That's correct.
 25 Q. And so if you had been provided with an

Page 15

1 allegation that -- of criminal sexual conduct
 2 involving a potential child sexual predator at The
 3 Citadel in 2007, you would not have hauled off and
 4 tried to have done an investigation and
 5 interviewed the perpetrator on your own; you would
 6 have called SLED; isn't that the best and --
 7 proper and best thing to do?
 8 MR. STONEY: Objection.
 9 A. I'm not sure if I would; it depended on
 10 the situation.
 11 Q. Let's say the situation is that the
 12 alleged is accused of showing pornography to a
 13 minor in violation of South Carolina Code,
 14 exposing his genitals to a 13-year-old in
 15 violation of South Carolina Code, and masturbating
 16 in front of a 13-year-old in violation of South
 17 Carolina Code and coercing two 13-year-olds to
 18 masturbate in front of him; that would be a
 19 serious allegation, wouldn't it?
 20 A. Yes.
 21 Q. And if the allegation were that this
 22 perpetrator had done it not only to the person
 23 reporting it but to many others who were minors,
 24 that would be an indication to you that this
 25 wasn't a one-time incident where one person was

Page 16

1 alleging something, that there were allegations
 2 that this person was a child sexual predator,
 3 right?
 4 A. That's a good possibility, yes.
 5 Q. And if you had those allegations,
 6 wouldn't the best thing to do be to turn that over
 7 to SLED or someone else who had expertise in
 8 investigating child sexual predators and
 9 interviewing child sexual predators to make sure
 10 that it got done right?
 11 A. That's -- yes.
 12 Q. All right.
 13 MR. SLOAN: Let me take a break.
 14 THE VIDEOGRAPHER: Off the record at
 15 10:27.
 16 (The deposition went off the record.)
 17 THE VIDEOGRAPHER: On the record at
 18 10:38.
 19 BY MR. SLOAN:
 20 Q. Chief Fletcher, you mentioned a moment
 21 ago in talking about a child sexual predator, you
 22 would agree with me that any child sexual predator
 23 is not only a threat to The Citadel campus, but a
 24 threat to the community at large; would you agree
 25 with that?

Page 17

1 A. Yes.
 2 Q. Are you familiar with this Margolis
 3 report that's come out from The Citadel?
 4 A. No, I'm not.
 5 Q. As the current chief of Citadel Public
 6 Safety, from January of this year up until today's
 7 date in June of 2013, have you been given any new
 8 guidelines or criteria as the chief of Citadel
 9 Public Safety with regard to sexual abuse claims,
 10 children on campus claims, sexual assault,
 11 criminal sexual conduct, or any other area of
 12 sexual misconduct on The Citadel campus?
 13 A. No -- no, I haven't.
 14 Q. And my understanding is that at The
 15 Citadel Public Safety, you are an authorized or a
 16 licensed South Carolina law enforcement officer;
 17 is that correct?
 18 A. That's correct. The term is certified.
 19 Q. Certified. Okay. And do you expect The
 20 Citadel to make The Citadel Public Safety
 21 Department aware of any laws or codes that
 22 specifically apply to The Citadel?
 23 A. I'm not sure I understand what you mean,
 24 a situation.
 25 Q. Let's say, for instance, like the

Page 18

1 Jessica Horton Act, have you heard of that?
2 A. Yes.
3 Q. And did The Citadel --
4 A. Clery?
5 Q. -- tell you about it?
6 A. Clery Act?
7 Q. Well, now, those are two different
8 things.
9 A. I know the Clery Act.
10 Q. Do you know what the Clery Act is?
11 A. Yes.
12 Q. And The Citadel made you aware of the
13 Clery Act?
14 A. Law enforcement training did.
15 Q. So was it a law enforcement seminar you
16 went to?
17 A. Yes. It's like a week-long, two- or
18 three-day course, that sort of thing.
19 Q. I've got you. What about, have you
20 heard of the Jessica Horton Act?
21 A. Yes.
22 Q. And as a certified law enforcement
23 officer of South Carolina, if under the Horton Act
24 you were required to notify SLED of an
25 investigation, you would do so, right?

Page 19


1 A. Yes.
2 Q. Have you spoken to Chief Mullen of the
3 Charleston Police Department about the ReVile
4 case?
5 A. No, I haven't.
6 Q. My understanding is that The Citadel
7 Public Safety had nothing to do whatsoever with
8 the Skip ReVile case, correct?
9 A. That's correct.
10 Q. To this day, nothing?
11 A. (Indicating a negative response.)
12 Q. Is that correct?
13 A. That's correct.
14 Q. Are you aware of any crimes that have
15 occurred on the campus of The Citadel where
16 General Rosa has gone straight to the Charleston
17 Police Department and not informed you or anybody
18 at The Citadel Public Safety of what's happened?
19 A. I can't remember any particular case at
20 this time, no.
21 Q. Does the Skip ReVile case -- has that
22 been reported under the Clery Act in any way?
23 A. I'm not sure about that at this time. I
24 would have to check our records.
25 Q. And if you had -- if Skip ReVile had

Page 20

1 pled guilty to violating the South Carolina
2 Criminal Code with regard to 23 children on The
3 Citadel campus, that would be 23 separate
4 incidents under the Clery Act?
5 A. That's correct.
6 MR. STONEY: Objection.
7 Q. Is that a yes?
8 A. Yes.
9 Q. And no one from The Citadel has
10 instructed you as chief of Citadel Public Safety
11 to do anything with regard to the Clery Act as to
12 Skip ReVile and his guilty pleas?
13 A. Not to my knowledge, no. I don't recall
14 anything.
15 Q. In calendar year 2013, how many -- have
16 there been any sexual abuse or sexual assault or
17 sexual harassment claims reported to The Citadel
18 Public Safety department?
19 A. No.
20 Q. Do you know whether or not there have
21 been any that have happened on campus that haven't
22 been reported to you?
23 A. No, I'm not aware of them.
24 Q. Let's go back to the example of someone
25 breaking in a car at The Citadel. Let's say that

Page 21

1 whoever reported it said that the person -- let's
2 say it was John Smith that did it, and you found
3 out that John Smith wasn't somebody that worked at
4 The Citadel or was a Citadel person; it was just
5 somebody from out in the community. Okay? Would
6 you call -- would you handle that, or would you
7 send that to the Charleston Police Department or
8 --
9 A. We would handle that.
10 Q. You could handle that?
11 A. Yes.
12 Q. So you could go to Mr. Pleasant and
13 interview him or do whatever you need to do?
14 A. As long as he's in the state, we can do
15 it.
16 Q. Okay. Let me ask you, if an allegation
17 had come in to you -- the allegation we discussed
18 earlier that you said you would have called in the
19 experts at SLED, can we agree that if that
20 allegation had been turned in to you at Citadel
21 Public Safety -- can we agree that you would
22 not at Citadel Public Safety have been authorized
23 to offer -- the person who made the allegation,
24 you wouldn't have been authorized to offer them
25 any money, right?

Page 22	Page 24
<p>1 MR. STONEY: Objection.</p> <p>2 A. In reference to what?</p> <p>3 Q. In reference to the allegation that the</p> <p>4 person was making about the sexual child predator</p> <p>5 -- you wouldn't offer anybody any money, right?</p> <p>6 MR. STONEY: Objection.</p> <p>7 A. For what reason?</p> <p>8 Q. I agree. But I'm just -- you wouldn't</p> <p>9 offer anybody any money for any reason, would you?</p> <p>10 MR. STONEY: Objection.</p> <p>11 A. No.</p> <p>12 Q. And you wouldn't research the civil</p> <p>13 statute of limitations, would you, at Citadel</p> <p>14 Public Safety? You would have no reason to do</p> <p>15 that, would you?</p> <p>16 A. No.</p> <p>17 Q. That wouldn't be the thrust of your</p> <p>18 investigation, would it?</p> <p>19 A. No.</p> <p>20 Q. And once -- when SLED gets involved,</p> <p>21 would you offer them any cooperation, any courtesy</p> <p>22 that they ask for when they're investigating</p> <p>23 something on The Citadel campus?</p> <p>24 A. Yes. Any preliminary work that we would</p> <p>25 do, we'd forward to them; if they needed to speak</p>	<p>1 the questions I have for you today. I</p> <p>2 appreciate you coming.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 MR. ROBERTS: I have none.</p> <p>5 THE VIDEOGRAPHER: This concludes the</p> <p>6 deposition of William A. Fletcher. We're off</p> <p>7 the record at 10:57.</p> <p>8 (The deposition concluded at 10:57 a.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 23	Page 25
<p>1 to witnesses, we'd make those available.</p> <p>2 Q. Okay. And I take it that from time to</p> <p>3 time you've worked with SLED or Charleston Police</p> <p>4 Department and if they needed something, you'd</p> <p>5 help them out and make sure every courtesy is</p> <p>6 extended on campus, right?</p> <p>7 A. That's correct.</p> <p>8 Q. As deputy chief of police in 2007 at The</p> <p>9 Citadel, would you agree with me that you can't</p> <p>10 conduct an investigation if you don't know there's</p> <p>11 been an allegation of a crime, right?</p> <p>12 A. If you don't know about it, that's</p> <p>13 correct.</p> <p>14 Q. Likewise, you can't alert SLED to</p> <p>15 anything if you don't know about it as the deputy</p> <p>16 chief?</p> <p>17 A. That's correct.</p> <p>18 MR. SLOAN: Let's go off the record</p> <p>19 again.</p> <p>20 THE VIDEOGRAPHER: Off the record at</p> <p>21 10:51.</p> <p>22 (The deposition went off the record.)</p> <p>23 THE VIDEOGRAPHER: On the record at</p> <p>24 10:56.</p> <p>25 MR. SLOAN: Chief Fletcher, that's all</p>	<p>1 CERTIFICATE</p> <p>2 STATE OF SOUTH CAROLINA:</p> <p>3 COUNTY OF CHARLESTON:</p> <p>4 I, EVE WILBANKS, Registered Professional</p> <p>5 Reporter and Notary Public, State of South</p> <p>6 Carolina at Large, certify that I was authorized</p> <p>7 to and did stenographically report the foregoing</p> <p>8 deposition; and that the transcript is a true</p> <p>9 record of the testimony given by the witness.</p> <p>10 I further certify that I am not a</p> <p>11 relative, employee, attorney or counsel of any of</p> <p>12 the parties, nor am I a relative or employee of</p> <p>13 any of the parties' attorney or counsel connected</p> <p>14 with the action, nor am I financially interested</p> <p>15 in the action.</p> <p>16 WITNESS MY HAND AND OFFICIAL SEAL this</p> <p>17 19th day of June, 2013, in the City of Charleston,</p> <p>18 County of Charleston, State of South Carolina.</p> <p>19</p> <p>20</p> <p>21 <i>Eve Wilbanks</i> </p> <p>22 Registered Professional Reporter</p> <p>23 and Notary Public</p> <p>24 My commission expires:</p> <p>25 December 16, 2014</p>

7 (Pages 22 to 25)

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From: Jennifer M. Hawley Shiel [/O=FIRST ORGANIZATION/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=SHIELJ137528770]
Sent: Wednesday, October 24, 2007 5:03 PM
To: 'Joe Trez'
Subject: Legal File System

Attachments: Untitled attachment 168783.htm; File List.xls; File System.xls



Untitled
achment 168783.htm



File List.xls



File System.xls

I've mentioned this to you, but I thought you might want to see this system Mark & I have devised. It works like a champ. The only thing I haven't done is put in all the locations yet. I'm using a numbering system for the file locations, with 1 being the copier room and 4 being Records Management. That way when Mark wants a file, we can go straight to it without looking in several places. I also insist on using the file "Out" cards when we pull a file. It keeps me from having to try to remember who has what file. I've driven myself crazy too often to rely on my memory.

The other list attached explains the file numbering system.

It is really a thing of beauty.

Mrs. Jennifer Shiel
President's Support Office
Bond Hall, Room 369
Phone: (843) 953-5815
Fax: (843) 953-7592

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CITADEL 0006534



Culture Change at the Air Force Academy

October 14, 2003 at 12:00 AM EDT

[Sorry, the video for this story has expired, but you can still read the transcript below.]

TRANSCRIPT

TOM BEARDEN: Cadets call it "the beast," five weeks of hard-core basic training that all freshmen must endure before starting classes at the Air Force Academy. But this year, the training was a little less beastly. While freshmen still had to endure grueling physical challenges, they did so without the humiliating verbal assaults by upperclassmen that characterized the training in years past. Instead, the older cadets shouted out encouragement to their new charges.

LT. GEN. JOHN ROSA, Academy Superintendent: There's not so much "in your face," as we call it, the yelling and the one-on-one interchange. It's been a much more professional environment.

TOM BEARDEN: The new approach is part of a broad effort to repair the school's damaged reputation after a series of highly publicized investigations into allegations of widespread sexual assaults over many years, and charges that the academy punished the victims instead of the perpetrators.

LT. GEN. JOHN ROSA: But we'll get there.

TOM BEARDEN: Newly installed superintendent Lieutenant General John Rosa thinks treating young cadets with more professionalism from the very start will foster more unit cohesion, and reduce hostility directed at female cadets, and he hopes that in turn will reduce sexual harassment and assault.



LT. GEN. JOHN ROSA: If I said we were changing one thing, we're changing young people's mindsets. And we're trying to change, over time, if you change the mindset, what's acceptable and what's not acceptable.

TOM BEARDEN: It all started last spring when dozens of former cadets came forward saying they had been raped while at the academy, and that when they reported the rapes, they were ignored by their superiors.

In March, the Air Force secretary replaced the academy's top leadership team, and ordered that a 165-point Agenda for Change be adopted. In May, the Defense Department Inspector General's Survey found that nearly 20 percent of female cadets said they had been victims of sexual assault, 7 percent said it was in the form of rape or attempted rape. And in September, a civilian commission appointed by Congress concluded that there had been a "deep chasm" in leadership, both at the academy and the Pentagon. Former Congresswoman Tillie Fowler chaired that investigation.

TILLIE FOWLER: We believe that this chasm in leadership helped create an environment in which sexual assault became a part of life. The roots of this crisis go as deep as the institution's culture. Just last year, more than one-fourth of the male cadets responding to the academy's own survey stated they did not believe that women belong at the academy. This is a severe problem in the culture of the academy, and reflects a failure of character and values.

SPOKESPERSON: Hup, two, three, four, hup, two, three, four...

TOM BEARDEN: General Rosa and the new leadership team say they're trying to change that culture. In addition to the "gentler" treatment of freshmen, they have a tough new alcohol policy. A cadet can be kicked out after two infractions. Academy officials say that alcohol was involved in at least 40 percent of the sexual assault cases.

The new administration has also made it clear that criminal activity of any kind will not be tolerated. Even failure to report offenses of other cadets can be grounds for dismissal.

There's a new emphasis on educating cadets about the necessity to report assaults, and a demand that cadets not tolerate inappropriate behavior by their peers. Recently, Brigadier

General John Weida, the new commandant of the cadets, brandished a sword as he lectured students about the warrior heritage they needed to uphold.

BRIG. GEN. JOHN WEIDA, Commandant of Cadets: Ladies and gentlemen, if you think we don't have a sexual assault or sexual harassment problem at the Air Force Academy, your head is in the sand. Pull it out right now.

If we don't reverse this trend, the very existence of this institution is threatened. And there's a few in the audience that I've made eye contact with that I'm not sure get it. You will get it, or you will leave this institution.

TOM BEARDEN: Senior Cadet Dana Stockton says he's gotten the message loud and clear. He says he won't stand idly by if he sees offensive behavior.

DANA STOCKTON, Senior Cadet: We all see little things now that need to be fixed, just the little things that never have been looked at before. And all those things now, we see, and we'll stop.

TOM BEARDEN: Little things like?

DANA STOCKTON: Little things like stupid jokes. There's... sometimes stupid jokes go on here, and they're not necessary, and a lot of the females here just brush it off, which... and it's not a big deal. But it is a big deal now, and we realize that, and those things are changing.

TOM BEARDEN: Junior Cadet Stephanie Vidal says other things are changing, too. In previous years, Vidal says many female cadets felt pressure not to report assaults because it would reflect poorly on their squadrons. She says that's not the case anymore.

STEPHANIE VIDAL, Junior Cadet: There's a sense that if we have an issue as females to discuss, that people are open to hear and to listen. There's also a sense that if there is a problem, you won't get ridiculed or ostracized for coming forth.

TOM BEARDEN: In the past, assault victims said the system in which senior cadets controlled virtually every aspect of a freshman's life also needed to change. Last spring, a rape victim explained the connection to the NewsHour correspondent Betty Ann Bowser.

"LIZ," Former Cadet: In essence, it's kids training kids, and that's really what it comes down to. It's teenagers on teenagers. And there is a tremendous amount of power vested in these teenagers that are so-called "above" other teenagers, just because of the ranking system. And that does teach discipline, but it is just taken way out of context sometimes.

BETTY ANN BOWSER: But does that also encourage men to use their power over women, including rape?

"LIZ:" Yes, it does. They really... it really is a power trip. It definitely is a power trip. That's what rape is all about. It's not about the sex at all.

TOM BEARDEN: Senior Cadet Kristina Belcourt says that training system has been abolished by the new administration.

KRISTINA BELTCOURT: You don't have people in a direct position of authority, like where they control every single aspect of your life anymore. You have people that will help you out, more so than controlling you. There's a lot more discipline instead of, like...

TOM BEARDEN: Harassment?

KRISTINA BELTCOURT: Not harassment. We called it... we called it beating, but it wasn't beating. It was just physical training. So there's a lot less of that, and I think that really improves the environment around here.

TOM BEARDEN: But even as some cadets see positive changes, a recent academy survey tells a different story. Eight in ten cadets say they've heard other cadets make sexual slurs and jokes. 40 percent of the cadets said they drank while underage. Almost one-fifth of female cadets said they don't know how to report sexual misconduct. And a nearly equal number of women said they feared reprisal if they did file such reports.

Ironically, some of that fear may be a result of the new Agenda for Change, which abolished confidential reporting of sexual assault. Previously, victims' names weren't made public. That change troubles Cadet Belcourt.

~~KRISTINA BELTCOURT: I have problems with it, simply because the victims that I've known have had problems bringing it forward, because you don't want your dirty laundry to be~~

aired to everyone.

TOM BEARDEN: The loss of confidentiality also troubled the Fowler Commission.

TILLIE FOWLER: The agenda for change overlooked an established form of privileged communication that is currently available throughout the armed forces, and can benefit cadet victims.

TOM BEARDEN: General Rosa says the reason confidentiality was abolished was to aid in the prosecution of cases.

LT. GEN. JOHN ROSA: You report a crime. That way, you have a victim. The commander — it's in the chain of command. The commander knows that we have a victim. We can preserve evidence, take care of that victim, preserve evidence so that as the trauma passes, we can bring the appropriate action to the alleged perpetrator. So that's the program we have now.

TOM BEARDEN: But Rosa says Air Force officials are aware of the widespread opposition to the change, and they're working to see if a compromise solution can be worked out.

SPOKESMAN: Hup, two, three, four...

TOM BEARDEN: He says the entire Agenda for Change is just a blueprint, and will be revised if the culture doesn't fundamentally improve at the academy.



JOSEPH P. RILEY, JR.
Mayor

City of Charleston
SOUTH CAROLINA

REUBEN M. GREENBERG
Chief of Police

POLICE DEPARTMENT
06 August 2001

Colonel John G. Lackey III
The Citadel / Office of the Commandant
171 Moultrie St.
Charleston, SC 29409

RE: Investigation regarding Captain Mike Arpaio

Dear Colonel J. G. Lackey III,

I'm writing this letter to inform you of my investigation regarding Captain Mike Arpaio. I have interviewed numerous persons and could not establish enough probable cause to arrest Captain Mike Arpaio; therefore the investigation has been closed due to the fact that I was unable to prove that Captain Arpaio touched (b) (6) in an inappropriate manner. However, during my investigation I discovered information on some of the activities or practices that are going on during The Citadel Summer Camp Sessions that should be brought to your attention.

While speaking with staff members, campers, and parents the following information was established. Some of the counselors are allowing certain campers to leave their rooms after they are supposed to be in bed for the night. While these campers are out of their rooms they are allowed to go into camp counselor's room, watch movies, and fall asleep in the same bed with counselors until the following morning. Some of the counselors engage in sexual conversation in the presence of the campers. A camper had seen alcohol and tobacco products that belong to counselors in the barracks. A Counselor has taken certain campers off campus on functions that were not camp related functions without the parent's consent.

These are the most serious findings that were brought to my attention during my investigation. I am sure these activities will be addressed and corrected in the future. If there are any questions or concerns regarding this matter, please feel free to contact me at (843) 720-1999.

(b) (6)



180 LOCKWOOD BLVD



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
Mother Doe A,

Plaintiff,

v.

The Citadel

Defendant,

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
CAMPER DOE 6

Plaintiff,

v.

THE CITADEL,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-10-9200

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.

**AFFIDAVIT OF
LOUIS NEAL "SKIP" REVILLE**

I, Louis Neal "Skip" ReVille, provide this affidavit of my own free will on Friday, September 20, 2013 at the Perry Correctional Institute; 430 Oaklawn Road; Pelzer, SC; 29669.

1. Due to the lack of adult supervision and oversight of the barracks at night, I was able to sexually abuse numerous minor campers, at night, in my assigned barracks room, behind a closed door, while I was employed by The Citadel Summer Camp during the summer sessions of the camp in 2001, 2002 and 2003.
2. During the 2001, 2002, and 2003 sessions of The Citadel Summer Camp, Bill Bates and Jenni Garrott never visited or inspected my barracks room after Taps had been



played. In addition, neither the Tactical Officer, nor the on duty CCQ visited or inspected my barracks room after Taps had sounded.

3. After the Arpaio allegations surfaced at the end of the First Session of the 2001 Citadel Summer Camp, staff training was held before the Second Session began to emphasize that campers and counselors were not to be in the same barracks room alone. The Camp's Director, Bill Bates, and Deputy Director, Jenni Garrott, did nothing to see that this emphasized rule was enforced.
4. During the 2002 Summer Camp while I was employed as the Senior Counselor, Bill Bates and Jenni Garrott had a meeting with me. They explained that they had heard that I was having minor male campers visit my barracks room at night, after Taps, when the campers were to be in bed. I was told not to put myself in a situation where I could get into trouble. After this meeting, no one ever visited or inspected my room after Taps to enforce the no minors in counselor's room rule.
5. During the ^{2003 ER} 2002 Summer Camp while I was employed as the Senior Counselor, Col. John Lackey met with me and advised me that I should not place myself in compromising situations with the minor male campers. *Col. Lackey had been advised by another counselor that*
6. During 2001, 2002, and 2003, while employed by The Citadel Summer Camp, I *were visiting my room at night after taps.* would regularly have nightly food deliveries brought to me at the barracks and would invite the minor male campers that I had targeted for sexual abuse to join me in my room to help me eat it. The food was used to lure the minor male campers into my room for grooming and sexual abuse. The amount of food ordered was clearly for more than one person. No one ever questioned the amount or frequencies of the deliveries of food that were made to me at the barracks.

7. My activities with the minor male campers did not change as a result of these meetings. The no campers in counselor's room rule was not enforced, and I remained free, as the 2002 Senior Counselor in charge of the barracks at night, to continue to have minor male campers visit my room after Taps.
8. In 2002, one of the campers had a heat rash between his legs and could hardly walk. The camper was to stay with me and not participate in activities until this rash cleared up. Jenni Garrott opened the door and walked into my room one afternoon to find the camper with the rash sitting on one side of the couch and me on the other. Ms. Garrott simply warned me that I should not be in my room with a minor camper.
9. It is my understanding that I should have been fired for violating the 2002 Camp Policy of no campers in counselor's rooms behind closed doors.
10. One afternoon, at the beginning of the Second Session of the 2003 Citadel Summer Camp, Jenni Garrott opened the closed door of my assigned barracks room and caught me with a minor Junior Counselor. (I am advised that this minor male is referred to as Camper Doe 6 for litigation purposes.) The minor had just completed a run and I was rubbing sports cream on the Junior Counselor's upper thighs and calves. I was grooming Camper Doe 6 and had not yet sexually abused him at the time Ms. Garrott caught the two of us alone. Ms. Garrott warned me that I should not permit minors to be alone with me in my room.
11. It is my understanding that I should have been fired for violating the 2003 Camp Policy of no campers in counselor's rooms.

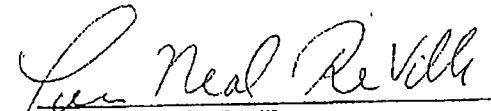
JK

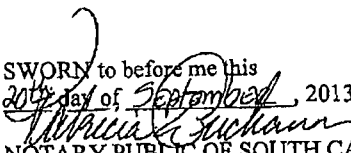
12. Had I been fired when Ms. Garrott caught me alone with Camper Doe 6, I would not have been allowed the opportunity to sexually abuse Camper Doe 6 on several occasions during the remainder of the 2003 Second Session.
13. As a result of the Arpaio incident, I came to the realization that it was not normal to show pornography to and masturbate with minor males. I also realized that it was criminal to participate in these activities with minor males. In spite of this knowledge, and a ~~true~~^{strong} desire on my part to cease the sexual abuse, the lack of competent adult supervision and oversight of the barracks at The Citadel Summer Camps, especially at night, made it all too easy for me to continue to prey upon and sexually abuse the minor male campers.
14. As an Academic Review Tutor in 2001, I was permitted to hold my review sessions with the minor male campers in my barracks room instead of the Mess Hall, where all other review sessions were held. I used these closed door review sessions ~~to groom~~^{ee} campers that I had targeted to sexually abuse.
15. In 2001, 2002 and 2003, had there been frequent and random after Taps room checks to enforce the no campers in counselor's rooms rule, I would have stopped having campers visit my barracks room at night for fear of being caught and fired;

ef

or I would have actually been caught in the act of sexually abusing the minor male campers resulting in my being fired and reported to law enforcement. .

Further affiant sayeth not.


Louis Neal "Skip" Reville

SWORN to before me this
20th day of September, 2013

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 4-26-2020

STATE OF SOUTH CAROLINA)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON)	
State of South Carolina,)	
)	
Plaintiff,)	
)	
vs.	)	Charleston: 12-GS-10-1835 et al
	)	Berkeley: 12-GS-08-0353 et al
Louis Neal "Skip" ReVille,	)	Dorchester: 12-GS-18-0425 et al
)	
Defendant.)	

TRANSCRIPT OF HEARING

The within Hearing was held on June 13, 2012, before The Honorable R. Markley Dennis, Jr. in Courtroom 4C of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel, as follows:

APPEARANCES:

Scarlett Wilson, Solicitor
Debi Herring-Lash, Assistant Solicitor
9TH CIRCUIT SOLICITORS OFFICE
Charleston, South Carolina

-and-

Meghan Hall, Assistant Solicitor
1ST CIRCUIT SOLICITOR'S OFFICE
St. George, South Carolina
Appearing for State of South Carolina

Craig Jones, Esq.
Appearing for Defendant

Lewis Hems, Esq.

William Nixon, Esq.

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 901
Johns Island, South Carolina 29457
dgarrison@secourts.org



1 it is hard to sit here and listen to this. It
2 takes a toll year after year. We came to you
3 and asked that you hear this case and you didn't
4 run, and you could have. You never run from us.
5 I know you are able, but I also know the toll
6 that it takes.

7 The clerk's office has been remarkable
8 from the start of this case, trying to stream-
9 line things so that we could get this done at
10 this time; for the victims, that was very
11 important for us. I appreciate all the work
12 that they did for us, from the Grand Jury
13 process forward.

14 You know, we've heard so much today.
15 What I think is very important for all of us
16 to see is that child molestation is an adult
17 problem. It is our problem as adults.

18 THE COURT: Amen.

19 SCARLETT WILSON: When we see people
20 that have children -- as you know, I don't have
21 children of my mine, I do have many in my life.
22 It takes enormous trust to raise your child and
23 to be able to give them a healthy and happy
24 life. You have to trust other people. You have
25 to trust other parents, you have to trust

1 coaches, you have to let them grow and be
2 independent and learn from others. To have that
3 trust and then have it taken away, I know what I
4 imagine that would be like. I also know that I
5 can't really imagine, not being a parent myself,
6 what it must feel like to have to take that leap
7 of faith, have that trust and then have it taken
8 away.

9 You know, the victim who stepped
10 forward tapped into something that I would hope
11 would be brought forward, and that's the anger.
12 We hear so much about the tears, about the
13 mourning, the loss, but the anger is there.
14 While we wouldn't ask the Court to do anything
15 out of anger, this prosecution has not been out
16 of anger, but it is outrageous -- it is
17 outrageous that some that we have trusted in
18 this community, some of those people have taken
19 advantage of loopholes in the law and have
20 shirked their responsibilities, morally, to do
21 what was right.

22 That aspect of this case is something
23 that this victim has taken on. While I don't
24 have children, I will take the liberty of saying
25 (addressing John Doe #13), 'Son, it was not your

1 fault. It was not your job.'

2 There were some who had a job and who
3 had a role. To hear those people neglect and --
4 to see that they have neglected to stand up and
5 the time to do something strong, something
6 right, reputations be damned. That opportunity
7 was neglected.

8 To hear them justify that by saying
9 'there was no corroboration, we didn't have
10 enough evidence,' there is never enough evidence
11 on day one. There is never enough evidence when
12 witness one, victim one comes forward on that
13 first day. People who are not trained, who do
14 not have the tools and who do not have the
15 motivation but had the audacity to say there was
16 no corroboration, there was no case, that's what
17 we are here for. We have some of the best in
18 the state, if not the nation, in prosecution.
19 We have law enforcement. We have the D. Norton
20 Children's Center. We are not the backwoods.
21 We have every resource you can imagine in this
22 community and it was there. People were
23 discouraged from using it. It is a true shame.

24 That said, the investigation that
25 eventually took place was an investigation

1 gearing us for trial. That investigation could
2 have easily taken place a decade ago.

3 But what happened that Friday when the
4 phone started ringing, Ms. Herring Lash was
5 brought into the case immediately, I was brought
6 in. Mount Pleasant Police Department,
7 Detectives Bacon and Willis, they did a
8 remarkable job -- because in a case like this,
9 with this volume, you have two things that can
10 happen -- and I know you see it in some of our
11 bigger trials. One is that you can have too
12 many chiefs and everybody wanting to be a boss,
13 or you can have so many people involved that
14 nobody wants to take responsibility and nothing
15 gets none. In this case they were organized,
16 they were methodical. We met, we had a plan and
17 the plan was to get this thing ready for trial
18 in June, one way or the other. If it was a
19 guilty plea, great. If it was a trial, great.
20 But we wanted these children to be able to have
21 a summer with this behind them and start the new
22 year fresh. We have accomplished that. I
23 commend them for that -- of course, Ms. Hall,
24 Ms. Herring Lash, all of the law enforcement
25 agencies that were involved.

1 Your Honor, you know, from the many
2 conversations that we've had administratively
3 how I feel about the importance of accepting
4 responsibility and the value that it has in our
5 system. It's critical in almost every case.

6 In this case, this defendant -- he
7 has cooperated and he has accepted full
8 responsibility. While we appreciate that, it's
9 also important to note that he has started from
10 day one the effort to save his skin. His
11 manipulation continued from the moment that this
12 thing unfolded. There was one person in this
13 world, on October 28th, one person, who realized
14 the landslide, the landslide of victims, and
15 accusations that were going to be out there --
16 it was him. He knew more than anyone and he
17 started with the letters to parents, trying to
18 reach back out to victims, to mitigate. I
19 don't want the Court to misunderstand that in
20 considering accepting and admitting
21 responsibility.

22 You know, the overwhelming, overarching
23 thing is that this man has threatened, gravely
24 threatened two of the most important aspects of
25 any young person's life, I believe, especially

1 in this country. The first is the involvement
2 in sports. Gosh, so many of us who have gone on
3 to do well can look back to those times playing
4 sports. Having a team. Having people taken an
5 interest in them. Having those great mentors.
6 Parents kinda have to love you. When you've got
7 a wonderful coach or a teacher who invests in
8 you, that does wonders for your self-worth.
9 This man has threatened that, greatly threatened
10 it. I am using that word for a reason, and I'll
11 explain that in a minute.

12 The other aspect, obviously, is that
13 this man has used and abused in the name of God.
14 He used God as a ruse, as a ruse. He was more
15 methodical than we were, and he epitomized evil,
16 he epitomized what the devil can do. It's hard
17 enough in this life, especially in this day and
18 age, to find that spiritual path; to have
19 someone threaten that spiritual path the way
20 that he has is abominable. We've seen that here
21 today.

22 I use the word "threaten" not to
23 minimize what's happened here but I think it's
24 important for all of us, as the adults in the
25 room, for all of us to recognize and to give

1 hope that these lives -- these lives -- don't
2 have to be relived. They are threatened. It is
3 a long road. For those victims, especially the
4 ones in Dorchester who were not able or willing
5 to come forward, we can only hope that the
6 message gets out that they've got to deal with
7 it now, because it will be back one way or the
8 other -- one way or the other.

9 There is hope. We don't know what's
10 going to happen from here. The threat will be
11 there for a long time but these lives don't have
12 to be ruined. We have to remember that this
13 young man, and the young men who did cooperate
14 with police and were able to -- perhaps they had
15 that family support that some don't, -- that
16 they did stand up, unlike some of the adults in
17 this community. They did stand up when it was
18 time. They did do the right thing. I believe
19 that they've given you all you need to put Mr.
20 ReVillio away forever.

21 From hereon, we as a community have to
22 make sure that we give these victims hope. We
23 have to make sure that we recognize that this is
24 not an isolated problem -- and that is one of
25 the things that was so great about your

1 (addressing John Doe #13) talking here today.
2 In this country, we act like this just doesn't
3 happen. We have such a hard time with these
4 cases because people don't want to believe it.
5 They do not want to believe it.

6 Perhaps one of the good things that
7 will come out of this case and the publicity,
8 perhaps one of the good things that will come
9 out of Pennsylvania, is that finally adults will
10 believe that this stuff really does happen, that
11 children really aren't equipped to deal with it,
12 that we have to deal with it. We can't just
13 look the other way, pass the buck and say,
14 'Next.'

15 As I mentioned, Debi Herring Lash was
16 brought into this case that day, as was I. We
17 are fortunate to have her, certainly, in the
18 office. But more than that, bigger than that,
19 in this community.

20 THE COURT: I agree.

21 SCARLETT WILSON: She is going to
22 address the Court more specifically as to
23 sentencing, but thank you for your patience and
24 for your willingness to serve.

25 THE COURT: Thank you, Solicitor.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Mother Doe A,

Plaintiff,

v.

The Citadel

Defendant,

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

CAMPER DOE 6

Plaintiff,

v.

THE CITADEL,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-10-9200

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.

**AFFIDAVIT OF
LOUIS NEAL "SKIP" REVILLE**

I, Louis Neal "Skip" Reville, provide this affidavit of my own free will on Friday, September 20, 2013 at the Perry Correctional Institute, 430 Oaklawn Road, Pelzer, SC 29669.

1. In April of 2007, I met with Mark Brandenburg and Col. Joseph Trez in Bond Hall on the campus of The Citadel.

2. I was informed during the meeting that a camper who attended The Citadel Summer Camp in 2002, while I served on the camp staff as the Head CCQ, alleged that I had acted inappropriately with him. I lied to Mr. Brandenburg and Col. Trez and denied allegations



of inappropriate activity with the minor camper. I had, in fact, sexually abused the camper in my assigned barracks room, at night, behind a closed door.

3. After the April 2007 meeting with Mr. Brandenburg and Col. Trez, I lived in fear for a year that The Citadel was going to report the child sexual abuse allegation to law enforcement which would result in my being arrested and charged.

4. In October 2011, when confronted by the Mt. Pleasant Police and questioned about sexually abusing minor males, I freely co-operated with the law enforcement investigators and admitted/confessed to the sexual abuse of my victims.

5. Being questioned by law enforcement in October 2011 made me realize that I had been caught, and that I was not going to be able to lie my way out of the child sexual abuse accusations that were being made against me.

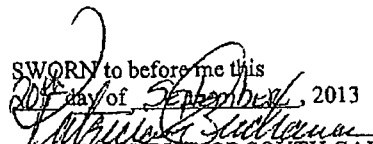
6. Had I been reported to and questioned by law enforcement officials any time after the April 2007 meeting with Dr. Brandenburg and Col. Trez, I would have admitted to the sexual abuse of the complaining minor camper, as well as the other minor campers that I sexually abused while I was employed by The Citadel Summer Camp during the years 2001, 2002, and 2003.

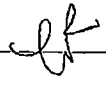
7. Had The Citadel reported the allegations of child sexual abuse to law enforcement, and had I been questioned by law enforcement in or about April of 2007, my admission/confession of the child sexual abuse would have resulted in my conviction; and I would not have been able to sexually abuse numerous other minor males until my arrest in October 2011.

ll

Further affiant sayeth not.


Louis Neal "Skip" Reville

SWORN to before me this
20th day of September, 2013

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 4-26-2017



STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
)
 MOTHER DOE A,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

SATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
 JOHN DOE CAMPER,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
 JOHN DOE 2,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

VIDEOTAPED PATRICIA KINARD
 DEPOSITION OF:



CAROLINA REPORTING

843.832.0801 * www.carolina-reporting.com

Page 30

1 way the question was asked.
 2 THE WITNESS: I see.
 3 MR. STONEY: So don't take that as any
 4 signal from me. If you know the answer to the
 5 question, go ahead and answer.
 6 THE WITNESS: Okay. Could you repeat
 7 it again?
 8 BY MR. SLOAN:
 9 Q. In 2007, if you had received a call
 10 when you were the administrative assistant to the
 11 President from a Citadel alumnus that his son had
 12 been at the summer camp and was sexually abused
 13 there, isn't it true that you would have called
 14 Public Safety?
 15 A. Yes, sir.
 16 Q. Okay. And is there a particular
 17 Citadel policy that you would refer to to do that
 18 or is it just common sense? Why would you do that?
 19 A. There may be a policy, sir, I don't
 20 know, but I believe that would be common sense.
 21 Q. Okay. All right. I believe that's all
 22 the questions that I have for you. I don't know if
 23 Ellis has any.
 24 MR. ROBERTS: None.
 25 MR. STONEY: I don't have any.


Page 31

1 THE VIDEOGRAPHER: This concludes the
 2 deposition of Patricia Kinard. Off the record at
 3 3:03. Tape one.
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Page 32

CERTIFICATE OF REPORTER

1
 2
 3 I, Carol Denise Lauder, Registered
 4 Professional Reporter and Notary Public for the
 5 State of South Carolina at Large, do hereby certify
 6 that the foregoing transcript is a true, accurate,
 7 and complete record.
 8 I further certify that I am neither related
 9 to nor counsel for any party to the cause pending
 10 or interested in the events thereof.
 11 Witness my hand, I have hereunto affixed my
 12 official seal this 15th day of June, 2013 at
 13 Charleston, Charleston County, South Carolina.
 14
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Denise Lauder 

Carol Denise Lauder
 Registered Professional
 Reporter, CP
 My Commission expires
 August 2, 2017

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2011-CP-10-9200
)
 MOTHER DOE A,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1860
)
 JOHN DOE CAMPER,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

STATE OF SOUTH CAROLINA) THE COURT OF COMMON PLEAS
)
 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-1858
)
 JOHN DOE 2,)
)
 Plaintiff,)
)
 vs.)
)
 THE CITADEL,)
)
 Defendant.)

VIDEOTAPED DEPOSITION OF:
 COLONEL GLENN ADDISON



1 he never saw this letter, right?

2 A. That's what he shared with the board,
3 yes.

4 Q. If General Rosa had seen this letter on
5 May 16th of 2007, would you have expected him to
6 fully inform the board of what he had been told
7 about these allegations?

8 A. I think he would have initially
9 contacted the chairman and maybe the executive
10 committee and then -- yes, he would have informed
11 the entire board in a short period of time, based
12 upon his previous experience and knowledge.

13 Q. The school had just come through the
14 Arpaio litigation, where it paid out \$3.5 million
15 and it was truly an embarrassment to The Citadel,
16 right?

17 A. The Insurance Reserve Fund was 3.5, and
18 it was -- it was an embarrassment because it
19 involved one of our own and -- but it was also --
20 it was just an embarrassment.

21 Q. If General Rosa received this letter on
22 May 16th of 2007, tell me why it's not -- if he
23 never said anything to the board about it, why
24 it's not a cover-up by him, or, in the
25 alternative, gross incompetence?

1 MR. COOKE: Objection to the form.

2 A. As I said before, I had complete
3 confidence in General Rosa. He's never given me
4 any reason to question his work; he's a man of
5 integrity and honor. And I take him at his word
6 that he never saw it. Why he never saw it, I
7 don't know. But all I can do is take him at his
8 word for that. Because nothing that I've seen him
9 do the entire time I've known him would have
10 prevented him from taking immediate action had he
11 seen this. There would have been no reason not to
12 on his part; he would have. And that's why I
13 wrestled with this when I first saw it; I tried to
14 figure out what had occurred. But all I could
15 assume was he knew nothing, and I take him at his
16 word that he didn't.

17 Q. I take it, then, that if you would have
18 expected General Rosa to immediately act based on
19 this and tell the board everything, we know one
20 person for absolute sure who knew everything in
21 there and who authored the letter and signed it?

22 A. Yes.

23 Q. And we know for sure he never told the
24 board about this, did he?

25 A. No.

1 Q. That's gross incompetence, isn't it?

2 MR. COOKE: Objection to the form of the
3 question.

4 A. I'm not -- I don't know what the term
5 would be for it. I have a -- my lack of
6 confidence in his abilities. Whether it rises to
7 the level of gross incompetence or whether he was
8 actually in the process of doing an investigation,
9 trying to corroborate or whatever, I don't know.
10 But should this have been shared with the
11 President and the -- by the policy or by the
12 guidelines? Absolutely. And that's why I was as
13 adamant as I was that we should have been
14 informed.

15 Q. And if Mr. Brandenburg's excuse for not
16 telling the board in May or June about everything
17 in this May 16, 2007, letter -- his excuse is
18 that, I was doing an investigation, then you would
19 agree with me that his investigation was
20 pathetically bad, wouldn't you?

21 MR. COOKE: Objection to the form of the
22 question.

23 A. I think I used those words.

24 MR. SLOAN: Okay. All right, sir. Why
25 don't we take a break and we'll --

Mark C. Brandenburg

From: David Stuckey <dsluckey@inf.sc.gov>
Sent: Friday, November 16, 2007 2:40 PM
To: Mark C. Brandenburg
Subject: RE: [REDACTED] Incident
Attachments: W-9 Form (Mark Brandenburg).pdf

Mark,

We have no problem in reimbursing you for your investigation into this matter.

Please complete the attached W-9 Federal Identification Form and fax it to the below listed number. Once we have received the completed W-9 form, your reimbursement check will be processed within 10-14 working days.

David L. Stuckey, Jr.
Professional Liability Representative
South Carolina Insurance Reserve Fund
P.O. Box 11066
Columbia, SC 29211
Office: (803) 737-0028
Fax: (803) 737-3757

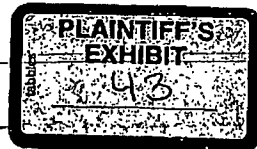
From: Mark C. Brandenburg [mailto:mark.brandenburg@citadel.edu]
Sent: Friday, November 16, 2007 12:20 PM
To: Mark C. Brandenburg; David Stuckey
Cc: Dan Parris
Subject: RE: [REDACTED] Incident.

Gentlemen

I have held this file on my desk since August, thinking there would be additional developments. There were a scant few, in the days immediately before freshman matriculated, but since then, I have had no more communication with the [REDACTED]. As a result, I submit this e-mail as an interim report - and request for reimbursement. I plan to put this file back in my file cabinet, but do not plan to take any action on it further.

As you may recall, during the week before freshman reported, [REDACTED] called, asking if The Citadel would accept [REDACTED] in this year's freshman class. I negotiated intensely with [REDACTED], explaining that [REDACTED] lacked at least [REDACTED] required for admission. Thus, we discussed a scenario in which [REDACTED] would take those classes at a community or technical college, and then matriculate with next year's freshman class. Under that scenario, The Citadel would also reach a financial settlement with [REDACTED]. I spoke with Dan during those negotiations, and he gave me authority of twenty-thousand (\$20,000) dollars at that time. He asked for some documentation of expenses, and I relayed that request to [REDACTED]. [REDACTED] tentatively agreed to the proposal, and promised to provide me with documentation with which we could reach a financial settlement. However, I have not heard from him since.

As I indicated in my e-mail earlier (copied below), [REDACTED] now lives in [REDACTED] where [REDACTED]. At last contact [REDACTED] was working for a grocery store, and living with friends. During our negotiations [REDACTED] indicated that he planned to bring [REDACTED] from [REDACTED] to [REDACTED] to attend a community college. Thus, I suspect that when [REDACTED] made that suggestion, [REDACTED] balked, and decided against attending The Citadel whatsoever. Of course, I have not called the [REDACTED] confirm that suspicion.



THE CITADEL 0000651
(FOIA 2011)

We COULD receive a call sometime next summer from the [redacted] in [redacted] manages to take the required classes next spring or summer. I do not anticipate that will happen, however. The cadets now at The Citadel who attended camp with [redacted] several years ago are currently [redacted] and will be [redacted] enters The Citadel next fall. I doubt he will want to face them in that situation. Nonetheless, I will pull [redacted] in the cabinet, and diary it for next spring.

Fortunately, since we now have a transcript of my interview with [redacted] we have an unequivocal trigger of the statute of limitations. As you know, under S.C. Code Ann. § 15-3-555, "An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty-one years of age or within three years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual abuse or incest, whichever occurs later." At this point, we know that [redacted] as "discover(ed)..." the causal relationship between the injuries he described in the interview and the alleged abuse. Thus, at the very latest, the statute began to run on the date of the interview in June. Unfortunately, though, since the statute provides that the limitations period does not expire until three years after that discovery or six years after the person becomes twenty-one years of age, the period arguably does not expire until [redacted] birthday. That date is [redacted]

As I indicated earlier, I will be happy to send you a transcript of the interview, if you wish. In the meantime, though, I am attaching a pdf version of the receipts which I collected during my trip to [redacted] (I will be happy to send hard copies of these documents, or the originals, to you via regular mail, if you wish.) These only consist of the flights from [redacted] and from [redacted] and the hotel room and conference room I used in [redacted] This amount totals \$1080.66. I put all of those amounts on my personal credit card, so if you could have a check issued to me, I would appreciate it. I am also attaching a copy of the bill from the court reporter, in the amount of \$770. That bill is still outstanding, so I would appreciate you issuing a check directly to that company.

Thank you again for all of your cooperation in this incident. I am sorry we were not able to close it with a release, but I feel confident that we are well armed if [redacted] should ever decide to pursue a case against The Citadel.

I hope you have a wonderful Thanksgiving!

Mark

Mark C. Brandenburg
General Counsel
The Citadel
171 Moultrie Street
Bond Hall, Room 359
Charleston, SC 29409
(843) 953-5252 (office)
(843) 475-8463 (mobile)
(843) 953-7592 (fax)
mark.brandenburg@citadel.edu

From: Mark C. Brandenburg
Sent: Wednesday, August 08, 2007 10:16 AM
To: 'David Stuckey'
Cc: Dan Paris
Subject: RE: [redacted] Incident

David and Dan

I stopped in [redacted] after my convention trip to [redacted] at the end of June. I met with [redacted] (the former camper / complainant) and his parents, [redacted]. We talked for a couple of hours, and I recently received the rough draft of the interview. I know that [redacted] received a copy as well, and has forwarded it on to his son. I have not received an errata sheet, however.

2

THE CITADEL 0000652
(FOIA 2011)

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Mother Doe A,)

Plaintiff,)

v.)

The Citadel,)

Defendant.)

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

John Doe Camper,)

Plaintiff,)

v.)

The Citadel,)

Defendant.)

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

JOHN DOE 2,)

Plaintiff,)

v.)

THE CITADEL,)

Defendant.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-10-9200

FILED
2014 APR 25 PM 1:01
JULIE J. AMOS, CLERK OF COURT
BY _____

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2012-CP-10-1860

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2012-CP-10-1858

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

MOTHER DOE 2, on behalf of
JOHN DOE 3

Plaintiff,

v.

THE CITADEL,

Defendant.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

CAMPER DOE 6,

Plaintiff,

v.

THE CITADEL,

Defendant.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JOHN DOE, A MINOR, BY HIS
GUARDIAN AD LITEM JOHN ROE,

Plaintiff,

v.

THE CITADEL,

Defendant.

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT

) Civil Action No. 2012-CP-10-1859

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT

) Civil Action No.: 2013-CP-10-5247

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT

) Civil Action No. 2013-CP-10-4770

) **REPLY BRIEF OF PLAINTIFFS**
) **MOTHER DOE A, CAMPER DOE 6 AND**
) **JOHN DOE TO THE CITADEL'S**
) **MEMORANDUM IN SUPPORT OF**
) **SUMMARY JUDGMENT AS TO JOHN DOE**
) **CAMPER, JOHN DOE 2 & MOTHER DOE 2.**

In response to Defendant's Memorandum in Support of Motion for Summary Judgment, Plaintiffs Mother Doe A, Camper Doe 6 and John Doe submit the instant Reply brief regarding the issue of duty.¹ On April 18, 2014, the Court heard arguments on The Citadel's summary judgment motions as to Plaintiff's John Doe Camper, John Doe 2, and Mother Doe 2. While ruling in favor of Plaintiffs as to the statute of limitations, the Court took under advisement the issue of whether The Citadel owed a common law duty of care to Plaintiffs. As set forth herein, the testimony of Citadel 30(b)(6) deponent Mark Brandenburg and Citadel expert Gary Margolis leads to the reasonable inference that such a duty exists in the instant case.

I. THE QUESTION OF DUTY IN THIS CASE IS ONE OF FACT.

The Citadel incorrectly maintains that the issue of duty in this case is a matter of law. Rather, South Carolina law makes clear that such a determination is a mixed question of law and fact where, as here, there are factual issues regarding the circumstances giving rise to a duty. See Miller v. City of Camden, 329 S.C. 310, 314-15, 494 S.E.2d 813, 815-16 (1997) (the question whether a duty of care arises in a given case may depend on the existence of particular facts); Vaughan v. Town of Lyman, 370 S.C. 436, 635 S.E.2d 631, 637-38 (2006) (finding genuine issue of material fact as to whether there was a voluntary undertaking of the maintenance of town sidewalks where there were references to sidewalk maintenance in town minutes; there were town ordinances regulating sidewalks; town was aware of complaints about the sidewalks and

¹ This brief is a supplement to Plaintiffs' fifty-six page Memorandum and attached Exhibits. See Memorandum of Plaintiffs Mother Doe A, Camper Doe 6 and John Doe in Opposition to The Citadel's Motion for Summary Judgment as to John Doe Camper, John Doe 2 & Mother Doe 2, filed on April 17, 2014. Certain testimony cited herein of Gary Margolis and President Rosa was not previously submitted as an exhibit to Plaintiffs' initial memorandum and is attached hereto as Exhibits "A" and "B". See Exhibit A, Deposition of Margolis, pp. 57, 286-287, 290; Exhibit B, Deposition of Rosa, Vol. I, p. 53.

did not report these to any other authority; and the town had previously handled complaints about sidewalks); Fickling v. City of Charleston, 372 S.C. 597, 643 S.E.2d 110, 116 (Ct. App. 2007) (fielding complaints, maintaining a log of calls, and having a policy and employees in place to repair sidewalks was used by a court as evidence to assess whether there was a voluntary undertaking). As stated in detail in Plaintiff's initial memorandum, and reiterated herein, there are ample factual issues regarding the existence of a common law duty in this case.

II. THE EVIDENCE ESTABLISHES A COMMON LAW DUTY UNDER THE EXCEPTIONS ENUMERATED IN *MARION* AND *FAILE*.

An affirmative legal duty may be created by statute, a contractual relationship, status, property interest, or some other special circumstance. Jensen v. Anderson County Dept. of Soc. Servs., 304 S.C. 195, 199, 403 S.E.2d 615, 617 (1991); Miller, 317 S.C. at 33-34, 451 S.E.2d at 404. In Doe v. Marion, 373 S.C. 390, 645 S.E.2d 245 (2007) and Faile v. S.C. Dept. of Juvenile Justice, 350 S.C. 315, 334, 566 S.E.2d 536, 546 (2002), the South Carolina Supreme Court enumerated five circumstances or exceptions where there is a common law duty to control the conduct of another or to warn a third person or potential victim of danger: 1) where the defendant has a special relationship to the victim; 2) where the defendant has a special relationship to the injurer; 3) where the defendant voluntarily undertakes a duty; 4) where the defendant negligently or intentionally creates the risk; and 5) where a statute imposes a duty on the defendant. Id., 350 S.C. at 334, 566 S.E.2d at 546. For purposes of this reply brief, Plaintiffs will focus on exceptions three and four.

As argued in Plaintiffs' Memorandum in Opposition, Marion only addresses one of the four exceptions applicable to the instant case for purposes of establishing the existence of a common law duty—the exception “where the defendant has a special relationship with the

injurer.” While Plaintiffs assert that the special relationship exception applies in the instant case, two other exceptions directly apply—namely, exceptions (3) where the defendant voluntarily undertakes a duty, and (4) where the defendant negligently or intentionally creates the risk. The facts and holding in Marion are simply irrelevant to the determination of the existence of a duty in the ReVille Citadel cases under these two exceptions.

a. Exceptions of Voluntarily Undertaking a Duty and Creation of the Risk Do Not Require a Specific Threat of Harm to the Victim

Neither of these exceptions requires knowledge by the defendant of a “specific threat of harm” to the victim. Rather, the “specific threat of harm” requirement is *only* implicated when analyzing the existence of a duty under the special relationship exception. Thus, while the evidence establishes that such a relationship and knowledge of such a threat did, in fact, exist, the requirement of a specific threat of harm is not interpolated into the remaining exceptions addressed in this brief.

Under South Carolina law, a specific threat of harm is simply not an element of the voluntary duty analysis.² See Miller, 329 S.C. at 315, 494 S.E.2d at 815 (imposing no requirement of a specific threat of harm in finding issue of fact as to whether defendant voluntarily assumed a duty). In fact, most South Carolina cases analyzing the voluntary duty exception involve no threat of specific harm whatsoever. See Bryant v. City of North Charleston, 304 S.C. 123, 403 S.E.2d 159 (1991) (finding duty owed to remote plaintiff injured

² Notwithstanding, The Citadel’s own witnesses have acknowledged that at least one of the reasons for voluntarily undertaking the duties to report and to investigate was to prevent harm to other boys and prevent harm to potential victims, *i.e.* the Plaintiffs. (See Deposition of Mark Brandenburg, pp. 31, 259). Of course, such an undertaking would also prevent further harm and reduce the threat of continuing harm to past and current victims of ReVille.

on sidewalk because defendant voluntarily undertook maintenance of the area); Vaughn, 370 S.C. at 447-48, 635 S.E.2d at 637-38 (reversing grant of summary judgment where evidence, including town ordinances regulating sidewalks, created factual issue as to whether defendant assumed duty to remote plaintiff injured on sidewalk). Likewise, South Carolina law imposes no requirement of a specific threat of harm where a defendant negligently or intentionally creates the risk of harm. See Greenville Memorial Auditorium v. Martin, 301 S.C. 242, 391 S.E.2d 546 (1990) (requiring no specific threat of harm in finding city liable for injuries to plaintiff resulting from the criminal acts of another based on the city's negligence in securing the premises where the negligence created a foreseeable risk of injury); Madison ex rel. Bryant v. Babcock Ctr., Inc., 371 S.C. 123, 143, 638 S.E.2d 650, 660 (2006) (requiring no specific threat of harm in noting government entity may be held liable for its conduct in relation to prior notice of inappropriate care of a client by another entity where such negligence creates the risk of injury).

b. The Citadel Voluntarily Undertook a Duty to Report ReVille to Citadel Public Safety/Law Enforcement

In devoting less than a single page of its fifty-five page brief to the issue of voluntary duty, Defendant overlooks the overwhelming evidence in this case establishing that The Citadel voluntarily undertook a duty to exercise due care to report ReVille's illegal and immoral activity to Citadel Public Safety and law enforcement. See e.g. Bergstrom v. Palmetto Health Alliance, 352 S.C. 221, 229, 573 S.E.2d 805, 809 (Ct. App. 2002) aff'd in part, vacated in part, 358 S.C. 388, 596 S.E.2d 42 (2004) (recognizing that hospital's internal policies created a duty to mother).

Defendant ignores the plain language of The Citadel's own policies and procedures, which detail self-imposed duties to report to law enforcement, including the Serious Incidents Policy, Summer Camp Policies Regarding Sexual Misconduct Issues, Sexual Harassment Policy,

and the Citadel's Sexual Assault Policy. Specifically, Mark Brandenburg, The Citadel's Rule 30(b)(6) witness with the most knowledge about Citadel policy and procedure relating to Doe's 2007 complaint of child sexual abuse, conceded that the Serious Incidents Policy required Colonel Trez to report Doe's allegations to Citadel Public Safety:

- Q So it's Colonel Trez's job to report the ReVille allegations to the Department of Public Safety and he didn't do it?
- A According to this memo, he is to report allegations of illegal or immoral activities, right.
- Q There's just no question that what ReVille did with those 14-year-old boys was illegal and immoral?
- A It's clear now, yes.
- Q It was immoral when it came in, wasn't it?
- A The allegations -- It was allegations of immoral activity, yes.

(Brandenburg Deposition, Vol. II, p. 264).

Citadel expert Gary Margolis likewise conceded that the Serious Incidents Policy required reporting ReVille to law enforcement and that the Citadel voluntarily undertook the duty to report ReVille:

- Q. Would you agree with me that if The Citadel had a policy and procedure that applied to those [Doe] allegations that required The Citadel to report ReVille to law enforcement, that The Citadel had voluntarily undertaken the duty to report a child sexual predator to law enforcement?
- A. If there was a policy that existed to that effect, I would agree with you.

(Margolis Deposition, Vol. I, p. 57).

- Q. So when Wanda Milligan or Mark Brandenburg were notified that the crime had been committed on the Citadel campus, they should have notified Public Safety, according to this policy [Serious Incidents Policy], right?
- A. According to this policy, correct.

(Margolis Deposition, Vol. I, p. 286-287).

- Q. Okay. And so, now, you have and I have established that under the serious incidents memo, which applies to everybody at The Citadel and was in effect in April of 2007, that there are two separate parts of that

serious incidents memo which required reporting the allegations to law enforcement, correct?

A. Correct.

(Margolis Deposition, Vol. I, p. 290).

That the duties undertaken by these policies extended to the Plaintiff victims is also clear under The Citadel's core values and college regulations. In fact, President Rosa testified that The Citadel's core value of duty, *i.e.* the moral obligation of responsibility for the welfare of others, applies to The Citadel's policies and procedures:

Q And under core values under -- this is the statement of vision, under core value, it says, "Duty, we emphasize the importance of individual accountability and a moral obligation of responsibility for the welfare of others." Is that correct, what it says?

A Right.

Q Do you agree with that?

A Right.

Q Would you agree with me that some of The Citadel's policies and procedures and guidelines, when they're written, they take into account the duty of a moral obligation of responsibility for the welfare of others?

A Right.

(Deposition of President Rosa, Vol. I, p. 53). Thus, based on The Citadel's own witness and expert testimony, The Citadel had a duty to report ReVille to law enforcement and the reason for reporting was for the welfare of others—namely, victims and future victims of ReVille.

c. The Citadel Undertook the Duty to Investigate Doe's Claims and to Prevent Harm to Other Young Boys and Potential Victims.

The Citadel's Rule 30(b)(6) witness with the most knowledge regarding the investigation into Doe's allegations testified as follows:

Q Would you agree with me that preventing harm to other young boys or victims was a goal of the investigation?

A Sure.

Q Would you agree with me that by undertaking the investigation, that The Citadel was aiming to prevent harm to potential victims?

A I assume so.

(Brandenburg Deposition, Vol. I, p. 31)

- Q Under Core Values, could you read what No. 2 says about duty?
A "We emphasize the importance of individual accountability and the moral obligation of responsibility for the welfare of others."
Q Would you agree that that moral sense of duty would apply to investigating an alleged sexual offense?
A Yes.

(Brandenburg Deposition, Vol. II, p. 259). Thus, not only did The Citadel voluntarily undertake the duty of investigating Doe's report of sexual abuse, it did so with the "goal of preventing harm to other young boys or victims," *i.e.* the Plaintiffs in this action. Moreover, Mark Brandenburg conceded that the "moral obligation of responsibility for the welfare of others," *i.e.* the Plaintiffs, applied to the investigation.

d. Duty Owed Pursuant to Negligent or Intentional Creation of Risk

Plaintiffs have also presented ample evidence that The Citadel negligently and even intentionally created the risk at issue. Defendant maintains in a one paragraph summary argument that The Citadel "did not 'create' any dangerous condition that would not have existed otherwise." (Defendant's Memorandum in Support of Motion for Summary Judgment, p. 13). Defendant's lack of argument as to this exception is telling. Indeed, Defendant did create the risk, both negligently and intentionally, in a number of ways, including the following: neglecting its duty to report ReVille to law enforcement; concealing the allegations and designating the matter "close hold"; alerting ReVille to the allegations; directing ReVille to lay-low; failing to conduct an impartial investigation; failing to interview witnesses; failing to involve the Title IX coordinator/SARC; failing to file an anonymous report and failing to "punish ReVille" per The Citadel Sexual Assault Policy; failing to document ReVille's Summer Camp policy violations in ReVille's file; failing to follow up regarding Sergeant Middleton's August 6, 2001 letter; and

failing to permit Camper Doe 6 to report ReVille. These negligent and intentional acts, all of which are supported by the evidence, constitute affirmative conduct by The Citadel in concealing a known child sexual predator. Such affirmative acts enabled ReVille to gain access to his victims, including the Plaintiffs.

Indeed, Defendant's own expert witness testimony supports the inference that The Citadel created the dangerous condition by providing ReVille access to his victims:

- Q. Would you agree with me that if you were notified that an individual had sexually abused a minor on campus five years previously, and that individual is currently on campus, and that there are minors on campus when that report comes in five years later, that that person poses a threat to the campus?
- A. I would agree with you, yes.
- Q. And when that individual leaves the campus, he's a threat to minors wherever he goes off campus, correct?
- A. I would agree that that's a reasonable assumption.

(Deposition of Margolis, Vol. I, p. 19-20). At the very least, the evidence creates an issue of fact for the jury that The Citadel's negligent disregard of duty and intentional concealment of ReVille's sexual abuse from 2001-2011 had the effect of unleashing a known predator into the community. There is no greater creation of risk than that.

e. *Oblachinski v. Reynolds* Does Not Apply to the Exceptions at Issue

In denying the existence of a duty owed by The Citadel, Defendant cites *Oblachinski v. Reynolds*, 391 S.C. 557, 562, 706 S.E.2d 844, 846 (2011), a medical malpractice case in which the plaintiff asked the Court to find an exception to the general rule that no duty of care exists between a physician and a third party. The present case has nothing to do with the specific issue of whether a physician owes a duty to a third party. The Citadel is not a physician or health care provider. Plaintiffs are instead asserting the existence of a common law duty based upon the

exceptions enumerated above in Doe v. Marion and Faile. These exceptions were not at issue in Oblachinski or the cases cited therein.

Defendant also cites Oblachinski for the proposition that “[f]oreseeability of injury, in and of itself, does not give rise to a duty.” Id. (emphasis in original) (citing Charleston Dry Cleaners & Laundry, Inc. v. Zurich American Ins. Co., 355 S.C. 614, 618, 586 S.E.2d 586, 588 (2003); and South Carolina State Ports Authority v. Booz-Allen & Hamilton, Inc., 289 S.C. 373, 346 S.E.2d 324 (1986)).³ The existence of a duty in this case is not rooted in foreseeability. Rather, the evidence cited herein and in Plaintiffs’ initial memorandum shows that The Citadel voluntarily undertook duties and created a risk, not simply that ReVille’s subsequent assaults were foreseeable. Indeed, none of the testimony cited addresses foreseeability. The evidence shows that The Citadel assumed a duty by creating or increasing the risk of harm to Plaintiffs, by voluntarily undertaking policies requiring reporting to law enforcement, and by voluntarily undertaking to investigate sexual abuse claims. Plaintiffs have also presented evidence that The Citadel had a moral responsibility for the welfare of others, including the prevention of harm to other boys and potential victims. Accordingly, these claims fall under the exceptions enumerated above in Marion and Faile.

³ In supporting this proposition, Oblachinski relies on two cases, Charleston Dry Cleaners and S.C. State Ports Authority, which are equally distinguishable from the matters at hand. Charleston Dry Cleaners upheld the majority rule that a negligence claim cannot be brought directly against an independent adjuster and noted that the plaintiff could bring a claim against insurer to recover because the acts of the independent adjuster (agent) may be imputed to the insurer (principal). Id. at 618-619. S.C. State Ports Authority found a duty owed to the S.C. State Ports Authority to accurately report objective factual data concerning the Charleston Port by a consulting company hired by the Georgia Ports Authority. Id. at 377. None of these cases addressed the exceptions creating the existence of a duty in this case.

Moreover, like the elements of all negligence claims, the Plaintiffs have also proven that it is foreseeable that a breach of these duties could harm a third person—the Plaintiffs. SC State Ports Authority held foreseeability of injury, in the absence of a duty to prevent that injury, is an insufficient basis on which to rest liability. Id. at 376. Here, the evidence establishes both the existence of a duty to prevent injury and foreseeability. As noted, Citadel witness testimony supports the reasonable inference that The Citadel had a duty to prevent injury to other potential victims, and that The Citadel's negligence in performing these duties increased the risk of harm to Plaintiffs. Such circumstances giving rise to the existence of a duty in this case were neither addressed nor at issue in Oblachinski or the cases cited therein.

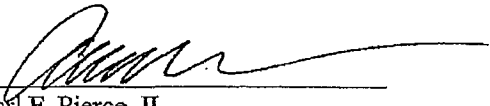
CONCLUSION

Plaintiffs have provided ample evidence establishing that an issue of fact exists as to whether the Citadel had a duty to report ReVile to law enforcement, whether The Citadel undertook a duty to investigate Doe's allegations to prevent harm to other young boys and protect potential victims, and whether The Citadel assumed a duty by creating the risk of harm to Plaintiffs. The evidence forming the basis of this factual dispute is derived directly from The Citadel's own witnesses: Citadel 30(b)(6) deponent, Mark Brandenburg, and Citadel expert witness, Gary Margolis. Accordingly, based upon the foregoing reply and the arguments advanced in Plaintiff's initial memorandum to the Court, Plaintiffs Mother Doe A, Camper Doe 6 and John Doe respectfully request that Defendant's motions be denied.

--Signature Page to Follow--

Respectfully submitted,

PIERCE, HERNS, SLOAN & WILSON, LLC

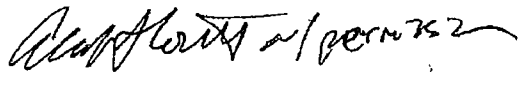


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CAMPER DOE 6,

Plaintiff,

vs.

Case Action No.: 2013-CP-10-5247

THE CITADEL,

Defendant,

JOHN DOE, A MINOR, BY HIS
GUARDIAN AD LITEM JOHN ROE,

Plaintiff,

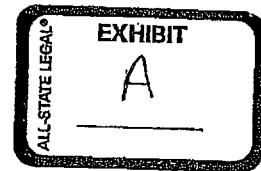
vs.

Case Action No.: 2013-CP-10-4770

THE CITADEL,

Defendant,

Videoconference Deposition of **GARY MARGOLIS**,
held on Monday, February 17, 2014, taken at the Sound
Vision, 310 Hurricane Lane, Suite 1, Williston, Vermont,
05495, commencing at 10:11 a.m., before Karen L. Wright,
a RPR, CRR and Notary Public in and for the State of
Vermont.



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G. MARGOLIS

1
2 coordinator?

3 A. She might be both. But in terms of
4 the Title IX coordinator, my understanding as
5 I sit here is that it was Janet Shealy.

6 Q. All right.

7 A. I could be wrong about that, but
8 that's my recollection.

9 Q. And if Mark Brandenburg and Colonel
10 Trez have stated under oath that Skip ReVille
11 had a special relationship with The Citadel,
12 you wouldn't have any reason to object to
13 that or disagree with it, correct?

14 A. Correct.

15 Q. Would you agree with me that if The
16 Citadel had a policy and procedure that
17 applied to those allegations that required
18 The Citadel to report ReVille to law
19 enforcement, that The Citadel had voluntarily
20 undertaken the duty to report a child sexual
21 predator to law enforcement?

22 A. If there was a policy that existed
23 to that effect, I would agree with you.

24 Q. Would you agree with me that if The
25 Citadel had known in 2001 how Mr. Arpaio had



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G. MARGOLIS

1
2 A. No. I said they mirror the Clery
3 -- the first several mirror the Clery Act
4 crimes. They're right out of the federal
5 regulations.

6 Q. Yes. But then they go beyond the
7 Clery Act, right?

8 A. Correct. Yes, they do.

9 Q. All right. And they're just
10 examples of crime, right? You and I have
11 already agreed that what ReVille was accused
12 of doing by Doe to him and others was
13 certainly a crime, correct?

14 A. Yes, sir.

15 Q. All right. And over on the next
16 page, it says what are the individual
17 responsibilities when you become aware of a
18 crime. What does it say under "Individual
19 responsibilities"?

20 A. "Notify the Department of Public
21 Safety."

22 Q. All right. So when Wanda Milligan
23 or Mark Brandenburg were notified that the
24 crime had been committed on The Citadel
25 campus, they should have notified Public



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G. MARGOLIS

1 Safety, according to this policy, right?

2 A. According to this policy, correct.

3 Q. All right. And then Public Safety's
4 responsibilities, they're to initiate an
5 incident report and investigate as necessary,
6 right?

7 A. That's what it says, correct.

8 Q. All right. If you'd turn over two
9 pages to Section I. It says: "Other
10 Incidents."

11 A. Yes, sir.

12 Q. And my Bates number for that is
13 1692. What's yours?

14 A. 2405.

15 Q. All right. It says: "Any incident
16 which has a recognized potential for news
17 media interest will be reported by the first
18 individual aware of the incident. Examples
19 of such incidents include, but are not
20 limited to, a scandal involving an individual
21 closely identified with the college,
22 allegations concerning illegal or immoral
23 activities at the college."
24

25 Now, you and I have already agreed



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6 vs.)
7 The Citadel,)
8 Defendant.)
_____)

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11
12

* * * * *

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VIDEOTAPED
14 DEPOSITION OF: GENERAL JOHN W. ROSA -- VOL. I
15 DATE TAKEN: Monday, July 29, 2013
16 TIME: 10:00 a.m.
17 PLACE: 321 East Bay Street
Charleston, SC

18

19 REPORTED BY: TERI L. SAMPSON, RPR,
Notary Public and Certified
Live Note Reporter

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* * * * *

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0003

A P P E A R A N C E S

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REPRESENTING THE PLAINTIFF MOTHER DOE A:

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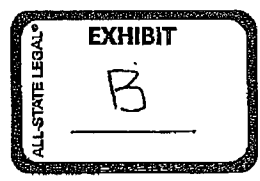
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8 REPRESENTING THE PLAINTIFFS JOHN DOE CAMPER, JOHN DOE
2, MOTHER DOE 2:

9
10

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11
12
13
14



1 BY MR. SLOAN:

2 Q This is Bates number -- if you'll turn to
3 Bates 1094, which is the first page. And now, the -- I
4 take it the college regulations apply to you as well,
5 correct?

6 A Yes.

7 Q And they apply to Mark Brandenburg and Joe
8 Trez, is that correct?

9 A Right.

10 Q And under core values under -- this is the
11 statement of vision, under core value, it says, "Duty,
12 we emphasize the importance of individual
13 accountability and a moral obligation of responsibility
14 for the welfare of others." Is that correct, what it
15 says?

16 A Right.

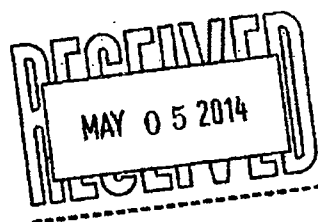
17 Q Do you agree with that?

18 A Right.

19 Q Would you agree with me that some of The
20 Citadel's policies and procedures and guidelines, when
21 they're written, they take into account the duty of a
22 moral obligation of responsibility for the welfare of
23 others?

24 A Right.

25 Q All right. If you would turn over to Tab 3,



M. Dawes Cooke, Jr., Esquire
John W. Fletcher, Esquire

May 2, 2014

VIA HAND DELIVERY

The Honorable Julie J. Armstrong
Clerk of Court, Charleston County
100 Broad Street, Suite 106
Charleston, South Carolina 29401

Re: *Mother Doe A vs. The Citadel*
Civil Action No.: 2011-CP-10-9200
BWPH File No.: 1.521

Dear Julie:

Enclosed herewith please find the original and two (2) copies of The Citadel's Notice of Motion and Motion for Summary Judgment in the above-referenced matter. Also enclosed please find a Motion and Order Information Form and Cover Sheet and our firm's check in the amount of \$25.00 for the filing fee. We would appreciate you filing the original Motion and returning the clocked copies to us.

Thank you for your assistance in this regard.

Sincerely,
Dawes Cooke
M. Dawes Cooke, Jr.
John W. Fletcher

MDCjr/JWF/jgc
Enclosures

cc: **VIA E-MAIL AND U.S. MAIL**
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Louis Hems, Esquire
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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

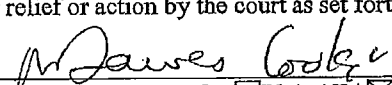
Mother Doe A)
 Plaintiff)

CASE NO.)
2011-CP-10-9200)

v.)

MOTION AND ORDER INFORMATION)
FORM AND COVER SHEET)

The Citadel)
 Defendant.)

Plaintiff's Attorney: Allan P. Sloan, Iii/Louis Hems, Bar No. Address: 321 East Bay Street, Charleston SC 29401 phone: 843-722-7733 fax: 843-722-7732 e-mail: chipsloan@phswlaw.com other:	Defendant's Attorney: M. Dawes Cooke, Jr./John Fletcher, Bar No. Address: Post Office Drawer H, Charleston, SC 29402 phone: 843.577.7700 fax: 843.577.7708 e-mail: mdc@barnwell-whaley.com other:
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Notice of Motion and Motion for Summary Judgment Estimated Time Needed: 45 minutes Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type <input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <p style="text-align: center;"> Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant</p> <p style="text-align: right;">Date submitted: <u>May 2, 2014</u></p>	
SECTION III: Motion Fee <input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: <input type="checkbox"/> Other:	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE: _____ CODE: _____ Date: _____
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

SCCA/233 (11-03)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 MOTHER DOE A,)
)
 Plaintiff,)
)
 v.)
)
 THE CITADEL,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NO.: 2011-CP-10-9200

**NOTICE OF MOTION AND MOTION
 FOR SUMMARY JUDGMENT**

TO: GREGG MEYERS, ESQUIRE, LOUIS P. HERNS, ESQUIRE AND ALLAN P. SLOAN III, ESQUIRE, ATTORNEYS FOR PLAINTIFF, MOTHER DOE A:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorneys for Defendant, The Citadel ("Defendant"), will move before this Court, at least ten (10) days from the date hereof or as soon as thereafter as counsel may be heard, for an Order granting Defendant summary judgment and entering judgment against the Plaintiff pursuant to Rule 56 of the South Carolina Rules of Civil Procedure because there are no genuine issues of material fact supporting Plaintiff's claims. The grounds for this motion are that:

- (a) Defendant is entitled to summary judgment as to all claims because, under South Carolina law, Defendant owed no common law or statutory duty of care to Plaintiff. *See e.g., Doe v. Marion*, 373 S.C. 390, 645 S.E.2d 245 (2007).
- (b) Defendant is entitled to summary judgment as to all claims because Plaintiff cannot present any evidence that she sustained any damages cognizable under South Carolina law. In the alternative, this Court should enter partial summary judgment, limiting Plaintiff's potential recovery in this case to: (1) out of pocket medical expenses and (2) loss of her son's services.
- (c) Defendant is entitled to summary judgment as to all of Plaintiff's claims because such claims are barred by the statute of limitations contained in the South Carolina Tort Claims Act, at S.C. Code § 15-78-110, because she did not file this action within two years after the loss was discovered.

- (d) Defendant is entitled to summary judgment as to Plaintiff's outrage claim (Count 2) because that claim is barred by the South Carolina Tort Claims Act, *see e.g.*, S.C. Code § 15-78-30(f), and because Plaintiff has had other potential remedies available to her.
- (e) Defendant is entitled to summary judgment as to Plaintiff's outrage claim (Count 2) because Plaintiff cannot proffer a scintilla of evidence that The Citadel acted with the requisite level of culpability for an outrage claim.
- (f) Plaintiff's potential recovery is limited to \$300,000.00 under the South Carolina Tort Claims Act, S.C. Code § 15-78-120(a)(1), because Plaintiff's claims involve a single alleged "occurrence."

This Motion may also be supported by a memorandum of law filed subsequent hereto, and by the argument of counsel at the hearing of these motions. This Motion will also be supported by the pleadings, depositions, discovery and documents produced in this matter.

BARNWELL, WHALEY, PATTERSON, AND
HELMS, LLC

By: M. Dawes Cooke, Jr.

M. Dawes Cooke, Jr., Esq.

Randell C. Stoney, Esq.

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288 Meeting Street, Suite 200

Charleston, SC 29401

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Counsel for Defendant The Citadel

Dated: May 2, 2014
Charleston, South Carolina

CERTIFICATE OF SERVICE

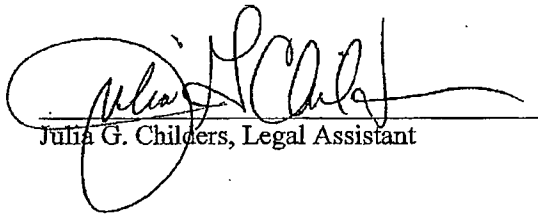
The undersigned hereby certifies that a true copy of the DEFENDANT'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT was served upon all counsel of record via E-Mail & U.S. Mail on this 2nd day of May, 2014.

ATTORNEY FOR PLAINTIFF:

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Julia G. Childers, Legal Assistant

STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
Mother Doe A,)	
)	
	)	Plaintiff,
v.	)	Case No. 12-CP-10-1858 & 1860
)	
The Citadel,)	
)	
	)	Defendant.

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on June 6, 2014, before The Honorable R. Markley Dennis in Courtroom 4B of the Charleston County, 100 Broad Street, Charleston, South Carolina; attended by counsel as follows:

APPEARANCES:

Mullins McLeod, Esq.

Chip Sloan, Esq.
 Appearing for Mother Doe A and Camper Doe 6

Dawes Cook, Esq.

Gedney Howe, Esq.

Gregg Meyers, Esq.

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
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dgarrison@sccourts.org

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1 THE COURT: Okay, gentlemen, thank you
2 all very much. I appreciate your patience.
3 It's beneficial to hear from you all in
4 addition to all of the materials that have
5 been provided, and I thank you very much for
6 those as well.

7 We are here on the Motion to re-
8 consider. So let's go ahead and hear that.

9 MR. SLOAN: Thank you, Your Honor.
10 Chip Sloan. I represent Mother Doe A and
11 Camper Doe 6.

12 While these summary judgment Motions
13 are in Mr. McLeod's cases, they do affect our
14 cases and an unfiled case that also Mr. Howe
15 wishes to bring in this case.

16 THE COURT: Right.

17 MR. SLOAN: Your Honor, I want to
18 start with the standard review that the Court
19 is to construe all evidence, including
20 reasonable inferences from the evidence in
21 the light most favorable to the plaintiffs.

22 THE COURT: No question, and no
23 question that we are dealing with a scintilla
24 world.

25 MR. SLOAN: Yes, sir. What I want

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1 to start with is what The Citadel does not
2 want -- what they tried to ignore in the
3 admission of 30(b)(6) deponent. In this
4 case, under the voluntary undertaking of duty
5 exception in Doe v. Marion, that we all
6 recognize, number one, the admitted fact of a
7 30(b)(6) deponent is that they voluntarily
8 undertook a duty to investigate Doe's
9 allegations ReVille ---

10 THE COURT: Let's just focus --
11 because, really and truly, reading this --
12 and it's helpful to read it and I appreciate
13 everything that has been given.

14 I guess really, Mr. Cook, I think I
15 need you to respond. I think probably the
16 best way to do this is that you respond.
17 Because that was the one thing that has given
18 me cause for concern, is the actions taken
19 and were they in fact a voluntary entry into
20 this, which then placed -- and the law is
21 clear on that. In Canvas (phonetic), because
22 I remember reading that, they went in -- they
23 undertook the duty and once they did, the law
24 said 'yeah, you have the responsibility to
25 act with due care and reasonably.'

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1 The question that I think that I
2 have is that when they did meet -- I think
3 what you're talking about is that when they
4 came and met, had the conversation and said
5 'we are going to do certain things.' You
6 believe that -- that that is the voluntary
7 entry into the world of protection?

8 MR. SLOAN: Well, yes, sir. That
9 and the admission in the deposition.

10 THE COURT: I understand.

11 MR. SLOAN: They are saying, 'I
12 undertook the duty.' Then they had a policy
13 that said what they had to do.

14 THE COURT: Well, what's the --
15 and I -- maybe y'all can address it, and
16 maybe I am confusing this with another area.
17 But what is the duty with respect to a crime?
18 Basically what's tantamount to a crime? In
19 the position that they were in, did they not
20 have a duty to report that to the proper
21 authorities?

22 MR. SLOAN: At The Citadel, they
23 had a written policy requiring them to do ---

24 THE COURT: Yeah.

25 MR. SLOAN: --- and they breached

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1 it.

2 THE COURT: As a matter of public
3 policy, don't they have a duty?

4 MR. SLOAN: I believe so. Yes,
5 sir.

6 THE COURT: Okay.

7 MR. SLOAN: And they ---

8 THE COURT: Address that for me,
9 Mr. Cook. Really and truly, we're talking
10 about -- obviously they're in a position --
11 a layperson, maybe. I don't -- just being
12 fair, not everybody understands the
13 significance of a pedophile, pedophilia.
14 But they are in a position where they should
15 understand that and what they -- and the
16 problems associated with that.

17 MR. COOK: Right.

18 THE COURT: Would you -- I mean,
19 you won't argue that they're in a superior
20 position when it comes to recognizing
21 pedophiles and knowing what they need to be
22 doing ---

23 MR. COOK: I will even do one
24 better than that. All of our people agree
25 that they understood -- from the president to

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1 members of the board, to Mark Brandenburg,
2 everybody said 'we understand that pedophilia
3 is -- that pedophiles are dangerous people.'
4 And, 'we understand that if a pedophile is
5 allowed to go free that he is likely to do
6 it again.' I mean, that's not unique to
7 pedophiles ---

8 THE COURT: I would agree with you
9 except that when you're in the position that
10 they were in, and you have notice of a fact
11 where a person has acted, ---

12 MR. COOK: Right.

13 THE COURT: I understand your
14 argument, and it's a -- and this is an area
15 that probably I -- my focus was on moreso
16 than what it should be for the purposes of
17 the action itself. Where does that take us?

18 MR. COOK: It ---

19 THE COURT: Does it take you to
20 where you have the right to recover because a
21 person acted? What is the foreseeability?
22 That becomes a jury issue, doesn't it?

23 MR. COOK: Well, no, and that's
24 the -- you've honed in on what I think is the
25 critical legal question. I've deliberately

1 tried to avoid any issues of a scintilla of
2 evidence or facts, because I am not
3 contesting any of the factual allegations.

4 THE COURT: And I appreciate that.

5 MR. COOK: At least for today.

6 We've got another day to ---

7 THE COURT: Sure.

8 MR. COOK: The test of assumed
9 duty -- or I'll say also that the same thing
10 applies for a statutorily-imposed duty, and
11 that is -- it is not foreseeability.

12 Foreseeability is not the question, it's not
13 the test. That's the test of proximate cause
14 but it's not the test of existence of a duty.

15 And I want to talk, if I could --
16 and I don't mean to preempt Chip, but ---

17 THE COURT: No. I want you to
18 address this business of -- because I will
19 agree with you -- well, let me say this just
20 for the purpose of discussion. Maybe there
21 is something that I've overlooked.

22 Assuming for a moment that we don't
23 have any voluntary undertaking, I think that
24 there is a legitimate legal question of
25 whether they had any duty just because they

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1 existed. But they did undertake it.

2 MR. COOK: Right. But the reason
3 why that doesn't create a duty is because
4 they did not undertake a duty to the
5 plaintiffs. I want to talk about some of the
6 cases that ---

7 THE COURT: Well, I've read --
8 those cases -- if you're talking about those
9 cases that you cited and quoted, I -- I've
10 looked at those.

11 MR. COOK: If you start, for
12 example, with ---

13 THE COURT: Maybe I missed it.
14 Are there any South Carolina cases that
15 address it ---

16 MR. COOK: Oh, yeah.

17 THE COURT: Specially?

18 MR. COOK: Yes.

19 THE COURT: Okay.

20 MR. COOK: I want to talk about
21 the Doe versus Walmart Stores case, ---

22 THE COURT: Okay.

23 MR. COOK: --- because that
24 involved the voluntary assumption of the
25 duty. And I have to start with *Doe v.*

1 Marion because the other case follows it.

2 THE COURT: Right.

3 MR. COOK: So *Doe v. Marion* was
4 the one where there actually was a violation
5 of the reporting statute, because this was a
6 doctor/therapist and a therapist does have a
7 duty ---

8 THE COURT: Right.

9 MR. COOK: --- to report if they
10 discover evidence of child abuse; not just
11 sexual abuse but any child abuse by a
12 guardian or custodian. This therapist did
13 not do that.

14 The report said, 'Okay, we under-
15 stand that but the question is, did that
16 statute create a duty to these plaintiffs?'
17 They did the analysis and they say there's
18 nothing -- the "the section is silent as to
19 civil liability." Then they go on to say "in
20 determining that Dr. Graf had no duty to
21 report, we look to the purposes of the
22 children's code and determine the statute is
23 concerned with the protection of the public
24 and not of the protection of an individual's
25 private right."

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1 Now, that's critical because you --
2 you would agree that the Children's Code
3 would say, 'Well, who else are you supposed
4 to be protecting if it's not a subsequent
5 victim? Why do you have all this reporting
6 stuff?'

7 The Court said, 'we understand that,
8 but that's not what we mean when we say a
9 duty to the specific plaintiff, because --
10 remember, we've got all the -- the Terasotte
11 (phonetic) case and the other cases that say
12 to create a duty to protect a specific
13 individual, that criminal or that dangerous
14 person that you had custody of had to have
15 specifically threatened that individual.' So
16 the Court has very narrowly circumscribed
17 that.

18 Then it says that this case is
19 distinguishable from *Jensen*. *Jensen* -- and
20 this is critical also. *Jensen* is the case
21 where they said that you could sue DSS for
22 failing to properly investigate claims of
23 abuse of a young man. But that was a
24 situation where *Jensen* actually had -- that
25 DSS had custody, had responsibility

1 specifically to the plaintiff in that case.

2 The Court in *Doe* said this case is
3 distinguishable from *Jensen* because there
4 existed no special duty between Dr. Graf and
5 James Doe, the plaintiff. That's the wide
6 gulf that the plaintiffs can't cross in this
7 one. If -- and this is why we're not making
8 this Motion with regard to the campers,
9 people who were injured or assaulted while
10 they were on campus ---

11 THE COURT: I understand.

12 MR. COOK: --- because there is
13 that special relationship.

14 Now, then you go to *Doe v. Walmart*.
15 It's really kind of a sad case factually,
16 where an aunt of a three-year-old child was
17 concerned that the child was being abused by
18 its parents and she -- she took photographs
19 of the bruises on the child's rear end, took
20 it in to be developed.

21 Well, the people at Walmart had a
22 policy where they said, 'we don't develop
23 pictures of naked children.' So they
24 destroyed -- they told her that they
25 destroyed the pictures. Subsequent -- so she

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1 didn't have any evidence to go to DSS with.
2 Subsequent to that, the child was sexually
3 abused by the father.

4 So the plaintiffs said, 'What do we
5 do?' They sued Walmart because there's that
6 child reporting statute that specifically
7 said "persons responsible for processing film
8 must report, in accordance with this section,
9 when in the person's professional capacity
10 the person has received information which
11 gives the person reason to that a child may
12 have been abused or neglected."

13 They followed *Doe v. Marion* and said
14 that doesn't create a duty. But ---

15 THE COURT: I would agree with you
16 but in both situations -- and I may be
17 missing it. You're right, I -- I agree with
18 you, everything about the cases that you've
19 cited. But in none of those cases do you
20 have the agency saying, 'I am going to do
21 something.'

22 MR. COOK: I am getting to that
23 part.

24 THE COURT: Okay. Because those
25 are all dealing specifically with the

1 statutory obligation.

2 MR. COOK: Right.

3 THE COURT: I don't quarrel with
4 the Court's narrowing of it, restricting to
5 some extent, who can be but, uh, -- in this
6 case, the distinction, at least for me right
7 now is they said, 'we are going to do
8 something about this.' So that changes the
9 dynamics of those cases a little bit, I
10 think.

11 MR. COOK: I am getting ready to
12 get to that.

13 THE COURT: All right.

14 MR. COOK: It would change it if
15 they said that to the plaintiffs. If they
16 were to -- to somebody that had some
17 connection with the plaintiffs and the
18 plaintiffs relied on that duty. I am going
19 to get to that one in just a minute.

20 THE COURT: All right.

21 MR. COOK: But before I do, in
22 the same *Doe* case, it turns out that Walmart
23 did voluntarily undertake the duty. It says
24 "Respondent has..." -- and that is Walmart.
25 "Respondent has an internal policy against

1 developing photos depicting nudity. The
2 policy requires employees to bring to the
3 attention of the store manager pornographic
4 pictures of children or where child abuse is
5 suspected." It also prohibits the printing
6 of picture depicting nudity and requires that
7 they be shredded if printed in error.

8 "There is an exception for cases of
9 suspected child abuse where the developed
10 photos must be kept as evidence, however the
11 policy requires that processed negatives be
12 returned to customers." However, in this
13 case they didn't do that. They didn't let
14 anybody know that they had suspected child
15 abuse, they didn't keep them as evidence, and
16 they didn't return the negatives. In fact,
17 they told the aunt that they had all been
18 destroyed.

19 The Court said that the, "Circuit
20 Court found that Walmart neither owed any
21 common law duty to the victim nor did it
22 create or undertake any duty when its
23 employees failed to follow Walmart's internal
24 policies."

25 This part is critical, (reading):

1 "We find that the Circuit Court properly
2 granted summary judgments to these
3 alternative causes of action because Walmart
4 owed no duty to the victim. It is clear that
5 Walmart had no general duty to control the
6 conduct of the victim's father or to warn the
7 victim of the danger of sexual abuse.
8 Further, none of the exceptions enumerated in
9 *Fyall* (phonetic) apply. Walmart had no
10 special relationship with either the victim
11 or his father because it did not have the
12 ability to monitor, supervise or control
13 either."

14 And they cite *Doe v. Marion*,
15 "Walmart did not negligently or intentionally
16 create the risk of the father's sexual
17 abuse..." -- that is critical also, because in
18 this case they're accused of failing to stop
19 the abuse, not of creating the abuse. That's
20 the exact same thing that we have here.

21 Lastly it discussed about Walmart's
22 duty to report and "the failure to report
23 under the statute cannot give rise" -- uh, so
24 it says, (reading): "However, this internal
25 policy cannot be said to constitute the

1 voluntary understanding of a duty. Rather,
2 it can simply serve as evidence of the
3 standard of care once that duty was
4 established by law."

5 Then you go to the case the
6 plaintiff's cite, *Miller v. City*. This is
7 the dam case. In that case the Court has a
8 very important footnote in which it says, the
9 text around that is "whether these facts
10 establish that Kendall volunteered to monitor
11 the lake level for the benefit of third
12 parties, or something facilitating it's own
13 arrangement with the City is an issue that
14 can be resolved by the jury."

15 That's a -- there's a factual issue
16 there because, you remember, the -- Kendall
17 had -- there were minutes of meetings that
18 showed that a Kendall representative was
19 there at the meetings where they were talking
20 about planning for, you know, failures of the
21 dam and so forth. So the argument was being
22 made that they actually did voluntarily
23 undertake to protect the various plaintiffs.

24 But then the Court says in a
25 footnote, (reading): "We decline to adopt

1 the expanded liability of restatement in
2 Section 324(a). This section imposes a duty
3 on one who undertakes to render services to
4 another, which he should recognize as
5 necessary for the protection of a third
6 person and requires no actual volunteer
7 relationship between the defendant and the
8 third party."

9 So that's the difference. That
10 under the restatement of some other courts,
11 they would say that once you've undertaken
12 this duty then you have the duty to -- that
13 someone foreseeably is injured, uh, can
14 recover.

15 Here the Court says that we are not
16 going to go that far, that there has to be
17 some relationship between the defendant and
18 the injured third party. That's why they
19 sent this case back, to find out if there was
20 a relationship.

21 THE COURT: And I appreciate all
22 that. We also understand, too, the attitude
23 of this state concerning sex abuse and child
24 abuse and pedophilia. That's why there's
25 situations -- that's why there has been a

1 tremendous movement. The problem that I have
2 is you're asking me to rule on this, really
3 and truly, in a summary judgment fashion
4 rather than where it may be best served at a
5 trial on the issues.

6 I really have a problem, personally.
7 I understand what you're saying. Maybe at a
8 trial -- I don't know who is going to be the
9 trial judge. If it is set on my docket, it
10 might be the day that I say 'see ya'. But I
11 will tell you that I -- really and truly in
12 reading that and knowing what they obviously
13 knew, and what they've indicated they knew,
14 uh, I think they jumped in -- put themselves
15 right in with the dam situation, totally. I
16 think that they've undertaken it to protect
17 society and anybody else because a pedophile
18 is somebody who has to be -- if you allow
19 that to exist -- not only to exist, but you
20 almost facilitate it. Really. That's what
21 scares me. They were in the position to have
22 -- what the person should have done was to
23 report it immediately, for the person to have
24 been arrested, because one thing's for sure.
25 One thing is for sure, at least I am

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1 comfortable with this one -- my assistant
2 recently had some surgery and the physician
3 -- I know him, he operated on both my
4 parents, but he asked her, he said, 'Why did
5 he -- I just don't understand why the judge
6 sentenced him to only fifty years.' Well,
7 if he wants to know, it was because I did
8 eighty-five percent. I took his age, I
9 figured that he'd be about seventy-seven or
10 seventy-eight, if he makes it that long, but
11 then he's got to go through the hurdle of the
12 sexually violent predator requirements, and
13 he will never probably see daylight again;
14 which he shouldn't, and I don't think anybody
15 in this room thinks that he should. But that
16 could have been -- that could have happened
17 long before, and he wouldn't have hurt a
18 soul. That's the concern that I have.

19 This isn't just -- this isn't --
20 I understand the Walmart case, but Walmart
21 didn't bring the people in and say, 'look
22 here' -- this -- we -- 'this is bad, we're
23 not going to -- we're going to look into
24 this.'

25 That's what you're saying. You're

1 basically -- let's take the Walmart case.
2 They had a policy. The Walmart case, to
3 liken it to this is bringing the guy in and
4 saying, 'look, here, you don't straighten up,
5 we're going to report you.'

6 But they didn't even say that. They
7 said they were going to take care of this.
8 That's what they said.

9 MR. COOK: But they didn't say it
10 to the plaintiffs. That's the difference.

11 THE COURT: Yeah, they did. They
12 said it to me, they said it to you, they said
13 it to everybody in the world as far as I'm
14 concerned. When you're in that situation and
15 you've got a person who has committed a
16 crime, who is likely -- and they know likely
17 -- to reoffend, -- and I understand what
18 you're -- and the Court -- I, really and
19 truly, believe that this case could begin to
20 change and maybe go back to the restatement.
21 The restatement of the law is -- I'm not
22 applying restatement of law, but the logic of
23 that, to me, makes perfect sense; especially,
24 especially when -- the dam wasn't a crime.

25 I mean, there's no question about

1 this. This is a crime. This is a criminal
2 act that they knew about and frankly should
3 have -- they should have prosecuted him. I
4 mean, that's what I don't understand.

5 MR. COOK: Well, I -- I didn't
6 get into that because I didn't want to get
7 into the scintilla of evidence. There are
8 strong issues about ---

9 THE COURT: Well, listen, if
10 they're worried -- what are they worried
11 about? Legal prosecution?

12 MR. COOK: Well, no. The statute
13 -- the reporting statute does not ---

14 THE COURT: I am just asking them
15 why not call the police, saying 'you need to
16 come investigate this.'

17 MR. COOK: That's a fair
18 question.

19 THE COURT: Because -- I mean, a
20 person says 'I don't want to get involved.'
21 I understand their reluctance. They don't
22 want to do a lot of things. That's why we're
23 in -- when Debi Herring-Lash (Solicitor)
24 brings these people in and has to try them,
25 it's an ordeal. It's a trauma. No question

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1 about that. But that ain't -- that's not
2 their fault. I mean, to me that's something
3 -- that's something that says you as a
4 responsible person, in a position that they
5 were in, of continuing to operate a camp,
6 saying 'I know this crime happened but...' ---

7 MR. COOK: The camp was closed by
8 the time that he came forward.

9 THE COURT: I understand that, to
10 an extent. But you're not telling me that
11 they're not involved with young people?
12 Males on males, today?

13 MR. COOK: Well, they have done
14 and awful lot to ---

15 THE COURT: I'm aware of that, I
16 understand that. I'm not being critical of
17 The Citadel. I think that it is a wonderful
18 institution and I think that this community,
19 this state, this country is served -- in
20 fact, we probably are talking about -- I
21 mean, today is D Day. A lot of people have
22 served, been connected with that institution
23 -- for sure.

24 In fact, we were talking about -- I
25 was watching a program just -- General Mark

1 Clark spoke to my graduating class. We were
2 watching a show on the sixties and talking
3 about the big push that we all remember,
4 those of us that were around. 'We've got to
5 stop communism, it's going to take over the
6 world.' And Mark Clark said that's a stupid
7 argument, you can't do that, you can't fight
8 a numbers war. He was dead right, in 1966 he
9 said that. Now everybody says, 'yeah, that's
10 what we did, we made a mistake.'

11 No, there's some beautiful, wonder-
12 ful people -- and I'm not being critical of
13 them. I am just saying that in this
14 particular case somebody dropped the ball.

15 MR. COOK: Could I just make one
16 -- and I don't want to keep arguing.

17 THE COURT: No, Mr. Cook, my
18 friend, -- the one thing that I will agree
19 with everything that has been said about you
20 and the gentleman -- you and Gregg -- Gregg
21 spoke to our group, and I agree with Gregg's
22 statement. You're not even going to make --
23 you're not going -- he won't make you mad.
24 So I understand that.

25 MR. COOK: Thank you. These

1 points are very important, and I would like
2 to say just a couple of things.

3 One thing is that it is not just
4 sexual abuse. There are other things: drunk
5 driving, the offense of murder, ---

6 THE COURT: Oh, I couldn't agree
7 more. And what have we done about drunk
8 driving? We've just passed some laws, just
9 this year, to talk about that.

10 I am just telling you what I think.
11 I think that it is an injustice. First of
12 all, I think that it is -- I think that act,
13 to me, is a scintilla world and it creates
14 the problem. I can't get around that.

15 I mean, I could go with all the
16 other arguments that you make. I don't have
17 any legal issue with that, I don't have a
18 problem. But when they undertook something
19 and that -- frankly, I mean, it could've --
20 I just think that the Court needs to say,
21 'nope, notwithstanding all this law that we
22 have passed, we're not going to place that
23 burden' -- we are not going to say that
24 people -- to expect that somebody would abuse
25 a child one time or that they would have a

1 picture of one time, to me that is not even
2 -- I cannot reconcile that.

3 Pedophiles, we know, I mean there
4 are statistics about that. Now, I'll grant
5 you, uh, -- one of the things with the
6 sexually violent predators, in fact they
7 always talk -- that there is a twenty to
8 forty percent chance of, or it used to be, of
9 repeating. I'm ballparking. To reoffend.
10 That's why we need to keep them in. Well, I
11 asked Westie (Westmoreland Clarkson) one
12 time, who was prosecuting, who handled those
13 actions for the State, 'that means there is a
14 sixty to eighty percent chance that they
15 won't.' But nobody talks about that. They
16 talk about what can be.

17 But in this particular situation,
18 uh, I just -- I just think that it simply ---

19 MR. COOK: May I make one ---

20 THE COURT: Sure.

21 MR. COOK: You said something
22 really important. You said that this may
23 be the case where the Court changes it's
24 thinking.

25 THE COURT: I don't ---

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1 MR. COOK: It could be. Could
2 be. But -- and there's no question but that
3 both of those *Doe* cases were tragic cases
4 involving ---

5 THE COURT: Very.

6 MR. COOK: --- sexual abuse of
7 the victims. But if you were -- this case is
8 going to go to the Supreme Court, the Court
9 of Appeals, ---

10 THE COURT: I know it.

11 MR. COOK: You know, in the
12 Federal Court you could deny the Motion,
13 then certify it for immediate appeal. In
14 the State court you can't.

15 THE COURT: I understand.

16 MR. COOK: The only way to get it
17 up there is to have a judgment. These guys
18 may or may not agree with this, but if you
19 allow this case to go forward, there may be
20 'thirty' other cases out there. Everybody
21 that was offended by ReVille might feel like
22 they've got to bring a case. But if the
23 Supreme Court gets a chance to rule and -- if
24 there is a cause of action, we should all
25 know that. Why drag all those people through

1 a trial to find out?

2 THE COURT: You know something?
3 You're arguing something that I -- John
4 Kittredge and I, when John was a Circuit
5 Court judge, we talked about it. We shared,
6 we had coffee over it. One of the things
7 that we said -- I might as well put this in
8 there, because they'll read it someday.
9 Maybe I will be gone then and they won't be
10 able to say, 'bring your robe to Columbia.'
11 But we both feel that it is a travesty for
12 both sides that we can't do more of what the
13 Federal Court does in allowing these issues
14 to be addressed and not have to spend all the
15 money that all of us that practice law know
16 that we have to spend to get to that point.
17 I don't know the answer to that. I wish that
18 I did.

19 I still don't know the answer, and
20 it's twenty years now removed, why you have a
21 motion to change venue and you can't hear the
22 convenience of witnesses at the same time.
23 You have to change it, then go there and
24 argue the convenience of witnesses and come
25 back. That makes no sense to me.

1 It makes no sense to me that I can't
2 consider something that I was slapped on the
3 wrist -- fortunately Bill didn't get anybody
4 to go with him, but he got my attention on
5 Motions to dismiss when I was practicing law.
6 I knew where it was going, that it was going
7 to be slammed in a summary judgment but that
8 wasn't before me, and I considered things
9 outside of the pleadings. Can't do that.
10 That doesn't make any sense either. Why
11 don't we streamline a lot of things? But
12 that's not before me. I also didn't create
13 the scintilla world either.

14 But, having said all of that, I hear
15 you. I know that. All I can say is that
16 it's like -- Albright Wilson, that's one of
17 the cases that I remember being involved in
18 before I went on the bench. There were lots
19 of cases, you try one -- I did -- I was
20 assigned the I-26 cases, there were sixty or
21 seventy of those filed. We got one, it
22 settled and then everything went down the
23 road.

24 If we try one, we won't have to try
25 them all. We pick the best one, try it.

1 Take it up, see where we go.

2 Obviously the people will be filing
3 to protect their right to bring a suit, I'm
4 sure. But that's an easy -- that's a
5 scheduling -- that's an administrative judge
6 nightmare. That's not a -- it's not
7 insurmountable. I hear you, I understand
8 what you're saying and I agree with you but I
9 just don't think -- frankly, what good is it
10 -- I'll give you this, I -- I shouldn't put
11 this on the record. Oh, I don't care.

12 I was trying a case in Florence
13 about two months and had something happen
14 that I'd never had happen. A person in the
15 audience starting screaming at the solicitor
16 in closing arguments. I'd made a comment in
17 my ruling on a directed verdict and he said,
18 "you said you would have shot him." It was a
19 question of pointing-and-presenting. An
20 officer shot the man, he had a pistol and
21 there was a question if he pointed it. He
22 did. The officer said that he pointed it
23 twice. I said, 'If I had been in his shoes,
24 I would have shot him the first time that he
25 pointed it. I think that he was well within

1 his right to do that.' The fellow hollered
2 and said, 'Judge, you even said you'd do
3 that.' The jury is sitting there. I said,
4 'No, sir, sit down.' He said, 'You did so.'
5 So I excused the jury.

6 And I thought 'this is a mistrial.'
7 I went back to the office and thought about
8 it. I called my then colleague Mike Baxley,
9 who was from that area and said, 'What do you
10 think?' He said, 'Well, I think you can.
11 I wouldn't. You make the call. But let me
12 just tell you this, if you go ahead and have
13 the trial and they think that you are wrong
14 they'll give them a chance to try it again.'
15 So there's no harm, no foul. I said that
16 makes sense.

17 The same is true here. If I grant
18 you summary judgment, it goes up. They're
19 not going to address all these issues.
20 They're going to say, 'Judge, it was a
21 scintilla. Go back. Try it.' Nobody has
22 any guidance. This way we get some guidance.
23 So that's -- that's my thought process in
24 response to your question. So I hear you.

25 MR. COOK: You actually didn't

1 grant it. You took it under advisement.

2 THE COURT: Okay, everything was
3 couched as a Motion to reconsider, so I
4 thought that ---

5 MR. COOK: You might be thinking
6 about the computer case.

7 THE COURT: The computer case.
8 We're getting old.

9 MR. COOK: We all briefed the
10 statute of limitation and I think that you
11 did deny the ---

12 THE COURT: Yeah, I did deny the
13 statute of limitations. I thought that they
14 were well within -- that's an issue that is
15 preserved, no question. You know what -- if
16 and when I still -- if and when it gets up
17 there and they say, 'Judge Dennis should have
18 granted summary judgment' then that will help
19 me the next time.

20 Thank you very much. Just a form
21 Order? Saying summary judgment Motion
22 denied. Thank you, gentlemen. I thank you
23 for your patience with me.

24 (HEARING CONCLUDED)

25

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

MOTHER DOE A,)

Plaintiff,)

v.)

THE CITADEL,)

Defendants.)

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

JOHN DOE CAMPER,)

Plaintiff,)

v.)

THE CITADEL,)

Defendant.)

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

JOHN DOE 2)

Plaintiff,)

v.)

THE CITADEL,)

Defendant.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2011-CP-10-9200

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2012-CP-10-1860

FILED
2012 DEC 12 PM 1:10
CLERK OF COURT
JAMES R. LONG
RY

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Civil Action No.: 2012-CP-10-1858

The Plaintiff, Mother Doe A, complaining of the above-named Defendants alleges as follows:

1. Mother Doe A is a former citizen and resident of South Carolina, presently a citizen and resident of a state other than South Carolina. She is the natural parent of a child who in late 2007 and 2008 was under the age of 16 and was sexually abused by Louis Neal "Skip" ReVille on multiple occasions over a time span of more than a year. By ReVille's own admission, the Plaintiff's child is a person upon whom the crime of criminal sexual conduct has been committed. The Plaintiff is referred to in this public filing by pseudonym to maintain the confidentiality of her child's identity pursuant to S.C. Code § 16-3-730, which prohibits publication of the names of victims of criminal sexual conduct. The Citadel has been informed of the identity of the Plaintiff and her child by separate communication upon their agreement to maintain confidentiality of the information as to the public record.

2. The Citadel is a public college owned and operated by the State of South Carolina with its principal place of business in Charleston County, South Carolina. Among other things, The Citadel maintains an Alumni Association website that provides contact information of former Citadel cadets, including employment information and personal accolades. Skip ReVille is a former Citadel cadet, former Citadel Summer Camp counselor, and former employee of The Citadel. In April 2007, while ReVille was employed as a member of the Citadel faculty, The Citadel had knowledge that ReVille had demonstrated a sexual interest in children and a willingness to engage in inappropriate and unlawful sexual behavior with young boys and that such behavior had occurred on its campus. At the various times giving rise to the numerous separate occurrences set forth in this Complaint, The Citadel was acting through its agents, servants, employees, and/or officers.

3. This action is filed in the county in which the numerous separate and distinct occurrences giving rise to this case occurred.

4. This Court has personal jurisdiction over the parties to this action and subject matter jurisdiction over the claims alleged herein.

FACTUAL BACKGROUND—THE 2005 & 2007 REPORT

5. From 1957 to 2006, the Citadel operated a residential sports camp for children ages ten to fifteen (“The Camp”) with a focus on athletics and activities aimed at the strengthening of character in a disciplined and structured environment. The Camp consisted of two three-week sessions per summer during which campers resided in barrack style dorm rooms on The Citadel campus.

6. The Camp was operated by and through the Office of The Commandant of Cadets, through which The Citadel selected, employed, and supervised current and former Citadel cadets to serve as staff and camp counselors.

7. In operating The Camp, and in selecting, employing, and supervising its counselors, The Citadel assumed a duty to screen, monitor, and supervise its employee counselors, as well as a duty to maintain the safety of the children who interacted with its employees, and a duty to represent accurately its experience with its counselors.

8. Among the counselors selected, employed, and supervised by The Citadel was Skip ReVile. A Citadel cadet from 1998—2002, ReVile was employed as a counselor at The Camp from 2001—2003 and was an employee of the State of South Carolina working for The Citadel in the summer of 2002 and during the 2006—2007 academic year.

9. During his tenure at The Camp, ReVille sexually abused at least seventeen campers on The Citadel campus. To do so, ReVille violated established Citadel policies, and did so with the knowledge of Director Jennifer Garrott and other Citadel officials.

10. In particular, throughout the summer of 2001, 2002 and 2003, ReVille engaged in behavior which violated clearly established Camp policy and Citadel regulations on numerous instances, with the knowledge of Ms. Garrott, by:

- i. Coercing minor campers to his dorm room after Taps/lights out;
- ii. Having minor campers in his dorm room behind closed doors with no other adult supervision during day and evening hours;
- iii. Providing food to campers to coerce them into his dorm room;
- iv. Coercing campers and other minors to spend the night in his dorm room;
- v. Showing pornography to minor campers, who were between the ages of ten and fifteen;
- vi. Masturbating in front of minor campers and forcing campers to do the same;
- vii. Showering with minor campers;
- viii. And any other such particulars as may be shown at trial.

11. Upon information and belief, Ms. Garrott, as well as other Citadel officials and staff, were aware of ReVille's deviant, pedophilic tendencies as early as 2001, wherein it was noted that ReVille was "senior counselor material *if learns to distance himself from campers . . .*" (Exhibit A, 2001 Employee Evaluation).

12. During the summer of 2002, Plaintiff is informed and believes that Ms. Garrott, caught ReVille in his dorm room alone with a minor camper. Upon information and belief, both Ms. Garrott and Company Tactical Officer, Major Bates, discussed the issue with ReVille, but declined to reprimand or terminate his employment despite established policies and procedures requiring such action. In addition, Plaintiff is informed and believes that neither Ms. Garrott nor Major Bates ever followed up with the minor camper or other counselors to investigate any

inappropriate or suspicious behavior involving ReVille and other minor campers. Further, upon information and belief, no written report of ReVille's infraction was ever recorded in his employee file.

13. During the summer of 2003, another victim, identified in this Complaint by his designation in this litigation as Camper Doe 6, was abused by ReVille at The Camp. In fact, at the beginning of The Camp's Second Session, before ReVille had actually succeeded in sexually abusing and molesting Camper Doe 6, Ms. Garrott caught ReVille alone in his dorm room with Camper Doe 6 rubbing "Icy-Hot" on the minor's leg. Ms. Garrott has stated that she became extremely upset upon catching ReVille alone with Camper Doe 6. She consequently yelled at ReVille "because he was supposed to make the example and not put himself into a situation that might be misconstrued." (Exhibit B, Deposition of Jennifer Garrott at page 43, lines 21-24). Consistent with the practice and custom of The Citadel to suppress information about sexual abuse of children despite Citadel policy requiring immediate termination for such behavior, Ms. Garrott failed to terminate ReVille and further neglected to draft a report or memorandum to document the serious policy violation.

14. Ms. Garrott now concedes, however, that pursuant to Camp and Citadel policies and procedures, ReVille should have been terminated immediately for having a minor in his room and rubbing "Icy-Hot" on his leg, the incident should have been recorded in ReVille's permanent file, and a written report should have been drafted and circulated regarding the matter. Ms. Garrott has likewise conceded that had ReVille been terminated, Camper Doe 6 and other minor victims would not have been subjected to ReVille's sexual abuse and molestation. (Exhibit B, Deposition of Jennifer Garrott at page 57, lines 10-13).

15. Instead, ReVille was permitted to continue to serve at The Camp as Senior Counselor for the entirety of the second session of 2003. During this three week session, after Ms. Garrott caught ReVille alone with Camper Doe 6 in ReVille's room, ReVille repeatedly and on numerous separate occasions initiated inappropriate contact with Camper Doe 6 in ReVille's dorm room. This inappropriate contact progressed to sexual molestation which occurred on multiple separate occasions throughout the duration of the camp session.

16. In the summer of 2005, after being subjected to ReVille's sexual abuse and molestation in 2003, Camper Doe 6 returned to work at The Camp as a Junior Counselor. Upon information and belief, Camper Doe 6 was "a good kid" and model counselor with no complaints or disciplinary problems. (See Exhibit B, Deposition of Jennifer Garrott at page 31, lines 22-23). After completing pre-camp counselor training in June of 2005, which included a section on child sexual abuse drafted by People Against Rape, Camper Doe 6 recalled his 2003 sexual abuse by ReVille and felt compelled to report ReVille's acts of sexual abuse to Camp Director Garrott.

17. Confronting ReVille's abuse was extremely difficult for Camper Doe 6 but he nonetheless went to Ms. Garrott's office and indicated he wanted to discuss something that was bothering him. Ms. Garrott welcomed Camper Doe 6 and invited him to sit down in her office. Once in Ms. Garrott's office, Camper Doe 6 explained that he wanted to talk with her about "Skip ReVille." The moment ReVille's name was mentioned Ms. Garrott's demeanor immediately changed. She abruptly called off the meeting, claiming she had another obligation, and directed Camper Doe 6 to return to his room. Consistent with the practice and custom of The Citadel to suppress information about sexual abuse of children, Director Garrott refused to take the detailed report Camper Doe 6 was prepared to make about ReVille in the summer of 2005.

18. Within an hour of Camper Doe 6 attempting to report ReVille to Director Garrott, a Senior Counselor, acting at the direction of Ms. Garrott, came to Camper Doe 6's room and directed Camper Doe 6 to come to the Parade Ground. Once there, Camper Doe 6 was fired by the Senior Counselor and instructed to leave the premises within two hours.

19. Plaintiff is informed and believes that in the two hour period before Camper Doe 6 was fired, Ms. Garrott spoke to Colonel Lackey about Camper Doe 6's attempt to report ReVille. Upon information and belief, because Citadel and Camp policy would require reports of sexual abuse to be disclosed to Citadel Public Safety and other appropriate law enforcement agencies, The Citadel chose to terminate Camper Doe 6 without just cause to avoid the damaging ramifications such a report could have on the college. (See Exhibit C, Counselor Code of Conduct and Counselor Handbook, prohibiting sexual activity in any form and requiring counselors to abide by the regulations of The Citadel, including the college's Honor Code and Summer School Regulations; Exhibit D, Camp Policies Regarding Sexual Misconduct Issues, requiring reports of sexually inappropriate conduct to be turned over to the Citadel Public Safety Department requiring Public Safety to contact the appropriate law enforcement agency).

20. Acting at Director Garrott's direction, the Camp's Senior Counselor stated, as a pretext for terminating Camper Doe 6, that Camper Doe 6 called one of the campers a "faggot." Camper Doe 6 informed the Senior Counselor that he had never used that term to refer to any camper. Ms. Garrott was similarly aware that Camper Doe 6 had not referred to any camper in that manner, and the pretext used by the Senior Counselor was merely a means to conceal the actual reason for terminating Camper Doe 6, i.e. that he had attempted to report ReVille's sexual misconduct with minors.

21. Ms. Garrott knew as early as 2002 that ReVille violated camp rules to isolate himself with minor campers. He did so, to her knowledge, more than once. Had she not truncated Camper Doe 6's report regarding ReVille in 2005, it would have violated the practice and custom of The Citadel to suppress reports of sexual misconduct of Citadel staff with minors, and her prior knowledge and lack of proper supervision of ReVille between 2002 and 2005 would have become known. For those reasons, it was preferable that Camper Doe 6 be terminated from the 2005 Citadel Summer Camp on a pretext.

22. The Senior Counselor that fired Camper Doe 6 gave him hours to leave The Citadel campus. Management of the camp would not speak with him. Director Garrott saw campers interacting with Camper Doe 6 shortly after his termination but before his departure and ordered him to get away from the campers and to leave the campus. The actions by Garrott and the Senior Counselor to terminate Camper Doe 6 and remove him from The Citadel campus were taken because Camper Doe 6 attempted to report ReVille's misconduct. The reason used to terminate Camper Doe 6 was a pretext.

23. The practice and custom of The Citadel is to suppress reports of sexual misconduct of Citadel staff with minors.

24. In 2005, Mark Brandenburg became general counsel for The Citadel. The custom and practice of The Citadel to suppress reports of sexual misconduct of Citadel staff with minors was continued under Mr. Brandenburg's tenure.

25. In January 2006, Defendant Rosa became the President of The Citadel. The custom and practice of The Citadel to suppress reports of sexual misconduct of Citadel staff with minors was continued under Defendant Rosa's tenure.

26. In April 2007, while ReVille was working in The Citadel's writing center, The Citadel received information concerning allegations of child sexual abuse by ReVille. (See Exhibit E, MHA Interviews 00036 (stating "Skip was working in the writing center at the time the call came in.")).

27. Specifically, on April 23, 2007, the father of a former camper called the office of Lieutenant General John W. Rosa, President of The Citadel, and reported to Mark C. Brandenburg, The Citadel's General Counsel, that his son ("John Doe" or "Doe") had been sexually abused by ReVille while attending The Camp in 2002.

28. In addition, it was reported that ReVille, while on the premises of The Citadel and during the course and scope of his employment with The Camp, engaged in inappropriate sexual conduct with many other campers under age sixteen.

29. Doe's father further indicated that "he wanted the school to know about this incident and to know that an apparent predator was once affiliated with the school." (See May 16, 2007 Correspondence to IRF attached hereto as Exhibit F).

30. In a follow-up phone call with Mr. Brandenburg later that day, Doe reiterated that the sexual abuse was frequent and involved many other campers, stating ReVille "engaged in this activity frequently, though, and with many other campers." (See Exhibit F).

31. Mr. Brandenburg has stated that he recalled immediate concerns upon receipt of Doe's report on April 23, 2007. (See Exhibit G, Margolis Report at 13). Upon information and belief, these concerns stemmed from Brandenburg's recent involvement in a series of civil suits concerning numerous instances of child sexual abuse at The Camp by Captain Michael J. Arpaio of the United States Marine Corps, a senior counselor and volunteer from 1995-2001.

32. Like the call from Doe's father, the Arpaio litigation similarly commenced with a report by a camper's parent alleging that a counselor, in this case Captain Arpaio, had sexually abused several campers in the counselor's dorm room. This initial report led to a police investigation and subsequent involvement by the Marine Corps that soon revealed that Captain Arpaio had committed multiple acts of child sexual abuse while working at The Camp.

33. Throughout the Arpaio matter, Mr. Brandenburg, then a private attorney for the firm of Barnwell Whaley Patterson and Helms, LLC, along with Citadel Executive Assistant to the President Colonel Joseph Trez, was heavily involved in the subsequent lawsuits brought against The Citadel by the victims and their families. (See Exhibit G, Margolis Report at 13-14).

34. Upon information and belief, during the Arpaio litigation, which extended for a period of years before settling in 2006, Mr. Brandenburg, Colonel Trez and others became intimately acquainted with the mandates of The Citadel's policies and procedures regarding sexual abuse, sexual harassment, serious incidents, and sexual misconduct issues, including, but not limited to, the following:

- i. Memo 51, Sexual Harassment Policy:
 - a. "Whenever there is an incident of sexual assault or sexual abuse, the incident will be reported to the police."
 - b. Examples of sexual harassment include: "[d]isplaying sexual graffiti and sexually explicit pictures," "[s]exually touching or rubbing oneself in a suggestive way when around another person," and "[c]ommitting sexual assault."
- ii. Camp Policies Regarding Sexual Misconduct Issues:
 - a. "Regardless of the validity of the violation, any sexually inappropriate conduct reports concerning any camper or employee of the camp will be turned over to the citadel public safety department and a thorough investigation conducted."

- b. "All sexual misconduct allegations disclosed at any time concerning any individual(s), currently or formerly, associated with the camp, will be investigated upon disclosure. There are no time period restrictions regarding sexual misconduct investigations."
- iii. Memo 39, Serious Incidents Policy:
 - a. "Serious Incidents" include: "The occurrence on The Citadel campus or the involvement of a member of The Citadel Corps of Cadets, day/evening student, faculty, staff or campus dependent, as the suspect or victim in an incident," "scandal involving an individual closely identified with the college," and "allegations concerning illegal or immoral activities at the college."
 - b. "Serious Incidents" must be reported to the Executive Assistant to the President (i.e., Col. Trez in April – December 2007).
 - c. The Executive Assistant to the president must report the serious incident to Citadel Public Safety.
 - d. Once reported, Citadel Public Safety is entrusted with "initiat[ing] an incident report and investigation as necessary" and "contact[ing] the appropriate law enforcement agency (agencies) as necessary to ascertain the facts in the situation."
- iv. Memo 9, Sexual Assault Crisis Intervention Policy:
 - a. Defining sexual assault as including "rape and all other forms of unlawful sexual behavior and contact which is not mutually agreed upon . . . without affirmative consent by all persons involved."
 - b. Affirmative consent cannot be given where the person is under eighteen years of age.
- v. College Regulations:
 - a. Section I, p. 1, under "Core Values" states, "Duty: We emphasize the importance of individual accountability and the moral obligation of responsibility for the welfare of others."
 - b. "Ignorance of any order or regulation is not considered an excuse for neglect or misconduct."

(See Exhibit H, Memo 51, Sexual Harassment Policy CIT 001697, 001703; Exhibit D, Camp Policies Regarding Sexual Misconduct Issues; Exhibit I, Memorandum Number 39, "Serious Incidents" at page 10 and 12; Exhibit J, Sexual Assault Crisis Intervention Policy, Memo No. 9 (later replaced and superseded by Memo No. 4 of the same title and containing the same cited language); Exhibit K, Code of Regulations, p. 1 & 17).

35. At all times prior to, during, and after Doe's April 2007 report of criminal sexual conduct, President Rosa, Mr. Brandenburg, Colonel Trez, Jennifer Garrott and others knew or should have known their duties and obligations pursuant to the above-referenced policies and procedures, including, but not limited to, the duty to report the allegations to law enforcement.

36. Despite The Citadel's duties and obligations pursuant to these policies and procedures and consistent with the practice and custom of The Citadel to suppress information about sexual abuse of children, The Citadel deliberately declined to report the incident to The Citadel Public Safety, the Charleston Police, or the State Law Enforcement Division ("SLED").

37. Instead of reporting the allegations, Defendant Brandenburg, at the direction of Defendant Rosa, investigated the information given by the 2002 camper. Brandenburg was chosen precisely because The Citadel could claim (incorrectly) that all information he received could be withheld from others, since he was an attorney.

38. Although Mr. Brandenburg conceded that a goal of the investigation was to prevent harm to other young boys, the investigation was not processed through the customary channels as mandated by The Citadel's internal policies and procedures. (See Exhibit L, Brandenburg Deposition at p. 31).

39. Rather, Plaintiff is informed and believes that the investigation was conducted solely by The Citadel's top ranking officials so as to prevent additional negative publicity and to avoid another round of lawsuits concerning child sexual abuse at The Camp.

40. On April 24, 2007, Brandenburg attempted to contact ReVille, who, upon information and belief, was on campus working in The Citadel's writing center when he received a call to meet with Mr. Brandenburg and Colonel Trez.

41. When confronted by Brandenburg and Colonel Trez, Plaintiff is informed and believes that ReVille initially denied the allegations, stating, "You know me, I'm Skip ReVille."

42. Upon information and belief, at the time of the April 24, 2007 meeting, Skip ReVille had a special relationship with The Citadel and was subject to discipline pursuant to The Citadel's policies and procedures to the extent he was a member of The Citadel faculty, a current job applicant for two open positions with The Citadel, and an individual closely identified with The Citadel who continued to maintain and utilize a Citadel faculty email address. (See Exhibit M, ReVille Payroll Check History, referencing final check issued on May 15, 2007, and S.C. Employment Security Commission Records, referencing 4/30/2007 as last day worked and indicating "still employed by The Citadel"; Exhibit L, Brandenburg Deposition at 127, 129 & 132; Exhibit S, Deposition of Col. Trez at 81).

43. However, instead of complying with The Citadel's internal policies and procedures requiring reporting of allegations of sexual misconduct involving faculty, staff or individuals associated with the college, Mark Brandenburg and Colonel Trez instructed ReVille to "lay low."

44. Later that day, Mr. Brandenburg spoke with Ms. Garrott who informed Brandenburg that prior to ReVille's employment at The Citadel in 2006, ReVille had been asked

to leave his former employment at Pinewood Preparatory School in Summerville, South Carolina ("Pinewood").

45. As a result of this discussion, The Citadel had in its possession a handwritten note by Brandenburg which stated, "Skip was asked to leave Pinewood Prep [knowing look]." (See Exhibit N, Brandenburg notes dated 4/27/07 (emphasis in original)).

46. Plaintiff is informed and believes that both Ms. Garrott and Mr. Brandenburg were aware that ReVille had been asked to leave Pinewood for reasons related to inappropriate behavior with children and/or child sexual abuse.

47. However, Brandenburg neglected to contact Pinewood to inquire as to the nature of his termination or as to any complaints of inappropriate behavior regarding ReVille.

48. In fact, at no time during or after the April 24, 2007 meetings with ReVille and Ms. Garrott did Mr. Brandenburg, President Rosa, Colonel Trez or any other Citadel official inquire about ReVille's previous, current or other employment or activities to determine whether he had contact with or access to children or to determine the reasons for his termination(s) or dismissals from employment, including the reason for his termination from Pinewood. (See Exhibit G, Margolis Report at 16).

49. Plaintiff is further informed and believes that Ms. Garrott, who was aware of ReVille's sexual abuse of minors, either withheld this information from Brandenburg or shared her knowledge of the noted instances involving ReVille's inappropriate conduct with minors at The Camp, including the 2003 "Icy Hot" incident, and collaborated with Brandenburg, Rosa and Trez in concealing ReVille's sexual abuse. (See Exhibit B, Garrott Deposition Volume II at 93).

50. Sometime between the April 23, 2007 report and May 1, 2007, Mr. Brandenburg and others were aware that several other former campers who were allegedly abused by ReVille

in 2002, as well as an eyewitness to Doe's abuse, were currently on The Citadel campus and enrolled as Citadel Cadets.

51. Plaintiff is informed and believes that although Brandenburg contacted some of these individuals by email to inquire as to the allegations, he either failed to speak with the former campers/current cadets or in the alternative, he discussed the abuse with the former campers/current cadets and confirmed Doe's allegations of sexual abuse and misconduct by ReVille. Nonetheless, in either case, Brandenburg never reported the abuse or the allegations to The Citadel Public Safety, the Charleston Police, SLED or Citadel Staff specializing in responding to reports of sexual and gender violence.

52. Despite the directives of established Citadel policies, at no time during The Citadel's investigation into the matter did Mr. Brandenburg, President Rosa, Colonel Trez, Jennifer Garrott or others disclose the report, the nature of the allegations, or the information gleaned with The Citadel Public Safety, the Charleston Police, SLED or Citadel Staff specializing in responding to reports of sexual and gender violence. (See Exhibit G, Margolis Report at 16).

53. Instead, these details were shared only with The Citadel's insurance carrier, the South Carolina Insurance Reserve Fund ("IRF").

54. Given Mr. Brandenburg's experience with the investigation into the Arpaio matter and his "extensive knowledge of the camp from this time period," he offered to conduct a further pre-suit investigation of Doe's allegations wherein he would serve as the IRF's special investigator. (See Exhibit F, May 16, 2007 Correspondence to IRF).

55. According to Mr. Brandenburg, having the IRF fund an interview with the former camper would be “the most likely approach to lead to a *quick and inexpensive resolution* of this claim.” (See Exhibit F) (emphasis added).

56. However, Plaintiff is informed and believes that Mr. Brandenburg knew ReVille personally and was aware of ReVille’s stellar reputation as a highly respected cadet, faculty member, and former Chairman of the Honor Committee.

57. Notwithstanding the inherent potential for bias, Mr. Brandenburg suggested, and President Rosa, the Board of Visitors, and the IRF all agreed, to allow him to continue to lead the investigation into the allegations of abuse by a child sexual predator despite the fact that the alleged perpetrator was an individual whom Brandenburg, along with the majority of the Citadel community, highly regarded.

58. Thereafter, Mr. Brandenburg, acting as the IRF’s special investigator, was dispatched to Dallas, Texas to meet with Doe and take his statement.

59. Plaintiff is informed and believes that Mr. Brandenburg’s visit to Texas to interview Doe was a step beyond The Citadel and the IRF’s normal activity, demonstrating The Citadel’s desire to obtain a quick resolution, to avoid negative publicity, to keep the matter out of the public eye, and to protect ReVille. (See Exhibit F; see also Exhibit G, Margolis Report at 19-20).

60. On July 1, 2007, a court reporter transcribed the former camper’s statement, which disclosed to The Citadel the following details regarding the abuse:

- i. In 2001, ReVille hosted movie nights where he would order pizza or Chinese food to entice campers to come to his room to watch pornography. During these movie nights, ReVille would masturbate in front of the boys and encourage them to do the same. ReVille would also shower with the boys.

- ii. On one occasion, ReVille invited Doe and his friend, also a camper, to his room. ReVille ordered Chinese food and began showing the boys pornographic videos on his computer. Eventually, ReVille began masturbating in front of the boys and encouraged them to join him. When Doe refused, ReVille “got a little aggressive” and asked the boy to come back to the computer and join him, which he did.
- iii. ReVille also insisted that Doe and the other camper spend the night with him in his room. When Doe tried to leave, ReVille coerced him into staying and masturbating in front of him.
- iv. ReVille abused the other camper who accompanied Doe to ReVille’s dorm room, as well as four other campers, multiple times during the summers of 2001 and 2002.
- v. Furthermore, Doe personally observed younger boys going into ReVille’s room late at night over the course of the summer. He further explained that at least five other boys had been involved, stating: “I know there are about five other kids that experienced it a few times.”

(See Exhibit O, July 1, 2007 Statement at 73-75, 80-81, 83).

61. At numerous points throughout the statement, Doe reiterated that there were many other instances and victims of ReVille’s abuse. Notably, many details provided by Doe, such as the identification of the actual names of other victims through camp yearbook photos and other camp materials, came as new information to The Citadel since the April 23, 2007 report.

62. The former camper concluded the interview expressing his foremost desire to put an end to the abuse, stating: “Most of all, the thing I want the most is just to make sure that [ReVille] doesn’t have a chance to do this to anyone else.” (Exhibit O at page 109).

63. In response to Doe’s request, Mr. Brandenburg assured Doe and his family that The Citadel would continue to investigate the matter and would report ReVille to the proper authorities. However, Brandenburg failed to disclose to the Doe family that the actual purpose for taking the statement was to provide a reference point for the statute of limitations and to ensure that no formal criminal or civil complaint was filed.

64. Reporting ReVille to authorities was the obvious solution to ending the abuse and preventing other children, including Plaintiff's child, from becoming victimized; however, instead of reporting the sexual abuse to law enforcement, The Citadel continued its practice and custom of suppressing reports of sexual misconduct of Citadel staff with minors and instead approached the matter as a civil defense claim with the goal of obtaining a "quick and inexpensive resolution." See Exhibit F, May 16, 2007 Correspondence to IRF.

65. In an email to the IRF, dated August 8, 2007, Mr. Brandenburg summarized his findings from the interview, stating, "In short. . . I found [Doc] to be believable." (See Exhibit P, Aug. 8, 2007 Email to IRF).

66. In this same email, Mr. Brandenburg called attention to ReVille's emphatic denial of the allegations, and even likened his statements to similar comments made by Arpaio during the 2002 sexual abuse investigation. (See Exhibit P).

67. Upon receipt of the April 23, 2007 report and the July 1, 2007 statement, The Citadel had clear and unambiguous notice that crimes of sexual conduct against minors had occurred on its premises and that "many other" campers were abused by a serial sexual predator. Furthermore, The Citadel had clear and unambiguous notice that the suspect was not only an alumnus but was also a member of The Citadel Faculty who was an acquaintance of Mr. Brandenburg—the individual leading the investigation.

68. However, despite the admitted similarities to the Arpaio matter and the confirmed credibility of the information obtained from the investigation, The Citadel never reported the abuse to the Citadel Public Safety, the Charleston Police, SLED or other authorities as mandated by clearly established campus policies and procedures as well as statutory and common law.

69. After undertaking the duty to investigate Doe's allegations, Brandenburg and The Citadel conducted no further investigation regarding the other victims identified by Doe in the July 1, 2007 statement.

70. The Citadel chose instead to ignore the allegations implicating multiple other victims and to bypass the proper channels for investigation and reporting in favor of reaching a settlement with the Doe family in exchange for their silence regarding the matter.

71. Upon information and belief, Mr. Brandenburg was given authority to settle the matter with the Doe family for Twenty Thousand Dollars (\$20,000 and 00/100) but was unable to obtain Doe's consent.

72. Receiving no further communication from Doe or his family, Brandenburg ceased to take any further action in the matter, stating "I plan to put this file back in my file cabinet, but do not plan to take any action on it further." (Exhibit Q, November 16, 2007 Email to IRF).

73. Similarly, by letter dated August 20, 2008, David Stuckey, Professional Liability Representative for the IRF, indicated he would be closing the file in the matter due to a lack of pursuit by Doe. (See Exhibit R, Aug. 20, 2008 Correspondence from IRF).

74. In 2011, allegations again surfaced of ReVille's sexual misconduct against children—this time at a private preparatory school.

75. It wasn't long before these allegations brought attention to Doe's report of sexual abuse by ReVille at The Camp in 2002. Together, these allegations prompted a local police investigation and involvement by SLED, which revealed at least 22 other victims of sexual abuse.

76. ReVille was arrested on October 28, 2011, and is currently serving a 50 year sentence for the sexual molestation and abuse of 23 boys, including John Doe and the Plaintiff's child.

77. At all times relevant herein, the State of South Carolina has recognized the serious threat posed to children by sexual abuse:

The General Assembly finds it fundamentally necessary to improve the ability to prevent, detect, investigate, and prosecute crimes that . . . and obscenity crimes that are directed toward or involve children under the age of eighteen. The serious and unacceptable threat these crimes pose to children is self-evident and impacts the State as a whole.

S.C. Code Ann. § 14-7-1610.

78. The sexual abuse of a minor is a criminal offense under South Carolina law. Section 16-15-305 of the South Carolina Code defines criminal sexual conduct to include, among other things, "masturbation" and "lewd exhibition, actual or simulated, of the genitals." S.C. Code Ann. § 16-15-305(C)(1)(b).

79. Pursuant to Section 16-3-657 of the South Carolina Code, the testimony of a victim need not be corroborated in prosecutions for criminal sexual conduct.

80. Since 2001, The Citadel has known that on multiple occasions ReVille would isolate himself with campers, contrary to Citadel rules.

81. Since the summer of 2005, The Citadel has had reason to know that ReVille is a person dangerous to children.

82. Conduct reported to The Citadel in 2005 and 2007 was sufficient to have ReVille terminated from The Citadel's employment and constituted criminal acts.

83. No report to law enforcement about ReVille was made by anyone at The Citadel in 2005 or 2007.

84. Instead, President Rosa and Mark Brandenburg coordinated the custom and practice of concealing the sexual abuse allegations and withholding the report from law enforcement and anyone else. The Citadel Board of Visitors ratified that failure to report, and continues to direct The Citadel to take the position that The Citadel has no duty to report the allegations of child sexual abuse or Citadel staff who engage children in group masturbation.

85. Both Camper Doe 6 and Doe reported ReVille to The Citadel in an attempt to prevent other children from being sexually abused by ReVille. In 2007, Doe testified to Brandenburg, under oath, that stopping ReVille from harming another child was “the thing I want most.” (See Exhibit O at page 109).

86. Defendants each knew, or should have known, since 2007, that ReVille was dangerous to children. Doe explained to The Citadel how and why ReVille was dangerous to children.

87. In 2005 and 2007, the Citadel concealed information about ReVille’s criminal conduct. That concealment continued until after October 28, 2011.

88. Both the April 23, 2007 report, and the July 1, 2007 statement containing additional specific facts and allegations of sexual abuse and identification of victims not only alleged acts of inappropriate sexual misconduct against the former camper himself but also alleged acts of criminal sexual conduct against many other children. (Exhibit O, Former Camper’s Statement at 105).

89. These allegations were sufficient to trigger the duties set forth under the Citadel’s policies and procedures regarding reporting to law enforcement as well as the duties to report set forth under state and federal law, including, but not limited to:

- (i) S.C. Code Ann. § 59-154-10, (“The Jessica Horton Act”);
- (ii) S.C. Code Ann. § 63-7-310, (“Mandatory Reporting Act”);

- (iii) 20 U.S.C. § 1092(f), (“Clery Act”);
- (iv) 20 U.S.C. § 1681, (“Title IX”).

90. In fact, Mr. Brandenburg and Colonel Trez both agreed that the April 23, 2007 report and the July 1, 2007 statement concerned criminal sexual conduct as contemplated by the South Carolina Criminal Code. (See Exhibit L, Deposition of Brandenburg at 177-78 & 185; Exhibit S, Deposition of Colonel Trez at 94).

91. Likewise, Mr. Brandenburg and Colonel Trez both agreed that the April 23, 2007 report and the July 1, 2007 statement concerned illegal and immoral conduct and scandal involving an individual closely identified with the college so as to require reporting to Citadel Public Safety as contemplated by The Citadel’s policy regarding “Serious Incidents.” (See Exhibit L, Deposition of Brandenburg at 262-263; Exhibit S, Deposition of Colonel Trez at 41-42; Exhibit I, Memorandum Number 39, “Serious Incidents” at page 10).

92. Plaintiff is further informed and believes, and Citadel witnesses admit, that the crime of sexual misconduct against a minor qualifies as a “Serious Incident” pursuant to the “Serious Incidents” policy in 2007. Notwithstanding, neither Rosa, nor Brandenburg, nor Colonel Trez, nor Jennifer Garrott, nor any other Citadel official reported the allegations to Citadel Public Safety or other law enforcement authorities.

93. Additionally, upon information and belief, Doe’s April 23, 2007 report and the July 1, 2007 statement alleged acts that constituted sexual assault under The Citadel’s Sexual Assault Crisis Intervention Policy and required reporting to The Citadel’s Sexual Assault Response Coordinator (“SARC”), who in turn was required to file a report of the abuse. (See Exhibit J).

94. The Citadel's internal policies and procedures require Citadel public safety officers to report all criminal offenses to SLED. (See Exhibit T, Keeping Our College Safe and Secure; Exhibit I, Memorandum Number 39, at page 10).

95. As commissioned law enforcement officers, Citadel Public Safety Officers are further required to report suspected child sexual abuse under South Carolina's Mandatory Reporting Act, S.C. Code Ann. § 63-7-310.

96. Educators, administrators, and teachers, including, but not limited to, President Rosa, Colonel Trez, Brandenburg, Bob Williamson, and Colonel Lackey are also mandatory reporters pursuant to the Act. Notwithstanding, Plaintiff is informed and believes that Citadel educators, administrators, and teachers and were apprised of the allegations of sexual abuse against ReVille yet neglected to report the abuse to law enforcement.

97. In addition to South Carolina's Mandatory Reporting Act, The Jessica Horton Act, effective June 6, 2007, requires reporting of allegations of criminal sexual conduct on the property of the institution to SLED and "[u]pon notification, the State Law Enforcement Division [SLED] shall participate in a joint investigation of the . . . alleged act of criminal sexual conduct." S.C. Code Ann. § 59-154-10.

98. Had Citadel Public Safety been contacted pursuant to established Citadel policies and procedures, the Mandatory Reporting Act or the Jessica Horton Act, the matter would have immediately been reported to and turned over to SLED. (See Exhibit U, Fletcher Deposition at 16, & 18-19).

99. Federal law also requires disclosure and reporting of sexual abuse under The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. § 1092(f) ("Clery Act"). Specifically, under the Clery Act, The Citadel was required to make a

timely warning about the 2007 report of sexual abuse because ReVille was a member of The Citadel faculty, a frequent visitor of The Citadel campus and had access to The Citadel campus as demonstrated by his visits to the campus on April 24, 2007, and again in 2008 when he was asked back to the Campus as a guest speaker to the Honor Council.

100. Although the abuse against Doe and camper Doe 6 occurred in 2002 and 2003, ReVille posed an ongoing threat to The Citadel community because of his frequent visits to the campus, his work as a tutor in the writing center, his participation as a guest speaker, and his otherwise demonstrated access to the campus, including his use of a Citadel email address and his status as a Citadel job applicant.

101. Upon information and belief, President Rosa, Mark Brandenburg, Colonel Trez, Jennifer Garrott and others were well-informed, or should have been informed, of their duties and obligations under The Clery Act, Title IX, the Mandatory Reporting Act, and the Jessica Horton Act, as well as The Citadel's internal policies regarding the handling of allegations of criminal sexual conduct, including the requirement that such incidents be reported to and investigated by law enforcement.

102. However, despite the reporting requirements mandated by these policies and by state and federal law, these officials deliberately neglected to inform Citadel Public Safety, the Charleston Police, SLED, the Title IX Coordinator, or the SARC of the alleged acts of criminal sexual conduct. These officials also neglected to inform Citadel Public Safety, the Charleston police or SLED of the allegations that many other minor campers were abused.

103. Further, pursuant to The Citadel's internal policies, state and federal law, and accepted professional standards, these officials knew they had a duty to report ReVille as well as

a duty to ensure that ReVille's personnel file would accurately reflect the reason for his termination so as to place other employers on notice of ReVille's conduct.

104. Instead of complying with The Citadel's internal policies and procedures, statutory requirements, and accepted professional standards, The Citadel deliberately concealed the abuse, allowing ReVille to avoid detection through investigation and interrogation by SLED agents trained to investigate child sexual predators and preventing future employers from discovering ReVille's propensity for sexually abusing young children.

105. As part of this deliberate effort to conceal the abuse, President Rosa, Mark Brandenburg and others agreed ReVille would be released from his employment at The Citadel for "mutually agreeable reasons," despite their knowledge of the true nature of his termination—sexual abuse of minors. (See Exhibit V, Employee Termination Form, Citadel FOIA 0000282; Citadel 0003128).

106. Mr. Brandenburg further acknowledged placing great weight on the "life-altering" impact that reporting the allegations to law enforcement would have on ReVille, and even drew a comparison to the impact of similar allegations in unfounded cases on individuals such as the Duke Lacrosse players or Catholic clergy. This effort by The Citadel to avoid any action that might tarnish ReVille's otherwise stellar reputation further demonstrates the presence of bias that overshadowed the investigation and the deliberate effort on the part of The Citadel to conceal the abuse to avoid negative publicity. (See Exhibit G, Margolis Report at 29).

107. As such, The Citadel deliberately neglected to update ReVille's personnel file to reflect the true nature of his termination and, upon information and belief, when subsequent employers contacted The Citadel orally and in writing regarding ReVille, The Citadel refused to

disclose the allegations of abuse and refused to disclose that ReVille was, in fact, not eligible for rehire.

108. Upon information and belief, these employers would not have hired ReVille had they been accurately informed of the allegations and ReVille would not have had access to children including, in particular, the Plaintiff's child.

109. Actions taken by Mr. Brandenburg, President Rosa, Colonel Trez, Jennifer Garrott and others in furtherance of concealing the allegations, protecting ReVille's reputation, and enabling ReVille's ability to gain unfettered access to children are in clear violation of accepted professional standards and established Citadel policies and procedures, including the Citadel's policy regarding employee misconduct, which enumerates the following consequences for employees "accused of sexual misconduct":

- i. The allegation, the outcome of the investigation, and any disciplinary action stemming from the incident will go in your permanent employee file.
- ii. The Citadel will not expunge molestation findings from your record.
- iii. The Citadel will not terminate an investigation of sexual misconduct in exchange for resignation.
- iv. The Citadel will report necessary information about the incident to state licensing entities and other clearinghouses.
- v. The Citadel will not provide you with positive referrals before concluding an investigation.
- vi. The Citadel will refuse to negotiate gag order clauses in employee termination agreements.
- vii. The Citadel will provide factual and candid responses to inquiries by other potential employees about your behavior.
- viii. The Citadel will fully cooperate with law enforcement agencies that are conducting investigations.

(Exhibit W, In the Event of Employee Misconduct).

110. In undertaking these actions to conceal the abuse, The Citadel acted entirely in its own interest, without regard to the law, common decency, accepted professional standards, and the interests of parents, children, and families whom The Citadel knew would be affected by ReVille after 2007.

111. Had The Citadel disclosed or made available information pertaining to the nature of ReVille's termination, the allegations of abuse, and that ReVille was not eligible for rehire, subsequent employers, through which ReVille was able to gain access to future victims, including the Plaintiff's child, would never have hired ReVille and the risk of abuse to future victims, including the Plaintiff's child, would have been abated.

112. By concealing the abuse and allowing ReVille to continue to prey on children under the guise of duty and honor, The Citadel provided ReVille with the very currency that enabled him to attract his victims, including the Plaintiff's child.

113. Further, from 2001 until the Summer Camp was officially closed in 2006, The Citadel knew or should have known that acts of sexual abuse or inappropriate conduct were occurring at The Camp.

114. Had The Citadel adhered to its internal policies and procedures, including those policies specifically regarding the Summer Camp during this time, the conditions which facilitated ReVille's continuing abuse of minor campers would have been frustrated or, in the alternative, the sexual abuse would have been discovered, ReVille would have been prosecuted as a child sexual predator, and resulting harm to other victims, including the Plaintiff's child, would have been abated. These policies, include, but are not limited to, the following:

- i. The Citadel Summer Camp Counselor Code of Conduct that prohibited "sexual activity, in any form, with any person".

- ii. The Citadel Summer Camp policy regarding the prohibition of "Sexual Harassment" as adopted from the "Blue Book Regulations for the Corps of Cadets" which states "Sexual harassment is unwanted sexual attention."
- iii. The Citadel Summer Camp policy which mandated that: campers were to remain "in their own rooms after Taps;" "counselors will not visit with campers in their rooms after Taps;" "Campers may not "switch" rooms (even if it is "just for the night"); "Campers will NEVER be allowed to sleep in a counselor's room;" and counselors were to "always" leave their "door open" when campers visited their rooms or when the counselor's visited the camper's room.
- iv. The Citadel's "Camp Policies Regarding Sexual Misconduct."
- v. The Citadel's "Sexual Assault Crisis Intervention Policy" defining "Sexual Assault" as "... all other forms of unlawful sexual behavior ... which is not mutually agreed upon."
- vi. The Citadel policy entitled "Keeping Our College Safe and Secure," requiring prosecution of criminal offenders through the Solicitor's or Magistrate's office.
- vii. The Citadel's "Core Values," as set forth in the "College Regulations" defining "duty" as "... the moral obligation of responsibility for the welfare of others."
- viii. The Citadel's "Guideline on Child Sex Abuse and Exploitation – For Camp Counselors" requiring reporting of sexual abuse to law enforcement authorities.
- ix. The Citadel's policy on "Summer Camps Operation" requiring "All camp sponsors [to] submit a report to the Risk Management and Safety Office in the event of an incident that could give rise to Citadel liability."
- x. The Citadel's "Children on the Citadel Campus" policy mandating that "Camp directors . . . report any incident or accident involving injury, or which could give rise to camp or institution liability, to the Risk Management and Safety Officer and the Provost, Athletic Director, or Commandant, as appropriate."

115. Decisions made by The Citadel to refrain from reporting the abuse by ReVile and to protect, at all costs, the institution and the perpetrator, their once highly regarded faculty member and Honor Committee Chair, were actions taken by officials, agents, and employees of the State of South Carolina acting within the scope and performance of their official duties.

116. The acts of these Citadel agents and employees in intentionally failing to comply with The Citadel's internal policies and applicable statutory requirements, or in failing to be informed of the policy mandates or statutory duties, even in the wake of the Arpaio scandal, fell below accepted professional standards and outside the exercise of discretion or judgment.

117. Further, this conscious failure by Citadel agents and employees to comply with laws, policies, and procedures enacted for the purpose of protecting victims, such as the Plaintiff's child, demonstrates a failure to exercise even slight care.

118. Indeed, President Rosa has admitted that The Citadel failed to meet its standards when addressing the camper's allegations in 2007. He similarly acknowledged that it is clear they "should have done more." (See Exhibit G, Margolis Report at 32; Exhibit X, November 12, 2011 Media Advisory).

119. President Rosa further conceded that had he known there were other possible victims, The Citadel would have reported the matter to SLED.

120. Plaintiff is informed and believes that President Rosa was, however, aware of the allegation that the abuse spanned multiple victims as evidenced by numerous discussions with Brandenburg and Colonel Trez regarding the matter as well as his receipt of Brandenburg's May 16, 2007 letter to the IRF which reiterated Doe's assertion that ReVille "engaged in this behavior frequently, though, and with many other campers." (Exhibit F).

121. Colonel Trez likewise agreed that, in hindsight, "they should have called the police." (See Exhibit G, Margolis Report at 30; Exhibit S, Trez Deposition at 60:1-7, 65:5-13, 67:22-24, 74:20-21, 75:1-7, 92:16-21, 95:3-8, 142:16-22).

122. Given the details of Doe's allegations as stated in Brandenburg's May 16, 2007 letter to the IRF, Colonel Trez further agreed the abuse should have been reported, conceding

“that would have been enough.” (Exhibit S, Colonel Trez Deposition at 67:22-24 (regarding the details of the May 16, 2007 letter)).

123. As one member of the Citadel Board of Visitors put it, Mr. Brandenburg’s handling of the matter was “pathetically bad.”

124. Even Patricia Kinard, Administrative Assistant to the President, agreed the abuse should have immediately been reported, stating “that would be common sense.” (See Exhibit Y, Deposition of Patricia Kinard, at 30:9-20).

125. As a result of The Citadel’s insufficient investigation, deliberate indifference, and gross negligence in failing to comply with, or failing to have knowledge of, its own internal policies and procedures, state and federal law, and reasonably accepted professional standards, ReVille went on to teach, coach and volunteer at various schools and public and private organizations, including, but not limited to, Pinewood Prep., the Dorchester County School District, Mt. Pleasant Recreation, Velocity Sports, Coastal Christian Preparatory School, Moultrie Middle School, and Rollins Middle School of the Arts, including all other points of contact between ReVille and Plaintiff’s child, thereby significantly increasing the likelihood of future inappropriate and sexually abusive conduct against other children, including the Plaintiff’s child.

FACTUAL BACKGROUND -- MOTHER DOE A

126. In the fall of 2007, after The Citadel had received actual notice of ReVille’s propensity for sexually abusing young boys, the Plaintiff’s child began taking athletic supervision from ReVille in a first location in Mt. Pleasant, South Carolina.

127. The Citadel knew, or should have known, that ReVille had undertaken that employment which placed him in contact with minor children, including the Plaintiff’s child.

128. From 2007—2011, the Defendants chose to conceal ReVille's sexual misconduct with children and to not report ReVille's propensity for abuse around children in the first location.

129. The Citadel knew, or should have known, that its silence and efforts to conceal the abuse by ReVille misrepresented that ReVille was a proper person equipped to work with and around children, including the Plaintiff's child.

130. In 2008, the Plaintiff's child began taking athletic supervision from ReVille in a second location, and a second athletic activity, in Mt. Pleasant.

131. The Citadel knew, or should have known, that ReVille had undertaken employment that placed him in contact with minor children, including the Plaintiff's child.

132. From 2007—2011, the Defendants chose to conceal ReVille's sexual misconduct with children and ReVille's work around children. The Citadel knew, or should have known, that its silence and efforts to conceal the abuse by ReVille misrepresented that ReVille was equipped to work with and around children, including the Plaintiff's child.

133. As a proximate result of The Citadel's gross negligence and deliberate indifference to the safety and well-being of others in failing to warn or report ReVille, The Plaintiff's child was sexually assaulted by ReVille on multiple occasions in 2007 and 2008.

134. ReVille has admitted sexually assaulting the Plaintiff's child multiple times, and has been criminally convicted on that admission.

135. Disclosures about ReVille and the Defendants prior knowledge were not known to the Plaintiff until after October 28, 2011, when ReVille was arrested and charged with multiple acts of sexual misconduct with minors.

136. The Citadel's gross negligence and deliberate indifference to the safety and well-being of others in failing to report the allegations of sexual abuse when originally reported to President Rosa on April 23, 2007, and again after new allegations were reported on July 1, 2007, constitutes separate and distinct occurrences as set forth under S.C. Code Ann. § 15-78-120.

137. Decisions made by the Defendants to not report ReVille were actions taken by Citadel agents and employees acting within the scope of their official duty. The Defendants acted in a reckless and grossly negligent manner in executing their state functions and failed, on hundreds of occasions between 2002 and 2011 to make any report about ReVille.

138. Each day the Defendants actively concealed the known allegations and other knowledge of ReVille's sexual abuse constitutes separate and distinct negligent acts and/or omissions giving rise to hundreds of occurrences as contemplated by S.C. Code § 15-78-120.

139. Each of the separate and distinct negligent acts and/or omissions of the Defendants outlined herein, standing alone, are a proximate cause of the injuries and losses suffered by Plaintiff, constituting numerous separate occurrences under S.C. Code § 15-78-120, including but not limited to:

- i. Failing to close the Summer Camp upon learning of the Arpaio allegations in 2001;
- ii. Failing to interview all campers after the Arpaio allegations in 2001 to determine whether any campers were abused by any counselors, including ReVille;
- iii. Allowing The Camp to operate from 2001 to 2005 without making absolutely certain that a child predator could not harm children, including failing to ensure the methods used by Arpaio to carry out his abuse (having minors alone in his room) were not capable of being repeated;
- iv. Failing to interview all campers after learning that ReVille needed to "distance himself from campers" in 2001 to determine whether ReVille had been inappropriate with them in any manner;

- v. Failing to reprimand, terminate, document or take any otherwise appropriate preventative action in 2002 when ReVille was caught alone in his room with a camper contrary to Citadel policy;
- vi. Failing to reprimand, terminate, document or take any otherwise appropriate preventative action in 2003 when ReVille was caught alone in his room with Camper Doe 6 rubbing "Icy Hot" on the minor's leg contrary to Citadel policy;
- vii. Failing to take Camper Doe 6's report in 2005 and failing to take any action to frustrate ReVille's ability to continue abusing children despite knowledge that Camper Doe 6 was abused and was attempting to report ReVille;
- viii. Failing to report ReVille's 2002 and 2003 abuse after adopting and implementing the Summer Camp Policy Regarding Sexual Misconduct issues, which emphasized the lack of time period restrictions regarding reporting and mandated that all sexual misconduct allegations be reported;
- ix. Failing to immediately report Doe's call on April 23, 2007 to Citadel Public Safety, the Charleston Police or SLED (See Exhibit Y, Deposition of Patricia Kinard, at 30:9-20);
- x. Referring Doe's call on April 23, 2007 to Mark Brandenburg instead of reporting to Colonel Trez and Citadel Public Safety;
- xi. Failing to report to Colonel Trez, Citadel Public Safety and other law enforcement authorities after Mark Brandenburg spoke with Doe and his father on April 23, 2007;
- xii. Meeting with ReVille on April 24, 2007 and alerting him to the allegations prior to law enforcement involvement;
- xiii. Advising ReVille to "lay low;"
- xiv. Failing to report to Colonel Trez and Citadel Public Safety the abuse of eyewitness Doe or the other campers referenced in Doe's report after learning, between April 23, 2007 and May 1, 2007, that the eyewitness and others who were abused were cadets on the Citadel campus in 2007;
- xv. Failing to take appropriate action to investigate the allegations against eyewitness Doe and the many others by neglecting to take any action other than sending an email to these victims (See Exhibit L, Brandenburg Deposition at 151-152);

- xvi. Failing to immediately report the allegations to public safety when Rosa received the May 16, 2007 letter informing him of the abuse and the existence of many other victims or, in the alternative, failing to exercise slight care in carrying out his official duties by neglecting to read his mail;
- xvii. During the May 2007 Board of Visitors meeting, each board member was grossly negligent in failing to ask a single question about the allegations, Brandenburg was negligent in not informing the Board of the details of Doe's report, and President Rosa was negligent in failing to correct Brandenburg to ensure the Board was aware of all allegations including the allegations implicating many other victims;
- xviii. Failing to report to law enforcement or take any action with regard to eyewitness Doe and other involved campers after taking Doe's July 1, 2007 statement containing new information identifying these victims by name and photograph;
- xix. Failing to document and update ReVille's personnel file with Doe's allegations as to Doe, eyewitness Doe and the many others;
- xx. During the September 2007 Board of Visitors meeting, each board member was grossly negligent in failing to ask a single question about the allegations, Brandenburg was negligent in not informing the Board of the details of Doe's report and Doe's July 1, 2007 statement, and President Rosa was negligent in failing to correct Brandenburg to ensure the Board was aware of all allegations including the allegations implicating many other victims;
- xxi. Failing to inform employers who were conducting background checks or reference checks on ReVille;
- xxii. Defendant Garrott was grossly negligent and deliberately indifferent to ReVille's abuse in failing to inform Brandenburg during or after their meeting on April 24, 2007, of ReVille's inappropriate acts and sexual misconduct in 2001, 2002 and 2003 and in failing to inform him of Camper Doe 6's attempt to report in 2005, or in the alternative, Garrott did inform Brandenburg about the 2001, 2002, 2003 and 2005 incidents, and he ignored or concealed the information;
- xxiii. Failing to exercise slight care in reviewing and analyzing the Citadel policies, procedures and guidelines applicable to Garrott's discovery in 2002 and 2003 of ReVille alone in a room with a minor and failing to ascertain the appropriate action

- mandated by those policies, including termination, reprimand, internal documentation of the violation and reporting of the abuse to law enforcement;
- xxiv. Failing to exercise slight care in reviewing and analyzing the Citadel policies, procedures and guidelines applicable to the April 23, 2007 report and the July 1, 2007 statement as to Doe, eyewitness Doe and the many others, and failing to ascertain the appropriate action mandated by those policies, including internal documentation of the abuse and reporting of the abuse to law enforcement;
 - xxv. Failing to know and comply with South Carolina law with regard to reporting allegations of child sexual abuse to law enforcement.

140. As a direct and proximate result of the Defendants acts and/or omissions, Plaintiff has endured severe physical and mental pain and suffering, permanent psychological damages, extensive medical costs and expenses as well as any and all other damages established at the trial of this case.

ADMISSIONS OF THE CITADEL

141. Mark Brandenburg, Citadel General Counsel and the sole investigator of Doe's allegations of sexual abuse by ReVille, has made the following admissions in sworn deposition testimony dated June 5, 2013 and June 6, 2103, at the following page numbers:

- i. Preventing harm to other young boys or victims was a goal of the investigation. P. 31.
- ii. By undertaking the investigation the Citadel was aiming to prevent harm to potential victims. P. 31.
- iii. The Citadel College Regulations, stating, "[w]e emphasize the importance of individual accountability and the moral obligation of responsibility for the welfare of others," apply to Brandenburg and that the moral sense of duty for the welfare of others would apply to his investigation of an alleged sexual offense. P. 258-259.
- iv. It is important to interview and find eyewitnesses to an event giving rise to a cause of action because eyewitnesses are the best source of information. P. 34.

- v. As investigator, he had no power or authority to force anyone to meet with him, or talk to him or respond to him. P. 35.
- vi. A police officer has more power in investigating a sexual abuse claim than Brandenburg does as General Counsel of the Citadel. P. 35.
- vii. Brandenburg had no experience and is not a skilled law enforcement investigator trained to investigate a child sexual predator. P. 279 & 288.
- viii. ReVile had an official Citadel email address on April 23, 2007. P. 45.
- ix. On April 24, 2007, ReVile informed Brandenburg that he was a current applicant for employment at the Citadel for jobs other than the Writing Center. P. 127.
- x. It is possible that when Brandenburg called ReVile on April 23, 2007, regarding the Doe allegations, ReVile was on the Citadel campus in the Writing Center. P. 44.
- xi. He never informed the Citadel Human Resources Department about Doe's allegations regarding ReVile. P. 47.
- xii. He never reviewed any Citadel documents or alumni documents to determine if ReVile was working with children. P. 48.
- xiii. Any camper at the Citadel Summer Camp who was 10-12 years old in 2002 could have still been a minor on April 23, 2007.
- xiv. Doe identified an eyewitness to ReVile's sexual misconduct who in 2007 was a cadet at the Citadel. ("Eyewitness Doe") P. 135.
- xv. Other than sending an email to Eyewitness Doe's Citadel email address on May 1, 2007, Brandenburg never received a return email from Eyewitness Doe, never talked to Eyewitness Doe, and has no notes or memory of ever meeting with or speaking to Eyewitness Doe regarding Doe's allegations. P. 139-140, 142.
- xvi. Brandenburg never walked the five minutes from his office to Eyewitness Doe's barracks to attempt to speak with Eyewitness Doe. P. 144.
- xvii. Brandenburg, upon finding out on July 1, 2007, that Eyewitness Doe and five other minors had been sexually abused by ReVile, **cannot recall doing anything** to investigate the allegations of child sexual abuse and child sexual misconduct against Eyewitness Doe or the five others. P. 151-152.

- xviii. Brandenburg was told by Doe on July 1, 2007 the name of Eyewitness Doe and one other, and was directed to pictures of 2 or 3 others who were sexually abused. Brandenburg knew where to find Eyewitness Doe and the other named victim and could have determined how to find the two others identified by photograph. These are new sexual abuse victims identified on July 1, 2007 that were not known to Brandenburg and the Citadel prior to July 1, 2007. Brandenburg made no attempt to communicate with or locate or identify any of the individuals named by Doe after July 1, 2007. P. 158-160.
- xix. The best way to honor Doe's request that the Citadel "make sure that Skip doesn't have a chance to do this to anyone else," would have been to report ReVille to law enforcement. P. 172.
- xx. The Jessica Horton Act became effective June 6, 2007. New sexual abuse victims were identified by Doe on July 1, 2007 that were not known to Brandenburg and the Citadel prior to July 1, 2007. Brandenburg made no attempt to communicate with or locate or identify any of the individuals named by Doe after July 1, 2007 nor did he report to Citadel Public Safety or law enforcement. P. 158-160.
- xxi. The Jessica Horton Act applies to the Citadel. SC Code 59-154-10 – The Chief of the Campus Police . . . shall notify SLED . . . if the officer or another official of the institution is in receipt of a report alleging that an act of criminal sexual conduct has occurred on the property of the institution. P. 180.
- xxii. Brandenburg, Rosa, Trez and the Board of Visitors are officials of the Citadel. P. 173.
- xxiii. The South Carolina Code section upon which ReVille was charged defines criminal sexual conduct as masturbation, excretory functions, or lewd exhibition, actual or simulated, of the genitals – the very things Doe alleged about ReVille – and no touching is required. P. 177-178, 185.
- xxiv. The sexual misconduct alleged by Doe occurred on the Citadel property. P. 178.
- xxv. Brandenburg told the Citadel BOV that there was more than one allegation of sexual abuse by Doe – that there were others who were abused. P. 203.

- xxvi. Brandenburg copied Rosa on the May 16, 2007 letter to the IRF detailing there were allegations many others were abused and also told Rosa that there were many other victims. P. 212, 219-220.
- xxvii. From the time he arrived on the Citadel campus in 2006 until June 2013, he has never experienced or heard of an individual not receiving internal Citadel mail that he/she was copied on. P. 42.
- xxviii. The Serious Incidents Memo applied to the Citadel and Brandenburg in 2007. Brandenburg admits that Doe's allegations about ReVille constituted a scandal involving an individual closely identified with the Citadel and that the allegations involved illegal and immoral activity. Pursuant to this policy, Brandenburg was required to notify the Executive Assistant to the President, then Colonel Trez, of the Doe allegations and Colonel Trez was, in turn, required to report the allegations to Citadel Public Safety. Colonel Trez should have reported the Doe allegations to Citadel Public Safety. P. 261-263.
- xxix. It is certainly possible that when Doe reported the allegations to The Citadel in 2007, ReVille was still sexually abusing children. P. 318-319.
- xxx. Any victim of child sexual abuse is going to suffer some kind of emotional pain. P. 292.

(Exhibit L, Deposition of Mark Brandenburg).

142. Colonel Trez, Executive Assistant to the President from 2006—2008, has made the following admissions in sworn deposition testimony dated June 10, 2013 and June 11, 2103, at the following page numbers:

- i. Col. Trez relies on Brandenburg to know the laws of South Carolina and to inform him of any laws that would apply to Trez and the Citadel. P. 11-12.
- ii. Brandenburg never informed him or briefed him about the Jessica Horton Act. P. 12.
- iii. Col. Trez claims that in 2007 he did not know it was against the law in South Carolina for an adult to show a minor pornography or for an adult to expose his genitals and masturbate in front of a child. P. 26.

- iv. It is immoral activity for an adult to show pornography to a thirteen year old boy, masturbate in front of a thirteen year old boy, and coerce a thirteen year old boy to masturbate in front of an adult. P. 34.
- v. If an activity is immoral and the Citadel administration is unsure if it is a criminal act – the safest and best thing to do is to report it to Citadel Public Safety to determine if a crime has been committed. P. 39.
- vi. The Serious Incidents Memo No. 39 was in effect in 2007. P. 35-36.
- vii. In 2007, Col. Trez could have and should have consulted the Serious Incidents Memo. P. 59.
- viii. If a crime is committed on the Citadel campus – the number one individual priority of any Citadel employee or administrator when they become aware of the criminal offense is to notify Citadel Public Safety Department. P. 40.
- ix. Citadel Public Safety is then required to contact the appropriate law enforcement agency. P. 40.
- x. Doe's allegations regarding ReVille constitute a scandal involving an individual closely identified with the Citadel and immoral behavior. P. 41.
- xi. Anytime a Citadel employee or administrator becomes aware of immoral activity on the Citadel campus they must report it to the Executive Assistant to the President and the Executive Assistant to the President must report it to Citadel Public Safety. P. 41-43.
- xii. A child sexual predator is an ongoing threat to the community at large. P. 52.
- xiii. If an applicant for employment at the Summer Camp had on their arrest record charges for disseminating pornography to a minor or lewd exhibition of the genitals he would not have hired them. P. 62-63.
- xiv. The only way ReVille could have been arrested in 2007 is if the Doe allegations had been reported to law enforcement. P. 63.
- xv. The Citadel Summer Camp was run by the Citadel. P. 72.
- xvi. Col. Trez knew Doe's allegations concerned the Citadel Summer Camp. P. 74.
- xvii. Col. Trez did not consult the Citadel Summer Camp policy which states: "Regardless of the validity of the violation, any sexually inappropriate conduct reports concerning any camper or employee of the camp will be turned over to The

Citadel Public Safety Department and a thorough investigation will be conducted;” and “All sexual misconduct allegations disclosed at any time concerning any individual, currently or formerly, associated with the camp will be investigated upon disclosure. There are no time period restrictions regarding sexual misconduct investigations.” P. 73-74.

- xviii. If Col. Trez had seen and reviewed the Summer Camp policy – he would have reported Doe’s allegations to Citadel Public Safety. P. 75.
- xix. If Brandenburg had brought Col. Trez the Serious Incidents Memo and the Summer Camp policy in April through August 2007, Col. Trez would have told Brandenburg that they have a duty to report Doe’s allegations to Citadel Public Safety. P. 76.
- xx. Col. Trez and Brandenburg were designated by the Citadel as the persons with the most knowledge regarding the guidelines, rules, policies and procedures of The Citadel that applied to Doe’s allegations. (Rule 30(b)(6), SCRCF designations).
- xxi. A graduate who returns to campus on a repetitive basis to speak to the Honor Committee or other Citadel organizations has a special relationship with the Citadel. P. 81.
- xxii. According to Col. Trez if a sexual misconduct or abuse claim is uncorroborated by an eyewitness, The Citadel human resources department will never know about it and it will not be disclosed to potential employers seeking information on a job applicant. Instead the investigation is put in a lock box. P. 83-85.
- xxiii. Any potential employer of ReVile from May 2007 forward would not have been informed of Doe’s allegations regarding ReVile. P. 83-85.
- xxiv. Brandenburg made more than one simple mistake in the investigation. P. 87.
- xxv. There is a difference between making one mistake and making many, many mistakes. P. 86.
- xxvi. President Rosa did not stand up in the Board of Visitors meetings in 2007 and educate the Board that there was an eyewitness to Doe’s allegations who was also abused and that there were many others. P. 89.
- xxvii. If Col. Trez had seen Brandenburg’s May 16, 2007 letter copied to President Rosa, he would have reported the allegations to Citadel Public Safety. P. 93-95.

xxviii. If President Rosa claims he did not receive the May 16, 2007 letter, it would be the first time Col. Trez has ever heard of at the Citadel where the President of the Citadel claims he did not receive a letter he was copied on from intercampus Citadel mail. P. 96-97.

(Exhibit S, Deposition of Colonel Trez).

143. Chief of Citadel Public Safety, William A. Fletcher, has made the following admissions in sworn deposition testimony, dated June 12, 2103, at the following page numbers:

- i. In any investigation, if there is an eyewitness – there is a duty to speak to the eyewitness. P. 9.
- ii. If a cadet were an eyewitness, he would call the Cadet's TAC officer to instruct the cadet to come to Public Safety office. P. 9-10.
- iii. If a cadet does not report – a second phone call will make sure the cadet reports to Citadel Public Safety for questioning. P. 10-11.
- iv. A potential child sexual predator is a serious matter anywhere, including The Citadel. P. 14.
- v. Any child sexual predator is a threat to The Citadel campus and a threat to the community at large. P. 16-17.
- vi. Fletcher did not have the proper training to be the person who should be investigating a child sexual predator or doing an interview of a child sexual predator so he would call in a law enforcement agency with expertise in that area like SLED. P. 14.
- vii. If Doe's allegations had been reported to Chief Fletcher he would have considered the accused to be a potential child sexual predator given that there was more than one victim and, in fact, the allegations indicated there were many other victims. P. 15-16.
- viii. If Doe's allegations had been presented to Chief Fletcher – he would have reported the allegations to SLED or another law enforcement agency with expertise in investigating and interviewing child sexual predators. P. 16.
- ix. If under the Horton Act he and Citadel Public Safety were required to notify SLED of an investigation – he would do so. P. 18-19.

- x. If Doe's allegations had been reported to Citadel Public Safety – Fletcher and Citadel Public Safety would not have offered the Doe family money in an effort to settle the matter nor would Citadel Public Safety have researched the civil statute of limitations. P. 22.
- xi. If SLED needed to speak to a witness – Citadel Public Safety would make the witness available. P. 22-23.
- xii. Citadel Public Safety cannot conduct an investigation or notify SLED or ask SLED to do an investigation if allegations are never reported to Citadel Public Safety. P. 23.
- xiii. From April 2007 to the present day, there has never been a report to Citadel Public Safety concerning ReVille or even a report pursuant to the Clery Act documenting ReVille's criminal conviction regarding 23 children on the Citadel campus. P. 19-20.

(Exhibit U, Deposition of Chief Fletcher).

144. Patricia Kinard, Administrative Assistant to the President, has made the following admissions in sworn deposition testimony, dated June 11, 2103, at the following page numbers:

- i. If she had received the call from Doe's father on April 23, 2007, she would have called Citadel Public Safety. P. 30.
- ii. In reaching the determination that the allegations of sexual abuse should have been immediately reported to Public Safety, Kinard indicated she would not need to turn to any official Citadel policy, stating: "There may be a policy . . . but I believe that would be **common sense**." P. 30. (Emphasis Added)

(See Exhibit Y, Deposition of Patricia Kinard).

FOR A FIRST CAUSE OF ACTION AS TO THE CITADEL
(Gross Negligence – Failure to Warn)

145. The allegations of the preceding paragraphs are incorporated and alleged as if fully set forth herein.

146. At all times relevant herein, The Citadel and its agents and employees, including Mr. Brandenburg, Colonel Trez, President Rosa, Jennifer Garrott, the Board of Visitors, and

others were well-informed, or should have been informed, of The Citadel's policies and procedures, and their responsibilities and duties provided therein, regarding serious incidents, immoral conduct, sexual abuse, sexual harassment and sexual misconduct allegations. These same officials were also well-informed, or should have been informed, of the various duties imposed by state and federal law to report criminal activity, sexual abuse and suspected child abuse and to protect the public from the obvious threat that ReVille posed as a sexual predator.

147. The duties of The Citadel and its agents and employees, including Mr. Brandenburg, Colonel Trez, President Rosa, Jennifer Garrott, the Board of Visitors and others, extend far beyond the walls of The Citadel to include the surrounding cities, counties and the people of the State of South Carolina. (See Exhibit B, Deposition of Jennifer Garrott Vol. III at 119).

148. Beginning in 2007 and continuing through 2011, The Citadel possessed but failed to disclose information of ReVille's sexual interest in children and propensity for sexual abuse to law enforcement, employers with whom ReVille worked, or parents of children in proximity to ReVille including, in particular, the Plaintiff.

149. Through this knowledge, The Citadel was apprised of a distinct, specific, overt threat of harm to young boys whom ReVille had access, including the Plaintiff's child.

150. With this knowledge, the Citadel voluntarily undertook the duty to investigate the abuse with the goal of preventing harm to other young boys, including the Plaintiff's child. (See Exhibit L, Brandenburg Deposition at 31).

151. By voluntarily undertaking an investigation into the abuse with the goal of preventing harm to other young boys or other victims of ReVille's abuse, including the Plaintiff's child, The Citadel assumed the duty to perform a proper investigation, to report its

findings and the allegations to law enforcement and to warn children and parents or guardians of children in proximity to ReVille.

152. The Citadel's gross negligence in failing to exercise reasonable care in performing its investigation, in failing to report the allegations to law enforcement, and in failing to warn employers, children and parents or guardians of children in proximity to ReVille, including the Plaintiff, increased the risk of harm to Plaintiff's child.

153. On April 23, 2007 and July 1, 2007 and all times thereafter, The Citadel had a special relationship with ReVille in that ReVille was an alumnus, former senior camp counselor, member of The Citadel faculty, former Chairman of The Honor Council, and an invited guest lecturer to the Honor Council and, therefore, The Citadel had the ability to monitor, supervise, and control ReVille's conduct.

154. Colonel Trez even admitted that a graduate, such as ReVille, who returns to campus as a guest speaker or, for other similar reasons, has a special relationship with The Citadel. (See Exhibit S, Deposition of Col. Trez at 81).

155. Additionally, from the date the abuse was reported on April 23, 2007 until May 15, 2007, The Citadel, as ReVille's employer, had a special relationship with ReVille as demonstrated through its continuing obligation and legal duty to compensate him for his employment in the Citadel Writing Lab that extended until the pay period ending on May 15, 2007, as well as through monitoring ReVille's continued use of a Citadel faculty email address and, therefore, had the ability to monitor, supervise, and control ReVille's conduct during this time. (See Exhibit M).

156. Further, as evidenced by The Citadel's capacity to command ReVille's presence on campus for the interview with Brandenburg and Colonel Trez on April 24, 2007, and his

subsequent return to campus in 2008 and at other times to serve as a speaker before the Honor Committee and as a speaker to incoming classes, The Citadel's ability to monitor, supervise and control ReVille's conduct extended well beyond May 15, 2007, up to and including the time ReVille was finally apprehended and reported to law enforcement in 2011.

157. Through this special relationship, The Citadel had a duty to discipline ReVille, to report ReVille to law enforcement, and to warn the community, including the Plaintiff and the Plaintiff's child, of the immediate and specific threat that ReVille posed.

158. Based on The Citadel's special relationship with ReVille and The Citadel's operation and maintenance of its Alumni Association, employee personnel files, and other records, The Citadel knew or should have known where ReVille was employed after his termination in 2007, that ReVille was, in fact, employed in positions working with and around young boys, including Plaintiff's child, and that he posed an immediate threat to these children and Plaintiff's child.

159. As an adolescent boy in proximity to ReVille, Plaintiff's child was part of a discrete class at an increased risk of abuse by ReVille.

160. That the Plaintiff's child would be sexually abused by ReVille was, therefore, reasonably foreseeable to The Citadel.

161. As a former employer of ReVille, The Citadel had a duty to accurately represent the reason for ReVille's termination, the allegations of sexual abuse, and that ReVille was not eligible for rehire.

162. Parents of children in proximity to ReVille, including the Plaintiff, relied on The Citadel's representation that ReVille was an appropriate individual equipped to work with and around children.

163. By voluntarily undertaking the investigation into the abuse with the goal of preventing harm to other young boys, including the Plaintiff's child, and by summoning ReVille and directly confronting him with the allegations, The Citadel voluntarily undertook the duty to control ReVille's conduct and to warn potential victims so as to prevent physical harm to other young boys, including the Plaintiff's child.

164. In undertaking an investigation into the abuse and in adopting internal policies and procedures mandating the reporting of such abuse, The Citadel assumed a duty to perform a proper investigation, to report its findings of sexual misconduct against children, and to warn authorities, law enforcement, and the public, including the Plaintiff and other parents of children that would be placed within proximity to ReVille.

165. The Citadel breached these duties and acted recklessly, negligently, grossly negligent, maliciously, willfully and wantonly by:

- i. Failing to enforce, or failing to know, or to comply with internal policies and procedures after The Citadel was put on notice of ReVille's sexual misconduct while acting within the scope of his official duties and despite the foreseeability that other victims, including, in particular, the Plaintiff's child, would be injured and would suffer the injuries described herein;
- ii. Violating established statutory duties to report ReVille to authorities and to warn the community and Plaintiff, in particular, of the threat ReVille posed to young boys, including, in particular those duties set forth in the following statutes:
 - a. Jessica Horton Act, S.C. Code Ann. § 59-154-10;
 - b. Child Abuse Reporting Statute, § 63-7-310
 - c. Jeanne Clery Act, 20 U.S.C. § 1092(f); and
 - d. Title IX, 20 U.S.C. § 1681;

- iii. Failing to enforce internal policies and procedures against ReVille while he was employed as a member of The Citadel faculty in 2007, including failing to discipline ReVille and enforce The Citadel's disciplinary code;
- iv. Failing to supervise, monitor and control the conduct of ReVille while he was a Citadel cadet, a member of The Citadel faculty, an alumnus, frequent visitor, and guest speaker so as to prevent ReVille from abusing other victims, including Plaintiff's child;
- v. Failing to record the allegations, the outcome of the investigation and any disciplinary action in ReVille's personnel file;
- vi. Failing and falsely representing to future employers that ReVille's termination was based upon "mutually agreeable reasons" when in fact the reason for his termination was child sexual abuse;
- vii. Failing to amend ReVille's personnel file to reflect that he was not eligible for rehire;
- viii. Failing to disclose to future employers that ReVille was not eligible for rehire;
- ix. Failing to provide negative referrals to ReVille's future employers;
- x. Failing to provide factual and candid responses to inquires by potential employers;
- xi. Failing to report ReVille's conduct to his employers despite knowing that ReVille continued to be employed in the community and had access to and worked with potential victims;
- xii. Failing to report the allegations and the abuse to Citadel Public Safety, which in turn was required to report to SLED;
- xiii. Failing to report ReVille's conduct to other law enforcement agencies such as the Charleston Police or SLED;
- xiv. Failing to comply with internal policies prohibiting molestation findings from being expunged from an employee's record;
- xv. Terminating the investigation of sexual abuse in exchange for ReVille's resignation;
- xvi. Offering the John Doe family money in exchange for their silence regarding the abuse;

- xvii. Failing to report the incident or investigation to state licensing entities and other clearinghouses;
- xviii. Failing to properly investigate whether ReVille engaged in sexual misconduct with other campers;
- xix. Failing to interview other potential victims identified by Doe, including an eyewitness to the sexual abuse, who, in 2007, was enrolled as a Citadel cadet and housed less than a five minute walk from the lead investigator's office;
- xx. Failing to perform any follow up or research whatsoever as to the child sexual abuse victims identified by Doe in his July 1, 2007 statement;
- xxi. Failing to properly investigate whether ReVille was working around children in 2007 and beyond;
- xxii. Failing to investigate or inquire as to the reason for ReVille's termination from Pinewood Prep in 2006;
- xxiii. Failing to disrupt in any way ReVille's sexual interest in children;
- xxiv. Alerting ReVille of the allegations and instructing him to "Lay low" so as to assist ReVille in avoiding detection;
- xxv. Failing to have sufficient education and training for its employees, staff, and agents about reporting persons known to have engaged in sexual misconduct with children;
- xxvi. Creating a condition where children, including Plaintiff's child, would be isolated with a person with a known sexual interest in children, while withholding information that would enable a parent to choose whether to permit their child to participate in an activity under the supervision of a person with a sexual interest in children;
- xxvii. Allowing an acquaintance of the suspect to lead an investigation into claims of abuse;
- xxviii. Failing to recognize that an investigation conducted by its own in-house counsel would be biased, self-serving and counterproductive to obtaining the truth;
- xxix. Failing to know that established policies and procedures mandated that Doe's claims of sexual abuse be reported to Citadel Public Safety;

- xxx. Failing to know that established policies and procedures mandated that Doe's claims of sexual abuse be reported to The Citadel's Sexual Assault Response Coordinator;
- xxxi. Failing to adequately train its administration and ensure that Citadel officials had knowledge of the law and internal policies regarding reporting of child sexual abuse to law enforcement, even after the Arpaio matter;
- xxxii. In warning ReVille of the 2007 report to provide notice about his risk of discovery and provide an opportunity for ReVille to adjust the method and means by which he approached children and families to gain access for purposes of sexual manipulation of children;
- xxxiii. In any other such particulars as may be shown at trial or as revealed during the course of this litigation.

166. The Citadel's actions in deliberately failing to report the abuse and in failing to comply with its own internal policies and procedures established to address serious incidents and incidents involving sexual abuse and to prevent the threat of harm to future victims created the risk that Plaintiff's child would be harmed by ReVille.

167. Because The Citadel concealed the abuse and failed to report the abuse, the normal mechanisms for investigation, apprehension and prosecution of ReVille that would have insulated Plaintiff's child from abuse were frustrated.

168. Had The Citadel reported the allegations in 2007, the information would have controlled, prevented or limited ReVille's access to children and his ability to sexually abuse the Plaintiff's child, as ReVille, who immediately confessed to the abuse upon confrontation by law enforcement in 2011, would have been identified as a sexual predator in criminal background checks, precluded from employment in work around children, and prevented from injuring additional children, including the Plaintiff's child. Likewise, employers could have been alerted to the need for heightened supervision of ReVille and parents could have made informed

judgments about exposing their child to such an individual with a known sexual interest in children.

169. The Citadel's failure to report the former camper's allegations of abuse in April 2007, and again after receiving additional allegations of abuse in July 1, 2007, constitutes two separate occurrences, both reports containing allegations sufficient to trigger the duties set forth under the Citadel's policies and procedures regarding reporting to law enforcement as well as the duties set forth in the above-referenced statutes.

170. Each of ReVille's multiple opportunities to sexually assault the Plaintiff's child occurred because of the various acts of gross negligence by agents and employees of The Citadel in intentionally failing to adhere to The Citadel's internal policies and procedures, statutory and common law, and accepted professional standards.

171. In failing to prevent the risk of harm to Plaintiff's child by intentionally violating established internal policies and procedures as well as state and federal law, the actions of The Citadel and its agents and employees were not discretionary as contemplated by the South Carolina Tort Claims Act and failed to meet acceptable professional standards.

172. By intentionally violating established internal policies and procedures as well as state and federal law, The Citadel demonstrated a conscious failure to exercise even slight care.

173. Further, the failure to do that which is "common sense," is the failure to exercise slight care. (See Exhibit Y, Deposition of Patricia Kinard at 30, remarking that the duty to report sexual abuse allegations such as those reported to The Citadel on April 23, 2007, is "common sense.").

174. As a direct and proximate result of The Citadel's gross negligence as set forth in Paragraph 142 above, Plaintiff's child was sexually abused by ReVille.

175. The Citadel's knowledge that ReVile's future exploitation of Plaintiff's child was foreseeable demonstrates a direct causal relationship between The Citadel's gross negligence as set forth herein and the resulting harm suffered by Plaintiff.

176. The Plaintiff has suffered serious, permanent intangible injuries and has incurred costs for treating and providing professional care for her child as a result of The Citadel's conduct.

177. The Plaintiff is entitled to damages and injunctive relief as a result of the acts and/or omissions of The Citadel.

FOR A SECOND CAUSE OF ACTION AS TO THE CITADEL
(Negligent Hiring, Retention, and Supervision)

178. The allegations of the preceding paragraphs are incorporated and alleged as if fully set forth herein.

179. In operating a military college, The Citadel undertook the duty to exercise reasonable care in hiring, retaining and supervising employees and staff on the duties of reporting serious incidents, sexual misconduct, sexual assault and sexual harassment occurring on its campus.

180. As the military college of South Carolina, The Citadel's duties and the duties of its officials, employees and/or agents extend beyond the walls of The Citadel to the State of South Carolina.

181. As a parent of a child subjected to ReVile's abuse, The Citadel owed to Plaintiff a duty of care to exercise its right and ability to monitor, supervise or otherwise control the operation of The Citadel to ensure proper reporting procedures were in place.

182. The Citadel owed to Plaintiff a duty to exercise reasonable care in reporting allegations of child sexual abuse to law enforcement so as to prevent ReVile from harming other

children or from conducting himself in such a manner as to create an unreasonable risk of bodily harm to others, including the Plaintiff's son.

183. The Citadel was grossly negligent, malicious, willful and wanton, and breached this duty with respect to Plaintiff by:

- i. Failing to properly train and/or supervise its personnel, employees and/or agents so as to insure that proper reporting procedures are in place and followed;
- ii. Failing to draft or implement proper policies and procedures for reporting allegations of child sexual abuse to law enforcement;
- iii. Failing to draft or implement proper policies and procedures aimed at preventing child sexual abuse and maintaining the safety of minor children on The Citadel campus;
- iv. If such policies existed, failing to follow policies aimed at preventing sexual abuse and ensuring child safety and well-being;
- v. Failing to adequately and competently train its personnel, employees and/or agents, including senior officials and Board of Visitors members, regarding sexual predators, detection of child sexual abuse, and the necessity of reporting allegations of child sexual abuse;
- vi. Failing to adequately and competently train its personnel, employees and/or agents, including senior officials and Board of Visitors members regarding Darkness to Light;
- vii. Failing to have in place proper safeguards for whistleblowers who would otherwise be reluctant to report allegations of child sexual abuse or inappropriate conduct with children by respected members of The Citadel community or others in positions of authority;
- viii. Deliberately concealing and/or ignoring ReVille's sexual abuse and molestation of minor children on its premises;
- ix. Instituting a custom and practice of concealing allegations of child sexual abuse or inappropriate conduct with minors;

- x. Failing to designate ReVille as ineligible for rehire in April 2007 and failing to document the allegations of sexual abuse and policy violations in ReVille's employee file;
- xi. Facilitating and/or creating an environment which permitted ReVille to obtain access to and prey on minors in the community;
- xii. Carrying out its obligation to report allegations of child sexual abuse in an egregious and arbitrary manner;
- xiii. Failing to report the allegations of child sexual abuse and molestation to the appropriate legal authorities;
- xiv. And any other particulars which may be shown at trial.

184. As the parent of a minor in proximity to ReVille, Plaintiff was a reasonably foreseeable victim of The Citadel's failure or refusal to implement and/or enforce an appropriate policy for reporting of sexual misconduct regarding children.

185. As a direct and proximate result of The Citadel's acts and omissions, the Plaintiff's son was sexually abused by ReVille in 2007 and 2008.

186. The Plaintiff has suffered serious, permanent intangible injuries and has incurred costs for treating and providing professional care for her child as a result of The Citadel's conduct.

187. The Plaintiff is entitled to damages and injunctive relief as a result of the acts and/or omissions of The Citadel.

FOR A THIRD CAUSE OF ACTION AS TO THE CITADEL
(§ 59-154-10, Jessica Horton Act)

188. The allegations of the preceding paragraphs are incorporated and alleged as if fully set forth herein.

189. The Jessica Horton Act, effective June 6, 2007, requires reporting of sexual misconduct to law enforcement: "The chief of the campus police of an institution of higher

learning, or his designee, immediately shall notify the State Law Enforcement Division . . . if the officer or another official of the institution is in receipt of a report alleging that an act of criminal sexual conduct has occurred on the property of the institution. Upon notification, the State Law Enforcement Division shall participate in a joint investigation of the . . . alleged act of criminal sexual conduct.”

190. The Act further provides that “[t]he campus police and other employees of the institution of higher learning shall cooperate with an investigation conducted by the State Law Enforcement Division.” S.C. Code Ann. § 59-154-10.

191. The sexual abuse of a minor is a criminal offense under South Carolina law. Section 16-15-305 of the South Carolina Code defines sexual conduct to include, among other things, “masturbation” and “lewd exhibition, actual or simulated, of the genitals.” S.C. Code Ann. § 16-15-305(C)(1)(b).

192. Pursuant to Section 16-3-657 of the South Carolina Code, the testimony of a victim need not be corroborated in prosecutions for criminal sexual conduct.

193. Both the former camper’s initial report on April 23, 2007 and the July 1, 2007 statement containing additional specific facts and allegations of sexual abuse not only alleged acts of inappropriate sexual misconduct against the former camper himself but also alleged acts of criminal sexual conduct against many other children. (Exhibit O, Former Camper’s Statement at 105). These allegations were sufficient to trigger the duties set forth under the Jessica Horton Act.

194. Additionally, the July 1, 2007 statement contained new allegations identifying other victims of ReVille’s abuse, including the identity of specific individuals who were abused, all of which triggered the duties set forth pursuant to the Jessica Horton Act.

195. Upon information and belief, Mr. Brandenburg, General Rosa, Colonel Trez and others were well-informed, or should have been informed, of the statutory mandates of the Jessica Horton Act, which became effective prior to Mr. Brandenburg's visit to Texas to take the former camper's statement.

196. However, despite their knowledge of the Act and its reporting requirements, these officials deliberately neglected to inform the campus police or SLED of the alleged acts of criminal sexual conduct. These officials also neglected to inform campus police or SLED of the allegations that many other minor campers were abused.

197. Had Citadel Public Safety been contacted pursuant to the Jessica Horton Act, the matter would have immediately been reported to and turned over to SLED. (See Exhibit U).

198. The essential purpose of § 59-154-10 is to victims who are threatened by sexual misconduct, including, in particular, the Plaintiff's child.

199. Section 59-154-10 was enacted for the benefit of individuals threatened by sexual misconduct. A child in proximity to a known sexual predator, such as Plaintiff's child, is within the class of persons the statute was intended to protect and is, therefore, identifiable before the fact.

200. The Citadel, through its Alumni Association, personnel records and frequent contact with ReVille, knew or should have known where ReVille was working and volunteering after his termination in 2007, that ReVille was working in proximity to Plaintiff's child, and the likelihood of harm to Plaintiff's child if the allegations of ReVille's sexual misconduct went unreported.

201. The Citadel, through the acts and omissions of its agents and employees in failing to comply with their statutory duty to report sexual misconduct allegations, was negligent,

careless, and reckless, and proximately caused Plaintiff's injuries by enabling ReVille to continue working and volunteering with and around minor children, including Plaintiff's child, that were subjected to sexual abuse.

202. By deliberately concealing knowledge of sexual misconduct in contravention of § 59-154-10, The Citadel's failure to report the allegations of sexual misconduct to Citadel Public Safety and SLED constitutes negligence per se and gross negligence.

203. The Plaintiff has suffered serious, permanent intangible injuries and has incurred costs for treating and providing professional care for her child as a result of The Citadel's conduct.

204. The Plaintiff is entitled to damages and injunctive relief as a result of the acts and/or omissions of The Citadel.

FOR A FOURTH CAUSE OF ACTION AS TO THE CITADEL
(Civil Conspiracy)

205. The allegations of the preceding paragraphs are incorporated and alleged as if fully set forth herein.

206. Following receipt of the 2002 camper's report of sexual abuse, The Citadel, including President Rosa, Mark Brandenburg, Colonel Trez, the Board of Visitors and others, conspired with ReVille to conceal ReVille's sexual abuse of the young campers.

207. Instead of complying with accepted professional standards, internal policies and procedures, and the mandates of state and federal law regarding reporting of abuse allegations, The Citadel embraced an institutional practice espousing conscious disregard for, and deliberate indifference to, the safety and well-being of children and parents of children in the community who were victims or were likely to become victims and suffer harm as a result of The Citadel's failure to report ReVille.

208. The Citadel deliberately disregarded established policies, procedures and statutory mandates, all in an effort to conceal the abuse so as to avoid negative publicity, escape criminal and civil liability, prevent additional costly litigation, permit ReVille to escape detection, and facilitate ReVille's access to families in the community for the purpose of abusing children.

209. In furtherance of the conspiracy, Mark Brandenburg, in his own deposition, claimed he believed ReVille, despite the admitted similarity between ReVille's emphatic denial of the allegations and that of Arpaio, and refused to even interview or track down and question the identified victims, including an eyewitness believed to be enrolled as a cadet housed less than a five minute walk from Brandenburg's office.

210. Additionally, Mark Brandenburg admitted that he did not want to take any action that would tarnish ReVille's reputation and placed great weight on the "life-altering" impact reporting the allegations to law enforcement would have on ReVille. (See Exhibit G, Margolis Report at 29).

211. As further evidence of the conspiracy, Plaintiff is informed and believes that Mark Brandenburg and Colonel Trez met with ReVille on April 24, 2007, and instructed ReVille to "lay low."

212. Additionally, in written correspondence to the IRF on May 16, 2007, Brandenburg reiterated The Citadel's emphasis on protecting ReVille and the institution stating: "The school believes it would be beneficial to both the IRF and the institution, and the most likely approach to lead to a quick and inexpensive resolution of this claim." (See Exhibit F).

213. This effort to safeguard The Citadel's image and ReVille's reputation over protecting young boys and families subjected to ReVille's abuse, coupled with the deliberate disregard for such duties as protecting the welfare of others and reporting criminal acts and

suspected child sexual abuse to law enforcement, exemplifies the foremost objectives of the co-conspirators common design, including, but not limited to: escaping criminal or civil liability; avoiding another round of litigation, preventing negative publicity; protecting ReVille's reputation; assisting ReVille in evading liability; and facilitating ReVille's access to families for the purpose of abusing children, including the Plaintiff's child.

214. Upon information and belief, this common design began on or about April 24, 2007 and continued until the co-conspirator, ReVille, was arrested on numerous counts of sexual misconduct with a minor in late 2011.

215. The Citadel contends ReVille was not an employee of The Citadel on April 24, 2007 and not under the control of The Citadel during this time.

216. Actions taken by The Citadel in furtherance of the conspiracy contravened the responsibilities and duties of The Citadel as set forth by established Citadel policies and state and federal law, and therefore failed to meet accepted professional standards and were not discretionary as contemplated by the South Carolina Tort Claims Act.

217. Because The Citadel concealed and failed to report the abuse, the normal mechanisms for investigation, apprehension, and prosecution of ReVille that would have insulated Plaintiff's child from abuse were frustrated. Such overt acts to conceal ReVille's sexual abuse had the foreseeable consequence that other families, children and parents would become victimized by ReVille's abuse, including the Plaintiff.

218. Had The Citadel not aided and abetted ReVille, as its former employee and co-conspirator, to avoid detection and prosecution, Plaintiff's child would not have been sexually abused.

219. In aiding and abetting ReVile, it was substantially certain that other children, including Plaintiff's child, would be sexually abused and, in fact, such abuse did occur and continued until the co-conspirator, ReVile, was arrested on numerous counts of child abuse and sexual misconduct in 2011.

220. The Citadel's awareness of the foreseeability of ReVile's manipulation of Plaintiff and exploitation of Plaintiff's child demonstrates a direct causal relationship between The Citadel's conduct as set forth herein and the resulting harm suffered by Plaintiff.

221. As a direct and proximate result of The Citadel's acts in concealing the abuse, ReVile was not prosecuted, his sexual abuse went undetected, and he was able to continue to prey on families, children and parents under the guise of duty and honor as a highly respected and trustworthy Citadel alumnus.

222. As a direct and proximate result of The Citadel's acts and/or omissions in conspiring for the purpose of injuring Plaintiff, the Plaintiff has suffered serious, permanent intangible injuries resulting in special damages insofar as the Plaintiff has incurred costs for treating and providing professional care for her child, as well as other injury, as a result of The Citadel's conduct.

223. The Plaintiff is entitled to damages and injunctive relief as a result of the acts and/or omissions of The Citadel.

FOR A FIFTH CAUSE OF ACTION AS TO THE CITADEL
(§ 63-7-310, Mandatory Reporting Statute)

224. The allegations of the preceding paragraphs are incorporated and alleged as if fully set forth herein.

225. S.C. Code Ann. § 63-7-310 imposes a duty on teachers, school administrators and law enforcement, including Citadel Public Safety, to guard against child abuse and neglect by reporting suspected instances of child sexual abuse, among other forms of abuse or neglect.

226. The essential purpose of § 63-7-310 is to protect children who are threatened by child abuse and neglect, including, in particular, the sexual abuse suffered by Plaintiff's child.

227. The Citadel, including teachers, school administrators and law enforcement had a continuing duty, pursuant to § 63-7-310, to report ReVille's alleged child sexual abuse to the appropriate law enforcement authorities when the allegation of abuse involving Doe and "many other campers" was reported in April 2007.

228. Further, upon receipt of the July 1, 2007 statement specifically identifying additional minor victims, The Citadel had a continuing duty to report these allegations of child sexual abuse.

229. Section 63-7-310 was enacted for the benefit of children who are threatened by child abuse and neglect.

230. A child in proximity to a known sexual predator, such as Plaintiff's child, is within the class of persons the statute was intended to protect and is, therefore, identifiable before the fact.

231. The Citadel, through its Alumni Association, personnel records, and frequent contact with ReVille, knew or should have known where ReVille was working and volunteering after his termination in 2007, that ReVille was working in proximity to Plaintiff's child, and the likelihood of harm to Plaintiff's child if the allegations of ReVille's predilection for sexually molesting children went unreported.

232. Plaintiff's child, being subjected to and threatened by the sexual abuse of ReVille, is a member of the class of persons § 63-7-310 is intended to protect.

233. Citadel educators, administrators, and teachers who had knowledge of the sexual abuse allegations against ReVille, including but not limited to, President Rosa, Colonel Trez, Brandenburg, Bob Williamson, and Colonel John Lackey, had a duty pursuant to § 63-7-310 to report the suspected child abuse.

234. Similarly, members of Citadel Public Safety who had knowledge of the sexual abuse allegations had a duty pursuant to § 63-7-310 to report the suspected abuse.

235. Actions by Citadel professors, administrators, and Citadel Public Safety to refrain from reporting the abuse by ReVille and to protect, at all costs, the institution, were actions taken by Citadel agents and employees acting within the scope and performance of their official duties.

236. The Citadel, in failing to comply with its statutory duty to report suspected child abuse, was negligent, careless and reckless and proximately caused Plaintiff's injuries by enabling ReVille to continue working and volunteering with and around minor children subjected to his abuse, including Plaintiff's child.

237. By deliberately concealing knowledge of suspected child abuse in contravention of its continuing duty pursuant to § 63-7-310, The Citadel's failure to report constitutes negligence per se and gross negligence.

FOR A SIXTH CAUSE OF ACTION AT TO THE CITADEL
(Intentional Infliction of Emotional Distress/Outrage)

238. The allegations of the preceding paragraphs are incorporated and alleged as if fully set forth herein.

239. The Citadel acted in a reckless manner that resulted in severe emotional distress that was certain or substantially certain to be inflicted on any parent whose child was sexually

assaulted as a result of The Citadel's failure to take any action to stop, prevent, eliminate or interfere with ReVille's ability to engage in inappropriate and criminal sexual misconduct with children.

240. The Citadel was grossly negligent in at least the following particulars:

- i. Failing to enforce, or failing to know, or to comply with internal policies and procedures after The Citadel was put on notice of ReVille's sexual misconduct while acting within the scope of his official duties and despite the foreseeability that other victims, including, in particular, the Plaintiff's child, would be injured and would suffer the injuries described herein;
- ii. Violating established statutory duties to report ReVille to authorities and to warn the community and Plaintiff, in particular, of the threat ReVille posed to young boys, including, in particular those duties set forth in the following statutes:
 - a. Jessica Horton Act, S.C. Code Ann. § 59-154-10;
 - b. Child Abuse Reporting Statute, § 63-7-310
 - c. Jeanne Clery Act, 20 U.S.C. § 1092(f); and
 - d. Title IX, 20 U.S.C. § 1681;
- iii. Failing to enforce internal policies and procedures against ReVille while he was employed as a member of The Citadel faculty in 2007, including failing to discipline ReVille and enforce The Citadel's disciplinary code;
- iv. Failing to supervise, monitor and control the conduct of ReVille while he was a Citadel cadet, a member of The Citadel faculty, an alumnus, frequent visitor, and guest speaker so as to prevent ReVille from abusing other victims, including Plaintiff's child;
- v. Failing to record the allegations, the outcome of the investigation and any disciplinary action in ReVille's personnel file;
- vi. Failing and falsely representing to future employers that ReVille's termination was based upon "mutually agreeable reasons" when in fact the reason for his termination was child sexual abuse;

- vii. Failing to amend ReVille's personnel file to reflect that he was not eligible for rehire;
- viii. Failing to disclose to future employers that ReVille was not eligible for rehire;
- ix. Failing to provide negative referrals to ReVille's future employers;
- x. Failing to provide factual and candid responses to inquires by potential employers;
- xi. Failing to report ReVille's conduct to his employers despite knowing that ReVille continued to be employed in the community and had access to and worked with potential victims;
- xii. Failing to report the allegations and the abuse to Citadel Public Safety, which in turn was required to report to SLED;
- xiii. Failing to report ReVille's conduct to other law enforcement agencies such as the Charleston Police or SLED;
- xiv. Failing to comply with internal policies prohibiting molestation findings from being expunged from an employee's record;
- xv. Terminating the investigation of sexual abuse in exchange for ReVille's resignation;
- xvi. Offering the John Doe family money in exchange for their silence regarding the abuse;
- xvii. Failing to report the incident or investigation to state licensing entities and other clearinghouses;
- xviii. Failing to properly investigate whether ReVille engaged in sexual misconduct with other campers;
- xix. Failing to interview other potential victims identified by Doe, including an eyewitness to the sexual abuse, who, in 2007, was enrolled as a Citadel cadet and housed less than a five minute walk from the lead investigator's office;
- xx. Failing to perform any follow up or research whatsoever as to the child sexual abuse victims identified by Doe in his July 1, 2007 statement;
- xxi. Failing to properly investigate whether ReVille was working around children in 2007 and beyond;

- xxii. Failing to investigate or inquire as to the reason for ReVille's termination from Pinewood Prep in 2006;
- xxiii. Failing to disrupt in any way ReVille's sexual interest in children;
- xxiv. Alerting ReVille of the allegations and instructing him to "Lay low" so as to assist ReVille in avoiding detection;
- xxv. Failing to have sufficient education and training for its employees, staff, and agents about reporting persons known to have engaged in sexual misconduct with children;
- xxvi. Creating a condition where children, including Plaintiff's child, would be isolated with a person with a known sexual interest in children, while withholding information that would enable a parent to choose whether to permit their child to participate in an activity under the supervision of a person with a sexual interest in children;
- xxvii. Allowing an acquaintance of the suspect to lead an investigation into claims of abuse;
- xxviii. Failing to recognize that an investigation conducted by its own in-house counsel would be biased, self-serving and counterproductive to obtaining the truth;
- xxix. Failing to know that established policies and procedures mandated that Doe's claims of sexual abuse be reported to Citadel Public Safety;
- xxx. Failing to know that established policies and procedures mandated that Doe's claims of sexual abuse be reported to The Citadel's Sexual Assault Response Coordinator;
- xxxi. Failing to adequately train its administration and ensure that Citadel officials had knowledge of the law and internal policies regarding reporting of child sexual abuse to law enforcement, even after the Arpaio matter;
- xxxii. In warning ReVille of the 2007 report to provide notice about his risk of discovery and provide an opportunity for ReVille to adjust the method and means by which he approached children and families to gain access for purposes of sexual manipulation of children;

xxxiii. In any other such particulars as may be shown at trial or as revealed during the course of this litigation.

241. Through its investigation into the initial allegations of abuse in 2007, The Citadel was well aware of the devastating impact and severe emotional distress inflicted on victims of ReVille's sexual abuse. Mr. Bradenburg, President Rosa, Colonel Trez, Ms. Garrott, the Board of Visitors, and others were also well informed of the traumatic effects of child sexual abuse on individuals following the Arpaio matter. Further, President Rosa's prior experience as the Superintendent of the U.S. Air Force Academy, through which he was revered for his efforts to improve the process of reporting sexual and gender violence at the Air Force Academy, also imparted a keen awareness as to the devastating impact of sexual abuse on individuals.

242. The Citadel was well aware that failing to report ReVille would permit ReVille to continue to work with and around children who would ultimately become victims of ReVille's sexual abuse. Indeed, by concealing the abuse and allowing ReVille to continue to prey on children under the guise of duty and honor, The Citadel provided ReVille with the very currency that enabled him to attract his victims, including the Plaintiff's child.

243. Further, still recovering from the Arpaio scandal and the recent settlement, The Citadel commenced a course of action to avoid another round of sexual abuse claims and to protect, at all costs, The Citadel's reputation, including: deliberately shielded the allegations from spreading beyond a small circle of administrators who knew and protected ReVille; refusing to report the allegations to professionals on the Citadel campus who would have reported the allegations to law enforcement; refusing to report the allegations to law enforcement; attempting to silence the Doe family with a monetary settlement; and refusing to properly and thoroughly investigate the allegations implicating many other victims. In undertaking these actions, The Citadel placed the reputation of the institution and the desire to

avoid another child sexual abuse scandal above the protection of children from a serial child sexual predator—upon information and belief, that is the definition of outrageous conduct.

244. In deliberately choosing to remain silent despite knowledge that ReVille continued to work around children that would become victims of his sexual abuse, The Citadel's conduct was egregious, outrageous, and exceeds all bounds of decency. The notion that ReVille should be permitted to leave The Citadel with an unblemished record that in turn enabled him to obtain continued access to children for the purposes of sexual exploitation is atrocious and utterly intolerable.

245. Had The Citadel adhered to its own internal policies and procedures, statutory and common law, and accepted professional standards, the Plaintiff's child would never have been exposed to ReVille or subjected to ReVille's atrocious acts of abuse. The acts and omissions of The Citadel proximately caused the Plaintiff's emotional distress.

246. The emotional distress suffered by the Plaintiff in knowing her child was sexually abused when the abuse could have been avoided had The Citadel merely reported to law enforcement, ReVille's employers, or the community is so severe that no reasonable person could be expected to endure it.

247. As a result of the egregious conduct of The Citadel, Plaintiff is entitled to damages and injunctive relief.

FOR A SEVENTH CAUSE OF ACTION AS TO THE CITADEL
(Loss of Services)

248. The allegations of the preceding paragraphs are incorporated and alleged as if fully set forth herein.

249. The Citadel had a duty to refrain from any act or omission which might cause harm to minor children within a foreseeable danger, including Plaintiff's minor child.

250. The Citadel was grossly negligent, in at least the following particulars:
- i. Failing to enforce, or failing to know, or to comply with internal policies and procedures after The Citadel was put on notice of ReVille's sexual misconduct while acting within the scope of his official duties and despite the foreseeability that other victims, including, in particular, the Plaintiff's child, would be injured and would suffer the injuries described herein;
 - ii. Violating established statutory duties to report ReVille to authorities and to warn the community and Plaintiff, in particular, of the threat ReVille posed to young boys, including, in particular those duties set forth in the following statutes:
 - a. Jessica Horton Act, S.C. Code Ann. § 59-154-10;
 - b. Child Abuse Reporting Statute, § 63-7-310
 - c. Jeanne Clery Act, 20 U.S.C. § 1092(f); and
 - d. Title IX, 20 U.S.C. § 1681;
 - iii. Failing to enforce internal policies and procedures against ReVille while he was employed as a member of The Citadel faculty in 2007, including failing to discipline ReVille and enforce The Citadel's disciplinary code;
 - iv. Failing to supervise, monitor and control the conduct of ReVille while he was a Citadel cadet, a member of The Citadel faculty, an alumnus, frequent visitor, and guest speaker so as to prevent ReVille from abusing other victims, including Plaintiff's child;
 - v. Failing to record the allegations, the outcome of the investigation and any disciplinary action in ReVille's personnel file;
 - vi. Failing and falsely representing to future employers that ReVille's termination was based upon "mutually agreeable reasons" when in fact the reason for his termination was child sexual abuse;
 - vii. Failing to amend ReVille's personnel file to reflect that he was not eligible for rehire;
 - viii. Failing to disclose to future employers that ReVille was not eligible for rehire;
 - ix. Failing to provide negative referrals to ReVille's future employers;

- x. Failing to provide factual and candid responses to inquires by potential employers;
- xi. Failing to report ReVille's conduct to his employers despite knowing that ReVille continued to be employed in the community and had access to and worked with potential victims;
- xii. Failing to report the allegations and the abuse to Citadel Public Safety, which in turn was required to report to SLED;
- xiii. Failing to report ReVille's conduct to other law enforcement agencies such as the Charleston Police or SLED;
- xiv. Failing to comply with internal policies prohibiting molestation findings from being expunged from an employee's record;
- xv. Terminating the investigation of sexual abuse in exchange for ReVille's resignation;
- xvi. Offering the John Doe family money in exchange for their silence regarding the abuse;
- xvii. Failing to report the incident or investigation to state licensing entities and other clearinghouses;
- xviii. Failing to properly investigate whether ReVille engaged in sexual misconduct with other campers;
- xix. Failing to interview other potential victims identified by Doe, including an eyewitness to the sexual abuse, who, in 2007, was enrolled as a Citadel cadet and housed less than a five minute walk from the lead investigator's office;
- xx. Failing to perform any follow up or research whatsoever as to the child sexual abuse victims identified by Doe in his July 1, 2007 statement;
- xxi. Failing to properly investigate whether ReVille was working around children in 2007 and beyond;
- xxii. Failing to investigate or inquire as to the reason for ReVille's termination from Pinewood Prep in 2006;
- xxiii. Failing to disrupt in any way ReVille's sexual interest in children;
- xxiv. Alerting ReVille of the allegations and instructing him to "Lay low" so as to assist ReVille in avoiding detection;

- xxv. Failing to have sufficient education and training for its employees, staff, and agents about reporting persons known to have engaged in sexual misconduct with children;
- xxvi. Creating a condition where children, including Plaintiff's child, would be isolated with a person with a known sexual interest in children, while withholding information that would enable a parent to choose whether to permit their child to participate in an activity under the supervision of a person with a sexual interest in children;
- xxvii. Allowing an acquaintance of the suspect to lead an investigation into claims of abuse;
- xxviii. Failing to recognize that an investigation conducted by its own in-house counsel would be biased, self-serving and counterproductive to obtaining the truth;
- xxix. Failing to know that established policies and procedures mandated that Doe's claims of sexual abuse be reported to Citadel Public Safety;
- xxx. Failing to know that established policies and procedures mandated that Doe's claims of sexual abuse be reported to The Citadel's Sexual Assault Response Coordinator;
- xxxi. Failing to adequately train its administration and ensure that Citadel officials had knowledge of the law and internal policies regarding reporting of child sexual abuse to law enforcement, even after the Arpaio matter;
- xxxii. In warning ReVille of the 2007 report to provide notice about his risk of discovery and provide an opportunity for ReVille to adjust the method and means by which he approached children and families to gain access for purposes of sexual manipulation of children;
- xxxiii. In any other such particulars as may be shown at trial or as revealed during the course of this litigation.

251. Plaintiff was harmed as a result of the gross negligence of The Citadel as set forth above in that she has been deprived of the services and companionship of her child.

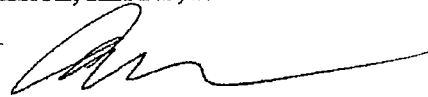
252. Plaintiff is entitled to a judgment against The Citadel, for damages in an amount to be determined by the jury, and injunctive relief to be ordered by the Court.

WHEREFORE, Plaintiff respectfully requests the following:

- i. Trial by jury;
- ii. Judgment against Defendants for actual damages, punitive damages, special damages, consequential damages, and treble damages in an amount to be determined by the jury;
- iii. Injunctive relief to enjoin the Defendants from failing to report to law enforcement information received about sexual misconduct and child sexual abuse which occurs on the campus of The Citadel, including requiring The Citadel to report past unreported instances of abuse occurring at The Camp pursuant to The Clery Act, 20 U.S.C. § 1092(f);
- iv. Costs and reasonable attorneys' fees against The Citadel pursuant to S.C. Code § 15-77-300;
- v. And such other and further relief as the Court and jury deem just and proper.

Respectfully submitted,

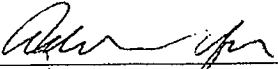
PIERCE, HERNS, SLOAN & WILSON, LLC



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December, 2013
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CERTIFICATE OF SERVICE

I certify that on this date a copy of the forgoing document was served on each party or counsel of record by mailing or hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 12th day of Dec., 2013

Mary Shondries

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
MOTHER DOE A,)
Plaintiff,)
v.)
THE CITADEL,)
Defendant.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2011-CP-10-9200

**DEFENDANT'S ANSWER TO
AMENDED COMPLAINT**

FILED
2014 FEB -5 PM 4:43
JULIE J. ARMSTRONG
CLERK OF COURT

AND NOW COMES Defendant The Citadel ("Defendant"), by and through its undersigned counsel, and files the following Answer to Plaintiff's Amended Complaint:

FOR A FIRST DEFENSE AND BY WAY OF ANSWER

1. Defendant admits in part and denies in part the averments of Paragraph 1 of Plaintiff's Amended Complaint. Defendant admits only that Mother Doe A is a former citizen of South Carolina and that Plaintiff is referenced in the Amended Complaint by a pseudonym to maintain her confidentiality. The parties have agreed to a protective order in this case to protect Mother Doe A's identity. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the remaining allegations of Paragraph 1 of Plaintiff's Amended Complaint. Therefore, Defendant denies the remaining allegations of Paragraph 1 of Plaintiff's Amended Complaint.

2. Defendant admits in part and denies in part the averments of Paragraph 2 of Plaintiff's Amended Complaint. Defendant admits only that The Citadel is a South Carolina public college with its principal place of business in Charleston County, South Carolina. Defendant further admits that it maintains an Alumni Association website and that Skip ReVille is a former Citadel cadet. Defendant denies the remaining averments of Paragraph 2 of Plaintiff's Amended Complaint.

3. The averments of Paragraph 3 of Plaintiff's Amended Complaint constitute

conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant admits only that Charleston County is a proper venue for the claims asserted in this case. Defendant denies the remaining averments of Paragraph 3 of Plaintiff's Amended Complaint.

4. The averments of Paragraph 4 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant admits only that this Court possesses subject matter and personal jurisdiction over the claims asserted in this case. Defendant denies the remaining averments of Paragraph 4 of Plaintiff's Amended Complaint.

Factual Background — The 2005 & 2007 Report

5. Defendant admits in part and denies in part the averments of Paragraph 5 of Plaintiff's Amended Complaint. Defendant admits only the averments of the first sentence of Paragraph 5 of Plaintiff's Amended Complaint. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the remaining allegations of Paragraph 5 of Plaintiff's Amended Complaint. Therefore, Defendant denies the remaining allegations of Paragraph 5 of Plaintiff's Amended Complaint.

6. Defendant admits in part and denies in part the averments of Paragraph 6 of Plaintiff's Amended Complaint. Defendant admits only that, at the time of the events relevant to this lawsuit, the Camp was operated by the Office of The Commandant of Cadets, which was responsible for personnel decisions. Defendant denies the remaining averments of Paragraph 6 of Plaintiff's Amended Complaint.

7. The averments of Paragraph 7 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 7 of Plaintiff's Amended Complaint.

8. Defendant admits in part and denies in part the averments of Paragraph 8 of Plaintiff's Amended Complaint. Defendant admits only that: (a) ReVille was a Citadel cadet from 1998-2002; (b) at various times between 2001 and 2003, ReVille worked in various capacities at the Camp; and (c) ReVille was employed at The Citadel, in a capacity unrelated to the Camp, in 2002 and 2006-07. Defendant denies the remaining averments of Paragraph 8 of Plaintiff's Amended Complaint.

9. Defendant admits in part and denies in part the averments of Paragraph 9 of Plaintiff's Amended Complaint. Defendant admits only that ReVille has admitted to engaging in sexual misconduct with campers at the Camp in violation of The Citadel's policies. Defendant denies the remaining averments of Paragraph 9 of Plaintiff's Amended Complaint.

10. Defendant denies the averments of Paragraph 10 of Plaintiff's Amended Complaint.

11. Defendant denies the averments of Paragraph 11 of Plaintiff's Amended Complaint.

12. Defendant denies the averments of Paragraph 12 of Plaintiff's Amended Complaint.

13. Defendant denies the averments of Paragraph 13 of Plaintiff's Amended Complaint.

14. Defendant denies the averments of Paragraph 14 of Plaintiff's Amended Complaint.

15. Defendant admits in part and denies in part the averments of Paragraph 15 of Plaintiff's Amended Complaint. Defendant admits only that ReVille was a Senior Counselor at the Camp during the second session of 2003. Defendant denies the remaining averments of Paragraph 15 of Plaintiff's Amended Complaint.

16. Defendant denies the averments of Paragraph 16 of Plaintiff's Amended

Complaint.

17. Defendant denies the averments of Paragraph 17 of Plaintiff's Amended Complaint.

18. Defendant denies the averments of Paragraph 18 of Plaintiff's Amended Complaint.

19. Defendant denies the averments of Paragraph 19 of Plaintiff's Amended Complaint.

20. Defendant denies the averments of Paragraph 20 of Plaintiff's Amended Complaint.

21. Defendant denies the averments of Paragraph 21 of Plaintiff's Amended Complaint.

22. Defendant denies the averments of Paragraph 22 of Plaintiff's Amended Complaint.

23. Defendant denies the averments of Paragraph 23 of Plaintiff's Amended Complaint.

24. Defendant admits in part and denies in part the averments of Paragraph 24 of Plaintiff's Amended Complaint. Defendant admits only that in 2005 Mark Brandenburg became General Counsel of The Citadel. Defendant denies the remaining averments of Paragraph 24 of Plaintiff's Amended Complaint.

25. Defendant admits in part and denies in part the averments of Paragraph 25 of Plaintiff's Amended Complaint. Defendant admits only that in 2006 John W. Rosa became President of The Citadel. Defendant denies the remaining averments of Paragraph 25 of Plaintiff's Amended Complaint. Defendant specifically denies that President Rosa is a "Defendant" in this lawsuit.

26. Defendant denies the averments of Paragraph 26 of Plaintiff's Amended

Complaint.

27. Defendant denies the averments of Paragraph 27 of Plaintiff's Amended Complaint.

28. Defendant denies the averments of Paragraph 28 of Plaintiff's Amended Complaint.

29. Defendant admits in part and denies in part the averments of Paragraph 29 of Plaintiff's Amended Complaint. Defendant admits only that this Paragraph accurately quotes Exhibit F to Plaintiff's Amended Complaint, a May 16, 2007 letter. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit F to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 29 of Plaintiff's Amended Complaint.

30. Defendant admits in part and denies in part the averments of Paragraph 30 of Plaintiff's Amended Complaint. Defendant admits only that this Paragraph accurately quotes Exhibit F to Plaintiff's Amended Complaint, a May 16, 2007 letter. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit F to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 30 of Plaintiff's Amended Complaint.

31. Defendant admits in part and denies in part the averments of Paragraph 31 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit G to Plaintiff's Amended Complaint is a document entitled "Investigation into The Citadel's Handling of Allegations Involving Louis N. 'Skip' ReVille." This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit G to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 31 of Plaintiff's Amended Complaint.

32. Defendant denies the averments of Paragraph 32 of Plaintiff's Amended

Complaint.

33. Defendant admits in part and denies in part the averments of Paragraph 33 of Plaintiff's Amended Complaint. Defendant admits only that Mark Brandenburg was one of the attorneys representing The Citadel in lawsuits alleging sexual abuse by Arpaio. Defendant denies the remaining averments of Paragraph 33 of Plaintiff's Amended Complaint.

34. Defendant admits in part and denies in part the averments of Paragraph 34 of Plaintiff's Amended Complaint. Defendant admits only that this Paragraph accurately quotes Exhibits H, I, J and K to Plaintiff's Amended Complaint. These written documents are the best and only evidence of their contents. Defendant objects to any characterization of the contents of Exhibits H, I, J and K to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 34 of Plaintiff's Amended Complaint.

35. The averments of Paragraph 35 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 35 of Plaintiff's Amended Complaint.

36. The averments of Paragraph 36 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 36 of Plaintiff's Amended Complaint.

37. Defendant denies the averments of Paragraph 37 of Plaintiff's Amended Complaint.

38. Defendant denies the averments of Paragraph 38 of Plaintiff's Amended Complaint.

39. Defendant denies the averments of Paragraph 39 of Plaintiff's Amended Complaint.

40. Defendant denies the averments of Paragraph 40 of Plaintiff's Amended Complaint.

41. Defendant admits in part and denies in part the averments of Paragraph 41 of Plaintiff's Amended Complaint. Defendant admits only that, when confronted with claims by this camper, ReVille denied the allegations. Defendant denies the remaining averments of Paragraph 41 of Plaintiff's Amended Complaint.

42. The averments of Paragraph 42 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 42 of Plaintiff's Amended Complaint.

43. Defendant denies the averments of Paragraph 43 of Plaintiff's Amended Complaint.

44. Defendant denies the averments of Paragraph 44 of Plaintiff's Amended Complaint.

45. Defendant admits the averments of Paragraph 45 of Plaintiff's Amended Complaint.

46. Defendant denies the averments of Paragraph 46 of Plaintiff's Amended Complaint.

47. Defendant denies the averments of Paragraph 47 of Plaintiff's Amended Complaint.

48. Defendant denies the averments of Paragraph 48 of Plaintiff's Amended Complaint.

49. Defendant denies the averments of Paragraph 49 of Plaintiff's Amended Complaint.

50. Defendant denies the averments of Paragraph 50 of Plaintiff's Amended

Complaint.

51. Defendant denies the averments of Paragraph 51 of Plaintiff's Amended Complaint.

52. Defendant denies the averments of Paragraph 52 of Plaintiff's Amended Complaint.

53. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 53 of Plaintiff's Amended Complaint. Therefore, Defendant denies the allegations of Paragraph 53 of Plaintiff's Amended Complaint.

54. Defendant denies the averments of Paragraph 54 of Plaintiff's Amended Complaint.

55. Defendant denies the averments of Paragraph 55 of Plaintiff's Amended Complaint.

56. Defendant denies the averments of Paragraph 56 of Plaintiff's Amended Complaint.

57. Defendant denies the averments of Paragraph 57 of Plaintiff's Amended Complaint.

58. Defendant admits in part and denies in part the averments of Paragraph 58 of Plaintiff's Amended Complaint. Defendant admits only that Mr. Brandenburg travelled to Dallas, Texas, to meet with and interview "Doe." Defendant denies the remaining averments of Paragraph 58 of Plaintiff's Amended Complaint.

59. Defendant denies the averments of Paragraph 59 of Plaintiff's Amended Complaint.

60. Defendant admits in part and denies in part the averments of Paragraph 60 (including subparts (i) through (v)) of Plaintiff's Amended Complaint. Defendant admits only that Exhibit O to Plaintiff's Amended Complaint is a document entitled "Re: Summer Camp

Interview July 1, 2007." This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit O to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 60 (including subparts (i) through (v)) of Plaintiff's Amended Complaint.

61. Defendant denies the averments of Paragraph 61 of Plaintiff's Amended Complaint.

62. Defendant admits in part and denies in part the averments of Paragraph 62 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit O to Plaintiff's Amended Complaint is a document entitled "Re: Summer Camp Interview July 1, 2007." This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit O to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 62 of Plaintiff's Amended Complaint.

63. Defendant denies the averments of Paragraph 63 of Plaintiff's Amended Complaint.

64. Defendant denies the averments of Paragraph 64 of Plaintiff's Amended Complaint.

65. Defendant admits in part and denies in part the averments of Paragraph 65 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit P to Plaintiff's Amended Complaint is an August 8, 2007 email. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit P to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 65 of Plaintiff's Amended Complaint.

66. Defendant admits in part and denies in part the averments of Paragraph 66 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit P to Plaintiff's Amended Complaint is an August 8, 2007 email. This written document is the best and only evidence of

its contents. Defendant objects to any characterization of the contents of Exhibit P to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 66 of Plaintiff's Amended Complaint.

67. Defendant denies the averments of Paragraph 67 of Plaintiff's Amended Complaint.

68. Defendant denies the averments of Paragraph 68 of Plaintiff's Amended Complaint.

69. The averments of Paragraph 69 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 69 of Plaintiff's Amended Complaint.

70. Defendant denies the averments of Paragraph 70 of Plaintiff's Amended Complaint.

71. Defendant denies the averments of Paragraph 71 of Plaintiff's Amended Complaint.

72. Defendant admits in part and denies in part the averments of Paragraph 72 of Plaintiff's Amended Complaint. Defendant admits only that this Paragraph accurately quotes Exhibit Q to Plaintiff's Amended Complaint, a November 16, 2007 email. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit Q to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 72 of Plaintiff's Amended Complaint.

73. Defendant admits in part and denies in part the averments of Paragraph 73 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit R to Plaintiff's Amended Complaint is an August 20, 2008 email. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit R to Plaintiff's

Amended Complaint. Defendant denies the remaining averments of Paragraph 73 of Plaintiff's Amended Complaint.

74. Defendant admits in part and denies in part the averments of Paragraph 74 of Plaintiff's Amended Complaint. Defendant admits only that in 2011 ReVile was accused of sexually abusing children at a private school. Defendant denies the remaining averments of Paragraph 74 of Plaintiff's Amended Complaint.

75. Defendant denies the averments of Paragraph 75 of Plaintiff's Amended Complaint.

76. Defendant admits in part and denies in part the averments of Paragraph 76 of Plaintiff's Amended Complaint. Defendant admits only that ReVile was arrested on October 28, 2011, and is presently serving a 50-year sentence for the sexual abuse of boys. Defendant denies the remaining averments of Paragraph 76 of Plaintiff's Amended Complaint.

77. The averments of Paragraph 77 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 77 of Plaintiff's Amended Complaint.

78. The averments of Paragraph 78 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 78 of Plaintiff's Amended Complaint.

79. The averments of Paragraph 79 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 79 of Plaintiff's Amended Complaint.

80. Defendant denies the averments of Paragraph 80 of Plaintiff's Amended

Complaint.

81. Defendant denies the averments of Paragraph 81 of Plaintiff's Amended Complaint.

82. Defendant denies the averments of Paragraph 82 of Plaintiff's Amended Complaint.

83. Defendant admits the averments of Paragraph 83 of Plaintiff's Amended Complaint.

84. Defendant denies the averments of Paragraph 84 of Plaintiff's Amended Complaint.

85. Defendant admits in part and denies in part the averments of Paragraph 85 of Plaintiff's Amended Complaint. Defendant admits only that this Paragraph accurately quotes Exhibit O to Plaintiff's Amended Complaint, a document entitled "Re: Summer Camp Interview July 1, 2007." This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit O to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 85 of Plaintiff's Amended Complaint.

86. Defendant denies the averments of Paragraph 86 of Plaintiff's Amended Complaint.

87. Defendant denies the averments of Paragraph 87 of Plaintiff's Amended Complaint.

88. Defendant denies the averments of Paragraph 88 of Plaintiff's Amended Complaint.

89. The averments of Paragraph 89 (including subparagraphs (i) through (iv)) of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 89 (including subparagraphs (i) through (iv)) of Plaintiff's Amended

Complaint.

90. Defendant admits in part and denies in part the averments of Paragraph 90 of Plaintiff's Amended Complaint. Defendant admits only that Exhibits L and S to Plaintiff's Amended Complaint are the deposition transcripts of Mr. Brandenburg and Col. Trez. These written documents are the best and only evidence of their contents. Defendant objects to any characterization of the contents of Exhibits L and S to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 90 of Plaintiff's Amended Complaint.

91. Defendant admits in part and denies in part the averments of Paragraph 91 of Plaintiff's Amended Complaint. Defendant admits only that Exhibits L and S to Plaintiff's Amended Complaint are the deposition transcripts of Mr. Brandenburg and Col. Trez and that Exhibit I is Memorandum Number 39 "Serious Incidents." These written documents are the best and only evidence of their contents. Defendant objects to any characterization of the contents of Exhibits I, L and S to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 91 of Plaintiff's Amended Complaint.

92. Defendant denies the averments of Paragraph 92 of Plaintiff's Amended Complaint.

93. Defendant denies the averments of Paragraph 93 of Plaintiff's Amended Complaint.

94. Defendant admits in part and denies in part the averments of Paragraph 94 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit I to Plaintiff's Amended Complaint is a document entitled Memorandum Number 39 "Serious Incidents" and that Exhibit T to Plaintiff's Amended Complaint is a document entitled "Keeping our College Safe and Secure." These written documents are the best and only evidence of their contents. Defendant objects to any characterization of the contents of Exhibits I and T to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 94 of Plaintiff's Amended

Complaint.

95. The averments of Paragraph 95 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 95 of Plaintiff's Amended Complaint.

96. The averments of Paragraph 96 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 96 of Plaintiff's Amended Complaint.

97. The averments of Paragraph 97 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 97 of Plaintiff's Amended Complaint.

98. The averments of Paragraph 98 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 98 of Plaintiff's Amended Complaint.

99. The averments of Paragraph 99 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 99 of Plaintiff's Amended Complaint.

100. Defendant denies the averments of Paragraph 100 of Plaintiff's Amended Complaint.

101. Defendant denies the averments of Paragraph 101 of Plaintiff's Amended Complaint.

102. Defendant denies the averments of Paragraph 102 of Plaintiff's Amended Complaint.

103. Defendant denies the averments of Paragraph 103 of Plaintiff's Amended Complaint.

104. Defendant denies the averments of Paragraph 104 of Plaintiff's Amended Complaint.

105. Defendant denies the averments of Paragraph 105 of Plaintiff's Amended Complaint.

106. Defendant denies the averments of Paragraph 106 of Plaintiff's Amended Complaint.

107. Defendant denies the averments of Paragraph 107 of Plaintiff's Amended Complaint.

108. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 108 of Plaintiff's Amended Complaint. Therefore, Defendant denies the allegations of Paragraph 108 of Plaintiff's Amended Complaint.

109. Defendant admits in part and denies in part the averments of Paragraph 109 of Plaintiff's Amended Complaint. Defendant admits only that this Paragraph accurately quotes Exhibit W to Plaintiff's Amended Complaint, a document entitled "In the Event of Employee Misconduct." This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit W to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 109 of Plaintiff's Amended Complaint.

110. Defendant denies the averments of Paragraph 110 of Plaintiff's Amended Complaint.

111. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 111 of Plaintiff's Amended Complaint. Therefore,

Defendant denies the allegations of Paragraph 111 of Plaintiff's Amended Complaint.

112. Defendant denies the averments of Paragraph 112 of Plaintiff's Amended Complaint.

113. Defendant denies the averments of Paragraph 113 of Plaintiff's Amended Complaint.

114. Defendant denies the averments of Paragraph 114 (including subparagraphs (i) through (x)) of Plaintiff's Amended Complaint.

115. The averments of Paragraph 115 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 115 of Plaintiff's Amended Complaint.

116. The averments of Paragraph 116 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 116 of Plaintiff's Amended Complaint.

117. The averments of Paragraph 117 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 117 of Plaintiff's Amended Complaint.

118. Defendant admits in part and denies in part the averments of Paragraph 118 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit G to Plaintiff's Amended Complaint is a document entitled "Investigation into The Citadel's Handling of Allegations Involving Louis N. 'Skip' ReVille" and that Exhibit X is a November 12, 2011 Media Advisory. These written documents are the best and only evidence of their contents. Defendant objects to any characterization of the contents of Exhibits G and X to Plaintiff's Amended Complaint.

Defendant denies the remaining averments of Paragraph 118 of Plaintiff's Amended Complaint.

119. Defendant denies the averments of Paragraph 119 of Plaintiff's Amended Complaint.

120. Defendant admits in part and denies in part the averments of Paragraph 120 of Plaintiff's Amended Complaint. Defendant admits only that this Paragraph accurately quotes Exhibit F to Plaintiff's Amended Complaint, a May 16, 2007 letter. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit F to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 120 of Plaintiff's Amended Complaint.

121. Defendant admits in part and denies in part the averments of Paragraph 121 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit G to Plaintiff's Amended Complaint is a document entitled "Investigation into The Citadel's Handling of Allegations Involving Louis N. 'Skip' ReVile" and that Exhibit S is a portion of the deposition transcript of Col. Joseph Trez. These written documents are the best and only evidence of their contents. Defendant objects to any characterization of the contents of Exhibits G and S to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 121 of Plaintiff's Amended Complaint.

122. Defendant admits in part and denies in part the averments of Paragraph 122 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit S is a portion of the deposition transcript of Col. Joseph Trez. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit S to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 122 of Plaintiff's Amended Complaint.

123. Defendant denies the averments of Paragraph 123 of Plaintiff's Amended Complaint.

124. Defendant admits in part and denies in part the averments of Paragraph 124 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit Y is a portion of the deposition transcript of Patricia Kinard. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit Y to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 124 of Plaintiff's Amended Complaint.

125. The averments of Paragraph 125 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 125 of Plaintiff's Amended Complaint.

Factual Background – Mother Doe A

126. Defendant denies the averments of Paragraph 126 of Plaintiff's Amended Complaint. Defendant specifically denies that it had received actual notice of ReVille's propensity for sexually abusing young boys in the fall of 2007. As to the remaining averments of Paragraph 126 of Plaintiff's Amended Complaint, after reasonable investigation, Defendant is without sufficient knowledge to admit or deny the remaining allegations of Paragraph 126 of Plaintiff's Amended Complaint. Therefore, Defendant denies the remaining allegations of Paragraph 126 of Plaintiff's Amended Complaint.

127. Defendant denies the averments of Paragraph 127 of Plaintiff's Amended Complaint.

128. Defendant denies the averments of Paragraph 128 of Plaintiff's Amended Complaint.

129. Defendant denies the averments of Paragraph 129 of Plaintiff's Amended Complaint.

130. After reasonable investigation, Defendant is without sufficient knowledge to

admit or deny the allegations of Paragraph 130 of Plaintiff's Amended Complaint. Therefore, Defendant denies the allegations of Paragraph 130 of Plaintiff's Amended Complaint.

131. Defendant denies the averments of Paragraph 131 of Plaintiff's Amended Complaint.

132. Defendant denies the averments of Paragraph 132 of Plaintiff's Amended Complaint.

133. Defendant denies the averments of Paragraph 133 of Plaintiff's Amended Complaint.

134. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 134 of Plaintiff's Amended Complaint. Therefore, Defendant denies the allegations of Paragraph 134 of Plaintiff's Amended Complaint.

135. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 135 of Plaintiff's Amended Complaint. Therefore, Defendant denies the allegations of Paragraph 135 of Plaintiff's Amended Complaint.

136. The averments of Paragraph 136 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 136 of Plaintiff's Amended Complaint.

137. The averments of Paragraph 137 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 137 of Plaintiff's Amended Complaint.

138. The averments of Paragraph 138 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 138 of Plaintiff's

Amended Complaint.

139. The averments of Paragraph 139 (including subparagraphs (i) through (xxv)) of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 139 (including subparagraphs (i) through (xxv)) of Plaintiff's Amended Complaint.

140. The averments of Paragraph 140 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 140 of Plaintiff's Amended Complaint.

Admissions of The Citadel

141. Defendant admits in part and denies in part the averments of Paragraph 141 (including subparts (i) through (xxx)) of Plaintiff's Amended Complaint. Defendant admits only that Mr. Brandenburg was deposed on June 5 and 6, 2013. The transcripts of those depositions are written documents and the best and only evidence of their contents. Defendant objects to any characterization of the contents of the transcripts of Mr. Brandenburg's depositions. Defendant denies the remaining averments of Paragraph 141 (including subparts (i) through (xxx)) of Plaintiff's Amended Complaint.

142. Defendant admits in part and denies in part the averments of Paragraph 142 (including subparts (i) through (xxvii)) of Plaintiff's Amended Complaint. Defendant admits only that Col. Trez was deposed on June 10 and 11, 2013. The transcripts of those depositions are written documents and the best and only evidence of their contents. Defendant objects to any characterization of the contents of the transcripts of Col. Trez's depositions. Defendant denies the remaining averments of Paragraph 142 (including subparts (i) through (xxvii)) of Plaintiff's Amended Complaint.

143. Defendant admits in part and denies in part the averments of Paragraph 143 (including subparts (i) through (xii)) of Plaintiff's Amended Complaint. Defendant admits only that Mr. Fletcher was deposed on June 12, 2013. The transcript of this deposition is a written documents and the best and only evidence of its contents. Defendant objects to any characterization of the contents of the transcripts of Mr. Fletcher's deposition. Defendant denies the remaining averments of Paragraph 143 (including subparts (i) through (xii)) of Plaintiff's Amended Complaint.

144. Defendant admits in part and denies in part the averments of Paragraph 144 (including subparts (i) through (ii)) of Plaintiff's Amended Complaint. Defendant admits only that Ms. Kinard was deposed on June 11, 2013. The transcript of that deposition is a written document and the best and only evidence of its contents. Defendant objects to any characterization of the contents of the transcript of Ms. Kinard's deposition. Defendant denies the remaining averments of Paragraph 144 (including subparts (i) through (ii)) of Plaintiff's Amended Complaint.

For a First Cause of Action as to The Citadel

(Gross Negligence — Failure to Warn)

145. Defendant incorporates by reference the averments of Paragraphs 1 through 144 of this Answer to Amended Complaint as if set forth at length herein.

146. The averments of Paragraph 146 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 146 of Plaintiff's Amended Complaint.

147. The averments of Paragraph 147 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 147 of Plaintiff's

Amended Complaint.

148. Defendant denies the averments of Paragraph 148 of Plaintiff's Amended Complaint.

149. Defendant denies the averments of Paragraph 149 of Plaintiff's Amended Complaint.

150. The averments of Paragraph 150 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 150 of Plaintiff's Amended Complaint.

151. The averments of Paragraph 151 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 151 of Plaintiff's Amended Complaint.

152. The averments of Paragraph 152 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 152 of Plaintiff's Amended Complaint.

153. The averments of Paragraph 153 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 153 of Plaintiff's Amended Complaint.

154. The averments of Paragraph 154 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 154 of Plaintiff's Amended Complaint.

155. The averments of Paragraph 155 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 155 of Plaintiff's Amended Complaint.

156. The averments of Paragraph 156 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 156 of Plaintiff's Amended Complaint.

157. The averments of Paragraph 157 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 157 of Plaintiff's Amended Complaint.

158. Defendant denies the averments of Paragraph 158 of Plaintiff's Amended Complaint.

159. The averments of Paragraph 158 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 158 of Plaintiff's Amended Complaint.

160. The averments of Paragraph 159 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 159 of Plaintiff's Amended Complaint.

161. The averments of Paragraph 161 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 161 of Plaintiff's

Amended Complaint.

162. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 162 of Plaintiff's Amended Complaint. Therefore, Defendant denies the allegations of Paragraph 162 of Plaintiff's Amended Complaint.

163. The averments of Paragraph 163 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 163 of Plaintiff's Amended Complaint.

164. The averments of Paragraph 164 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 164 of Plaintiff's Amended Complaint.

165. The averments of Paragraph 165 (including subparagraphs (i) through (xxxiii)) of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 165 (including subparagraphs (i) through (xxxiii)) of Plaintiff's Amended Complaint.

166. The averments of Paragraph 166 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 166 of Plaintiff's Amended Complaint.

167. Defendant denies the averments of Paragraph 167 of Plaintiff's Amended Complaint.

168. Defendant denies the averments of Paragraph 168 of Plaintiff's Amended Complaint.

169. The averments of Paragraph 169 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 169 of Plaintiff's Amended Complaint.

170. The averments of Paragraph 170 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 170 of Plaintiff's Amended Complaint.

171. The averments of Paragraph 171 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 171 of Plaintiff's Amended Complaint.

172. The averments of Paragraph 172 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 172 of Plaintiff's Amended Complaint.

173. The averments of Paragraph 173 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 173 of Plaintiff's Amended Complaint.

174. The averments of Paragraph 174 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 174 of Plaintiff's Amended Complaint.

175. The averments of Paragraph 175 of Plaintiff's Amended Complaint constitute

conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 175 of Plaintiff's Amended Complaint.

176. The averments of Paragraph 176 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 176 of Plaintiff's Amended Complaint.

177. The averments of Paragraph 177 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 177 of Plaintiff's Amended Complaint.

For a Second Cause of Action as to The Citadel

(Negligent Hiring, Retention and Supervision)

178. Defendant incorporates by reference the averments of Paragraphs 1 through 177 of this Answer to Amended Complaint as if set forth at length herein.

179. The averments of Paragraph 179 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 179 of Plaintiff's Amended Complaint.

180. The averments of Paragraph 180 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 180 of Plaintiff's Amended Complaint.

181. The averments of Paragraph 181 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is

deemed necessary or appropriate, Defendant denies the averments of Paragraph 181 of Plaintiff's Amended Complaint.

182. The averments of Paragraph 182 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 182 of Plaintiff's Amended Complaint.

183. The averments of Paragraph 183 (including subparagraphs (i) through (xiv)) of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 183 (including subparagraphs (i) through (xiv)) of Plaintiff's Amended Complaint.

184. The averments of Paragraph 184 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 184 of Plaintiff's Amended Complaint.

185. The averments of Paragraph 185 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 185 of Plaintiff's Amended Complaint.

186. The averments of Paragraph 186 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 186 of Plaintiff's Amended Complaint.

187. The averments of Paragraph 187 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is

deemed necessary or appropriate, Defendant denies the averments of Paragraph 187 of Plaintiff's Amended Complaint.

For a Third Cause of Action as to The Citadel

(§ 59-154-10, Jessica Horton Act)

188. Defendant incorporates by reference the averments of Paragraphs 1 through 187 of this Answer to Amended Complaint as if set forth at length herein.

189. The averments of Paragraph 189 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 189 of Plaintiff's Amended Complaint.

190. The averments of Paragraph 190 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 190 of Plaintiff's Amended Complaint.

191. The averments of Paragraph 191 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 191 of Plaintiff's Amended Complaint.

192. The averments of Paragraph 192 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 192 of Plaintiff's Amended Complaint.

193. The averments of Paragraph 193 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 193 of Plaintiff's

Amended Complaint.

194. The averments of Paragraph 194 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 194 of Plaintiff's Amended Complaint.

195. The averments of Paragraph 195 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 195 of Plaintiff's Amended Complaint.

196. Defendant denies the averments of Paragraph 196 of Plaintiff's Amended Complaint.

197. After reasonable investigation, Defendant is without sufficient knowledge to admit or deny the allegations of Paragraph 197 of Plaintiff's Amended Complaint. Therefore, Defendant denies the allegations of Paragraph 197 of Plaintiff's Amended Complaint.

198. The averments of Paragraph 198 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 198 of Plaintiff's Amended Complaint.

199. The averments of Paragraph 199 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 199 of Plaintiff's Amended Complaint.

200. Defendant denies the averments of Paragraph 200 of Plaintiff's Amended Complaint.

201. The averments of Paragraph 201 of Plaintiff's Amended Complaint constitute

conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 201 of Plaintiff's Amended Complaint.

202. The averments of Paragraph 202 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 202 of Plaintiff's Amended Complaint.

203. The averments of Paragraph 203 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 203 of Plaintiff's Amended Complaint.

204. The averments of Paragraph 204 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 204 of Plaintiff's Amended Complaint.

For a Fourth Cause of Action as to The Citadel

(Civil Conspiracy)

205. Defendant incorporates by reference the averments of Paragraphs 1 through 204 of this Answer to Amended Complaint as if set forth at length herein.

206. Defendant denies the averments of Paragraph 206 of Plaintiff's Amended Complaint.

207. Defendant denies the averments of Paragraph 207 of Plaintiff's Amended Complaint.

208. Defendant denies the averments of Paragraph 208 of Plaintiff's Amended Complaint.

209. Defendant denies the averments of Paragraph 209 of Plaintiff's Amended Complaint.

210. Defendant denies the averments of Paragraph 210 of Plaintiff's Amended Complaint.

211. Defendant denies the averments of Paragraph 211 of Plaintiff's Amended Complaint.

212. Defendant admits in part and denies in part the averments of Paragraph 212 of Plaintiff's Amended Complaint. Defendant admits only that Exhibit F to Plaintiff's Amended Complaint is a May 16, 2007 correspondence. This written document is the best and only evidence of its contents. Defendant objects to any characterization of the contents of Exhibit F to Plaintiff's Amended Complaint. Defendant denies the remaining averments of Paragraph 212 of Plaintiff's Amended Complaint.

213. Defendant denies the averments of Paragraph 213 of Plaintiff's Amended Complaint.

214. Defendant denies the averments of Paragraph 214 of Plaintiff's Amended Complaint.

215. Defendant admits the averments of Paragraph 215 of Plaintiff's Amended Complaint.

216. The averments of Paragraph 216 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 216 of Plaintiff's Amended Complaint.

217. Defendant denies the averments of Paragraph 217 of Plaintiff's Amended Complaint.

218. Defendant denies the averments of Paragraph 218 of Plaintiff's Amended

Complaint.

219. Defendant denies the averments of Paragraph 219 of Plaintiff's Amended Complaint.

220. The averments of Paragraph 220 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 220 of Plaintiff's Amended Complaint.

221. The averments of Paragraph 221 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 221 of Plaintiff's Amended Complaint.

222. The averments of Paragraph 222 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 222 of Plaintiff's Amended Complaint.

223. The averments of Paragraph 223 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 223 of Plaintiff's Amended Complaint.

For a Fifth Cause of Action as to The Citadel

(§ 63-7-310, Mandatory Reporting Statute)

224. Defendant incorporates by reference the averments of Paragraphs 1 through 223 of this Answer to Amended Complaint as if set forth at length herein.

225. The averments of Paragraph 225 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is

deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 225 of Plaintiff's Amended Complaint.

226. The averments of Paragraph 226 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 226 of Plaintiff's Amended Complaint.

227. The averments of Paragraph 227 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 227 of Plaintiff's Amended Complaint.

228. The averments of Paragraph 228 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 228 of Plaintiff's Amended Complaint.

229. The averments of Paragraph 229 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 229 of Plaintiff's Amended Complaint.

230. The averments of Paragraph 230 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, this statute speaks for itself. For this reason, Defendant denies the averments of Paragraph 230 of Plaintiff's Amended Complaint.

231. Defendant denies the averments of Paragraph 231 of Plaintiff's Amended Complaint.

232. The averments of Paragraph 232 of Plaintiff's Amended Complaint constitute

conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 232 of Plaintiff's Amended Complaint.

233. The averments of Paragraph 233 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 233 of Plaintiff's Amended Complaint.

234. The averments of Paragraph 234 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 234 of Plaintiff's Amended Complaint.

235. The averments of Paragraph 235 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 235 of Plaintiff's Amended Complaint.

236. The averments of Paragraph 236 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 236 of Plaintiff's Amended Complaint.

237. The averments of Paragraph 237 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 237 of Plaintiff's Amended Complaint.

For a Sixth Cause of Action as to The Citadel

(Intentional Infliction of Emotional Distress/Outrage)

238. Defendant incorporates by reference the averments of Paragraphs 1 through 237 of this Answer to Amended Complaint as if set forth at length herein.

239. The averments of Paragraph 239 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 239 of Plaintiff's Amended Complaint.

240. The averments of Paragraph 240 (including subparagraphs (i) through (xxxiii)) of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 240 (including subparagraphs (i) through (xxxiii)) of Plaintiff's Amended Complaint.

241. Defendant denies the averments of Paragraph 241 of Plaintiff's Amended Complaint.

242. Defendant denies the averments of Paragraph 242 of Plaintiff's Amended Complaint.

243. Defendant denies the averments of Paragraph 243 of Plaintiff's Amended Complaint.

244. The averments of Paragraph 244 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 244 of Plaintiff's Amended Complaint.

245. The averments of Paragraph 245 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is

deemed necessary or appropriate, Defendant denies the averments of Paragraph 245 of Plaintiff's Amended Complaint.

246. The averments of Paragraph 246 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 246 of Plaintiff's Amended Complaint.

247. The averments of Paragraph 247 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 247 of Plaintiff's Amended Complaint.

For a Seventh Cause of Action as to The Citadel

(Loss of Services)

248. Defendant incorporates by reference the averments of Paragraphs 1 through 247 of this Answer to Amended Complaint as if set forth at length herein.

249. The averments of Paragraph 249 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 249 of Plaintiff's Amended Complaint.

250. The averments of Paragraph 250 (including subparagraphs (i) through (xxxiii)) of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 250 (including subparagraphs (i) through (xxxiii)) of Plaintiff's Amended Complaint.

251. The averments of Paragraph 251 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is

deemed necessary or appropriate, Defendant denies the averments of Paragraph 251 of Plaintiff's Amended Complaint.

252. The averments of Paragraph 252 of Plaintiff's Amended Complaint constitute conclusions of law to which no response is necessary or appropriate. To the extent a response is deemed necessary or appropriate, Defendant denies the averments of Paragraph 252 of Plaintiff's Amended Complaint.

253. Defendant denies that Plaintiff is entitled to any of the relief requested in the WHEREFORE clause of the Amended Complaint.

FOR A SECOND DEFENSE
(Failure to State a Claim)

254. The Plaintiff's Amended Complaint fails to state a claim upon which relief may be granted.

FOR A THIRD DEFENSE
(Statute of Limitations)

255. The Plaintiff's claims are barred by the applicable statute of limitations.

FOR A FOURTH DEFENSE
(Laches)

256. The Plaintiff's claims are barred by the doctrine of laches.

FOR A FIFTH DEFENSE
(South Carolina Tort Claims Act)

257. The Plaintiff's claims are barred by the provisions of the South Carolina Tort Claims Act, specifically S.C. Code Ann. §§ 15-78-60 (2), (5), (20), (23), and (25).

FOR A SIXTH DEFENSE
(South Carolina Tort Claims Act)

258. The Plaintiff's recovery, if any, is limited by the provisions of the South Carolina Tort Claims Act, specifically S.C. Code Ann. § 15-78-120.

FOR A SEVENTH DEFENSE
(Public Duty Rule)

259. The Plaintiff fails to state a claim for which relief can be granted for negligence on the grounds of the well-established “public duty” doctrine requires the existence of a “special relationship” to establish a legal duty to warn. The Citadel had no special relationship with Plaintiff or ReVille at the time of the Plaintiff’s claims that would give rise to a legal duty to warn the Plaintiff or any other individual about ReVille.

FOR AN EIGHTH DEFENSE
(Waiver/Estoppel)

260. The Plaintiff’s claims are barred by the doctrines of waiver and/or estoppel.

FOR A NINTH DEFENSE
(Lack of Proximate Cause)

261. No act or omission on the part of the Defendant either caused or contributed to any alleged injury or damage Plaintiff may have sustained.

FOR A TENTH DEFENSE
(Intervening & Superseding Criminal Acts of a Third-Party)

262. The Plaintiff’s damages were caused by intervening willful, malicious, and criminal acts of a third-party, unforeseeable by The Citadel. The Citadel pleads those intervening willful, malicious, and criminal acts of others as a complete bar to Plaintiff’s recovery.

FOR AN ELEVENTH DEFENSE
(Intervening & Superseding Acts of a Third-Party)

263. The Plaintiff’s damages were caused by a third-party for whom The Citadel has no liability. The Citadel pleads those acts of others, whether intervening, superseding, or otherwise, as a complete bar to Plaintiff’s recovery.

FOR A TWELFTH DEFENSE
(Failure to State a Claim)

264. Some of the Plaintiff’s claims are barred by his failure to state sufficient facts to give rise to any cause of action against the Defendant.

FOR A THIRTEENTH DEFENSE

(Reservation of Additional Defenses)

265. The Citadel reserves the right to assert any additional and further defenses that may be revealed by information obtained during the course of investigation and discovery as consistent with the South Carolina Rules of Civil Procedure.

PRAYER

WHEREFORE, having fully answered Plaintiff's Amended Complaint in this matter, The Citadel respectfully prays:

- a. That Plaintiff's claims be dismissed;
- b. That Plaintiff take nothing by reason of his suit;
- c. That the Defendant recover its costs;
- d. For trial by jury; and
- e. For any such further relief to which they may be entitled.

BARNWELL, WHALEY, PATTERSON, AND
HELMS, LLC

By: 

M. Dawes Cooke, Jr., Esq.

Randell C. Stoney, Esq.

John W. Fletcher

P.O. Drawer H (29402)

288 Meeting Street, Suite 200

Charleston, SC 29401

(843) 577-7700

Counsel for Defendant The Citadel

Dated: February 5, 2014
Charleston, South Carolina

11-9200

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the DEFENDANT'S ANSWER TO AMENDED COMPLAINT was served upon all counsel of record via E-Mail & U.S. Mail on this 5th day of February, 2014.

ATTORNEY FOR PLAINTIFF:

Allan P. Sloan, III, Esq.
Louis Hems, Esq.
Carl Pierce, Esq.
Pierce, Hems, Sloan & Wilson, LLC
321 East Bay Street
Charleston, SC 29401

ATTORNEY FOR PLAINTIFF:

Gregg Meyers, Esq.
Jeff Anderson & Associates, P.A.
366 Jackson St., Suite 100
St. Paul, MN 55101

FILED
2014 FEB -5 PM 14:43
JULIE J. ARMSTRONG
CLERK OF COURT

BY: Karen L. Jessee
Karen L. Jessee, Legal Secretary
KJessee@Barnwell-Whaley.com

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

John Doe 201 and Jane Doe 201,

Plaintiff(s)

vs.

The Citadel et al

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013-CP - 10- 10330

(Please Print)

Submitted By: Gregg Meyers

Address: 366 Jackson Street, St Paul MN 55101

SC Bar #: 9908

Telephone #: 651-227-9990

Fax #: 651-297-6543

Other:

E-mail: Gregg@andersonadvocates.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20-CP-..., Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Other (799)
Administrative Law/Relief: Reinstate Driver's License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Commission (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature:

Gregg Meyers

Date:

10-16-13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville, Hampton, Horry,
Jasper, Lexington, Pickens (Family Court Only), Richland, Union and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE
DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)
 PLEAS)
 COUNTY OF CHARLESTON)
 Father John Doe 201 and Mother Jane Doe)
 201,)
 Plaintiffs,)
 v.)
 The Citadel, John Rosa, individually;)
 Mark Brandenburg, individually,)
 Defendants,)

IN THE COURT OF COMMON
 2013-CP-10- 6330

FILED
 2013 OCT 25 PM 4:19
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

Summons

TO: The Citadel
 John Rosa
 Mark Brandenburg

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action. A copy of the complaint is served upon you with this summons.

Your answer to the complaint is to be served upon the attorney for the plaintiff at 366 Jackson Street, St. Paul MN 55101.

According to the South Carolina Rules of Civil Procedure, which govern litigation, you are required to appear and defend yourself in this action by making and serving an answer to this complaint within thirty (30) days after the complaint is served upon you. The thirty days begin to run from the date after this summons and complaint are served upon you; the date the service is made is excluded.

If within that time you fail to appear and defend as you are required to do by the Rules of Civil Procedure, the plaintiff in this action shall apply to the Court for the relief

demanded in this Complaint and judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted,



Gregg Meyers, SC Bar No. 9908
Jeff Anderson & Associates, P.A.
366 Jackson Street
St. Paul, MN 55101
651-227-9990

Attorneys for the Plaintiff

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

2013-CP-10- 10330

Father John Doe 201 and Mother Jane Doe 201,

Plaintiffs,

v.

The Citadel, John Rosa, individually; Mark Brandenburg, individually,

Defendants,

Gross Negligence
Loss of services
42 USC § 1983 (two counts)

FILED
2013 OCT 25 PM 4:19
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

COMPLAINT

For their Complaint, the Plaintiffs, parents of John Doe 201, allege:

1. Father Doe 201 and Mother Doe 201 are citizens and residents of South Carolina. They are the natural parent of a male child born in 1997. After August, 2007, when their child was under the age of 16, he was sexually abused by Louis "Skip" Reville multiple times over a two year period. In this Complaint, Louis Reville is referred to as Reville.

2. By Reville's own admission to criminal charges, the Plaintiffs' child is a person upon whom Reville committed criminal sexual conduct.

3. The Plaintiffs are referred to in this public filing by pseudonym to maintain confidentiality of their child's identity pursuant to S.C. Code § 16-3-730, which prohibits publication of the names of victims of criminal sexual conduct. The Defendants will be informed of the identity of the Plaintiffs and their child by separate communication upon their agreement to maintain confidentiality of the information as to the public record.

4. The Citadel is a public college with its principal place of business in Charleston County. It is owned and operated by the state of South Carolina.

5. John Rosa is a General in the United States military. Since January, 2006 he has served as the President of the Citadel. His office is in Charleston County, on the Citadel campus. In his capacity as President his actions and inactions are under color of state and federal law. In the third and fourth causes of action he is sued individually, in his capacity as President of the Citadel, for actions he has taken and failed to state under color of state law within the scope of his employment.

6. Mark Brandenburg is an employee of The Citadel serving as general counsel. His office is in Charleston County, on the Citadel campus. He is supervised by, among others, John Rosa. In the capacity of general counsel his actions and inactions are under color of state and federal law. In the third cause of action, he is sued individually, in his official capacity, for actions he has taken and failed to take under color of state law, within the scope of his employment.

7. This action is filed in Charleston County because the Defendants are located in Charleston County, regularly conduct business in Charleston County, and because the acts and omissions set forth in this Complaint occurred in Charleston County.

8. The Circuit Court has jurisdiction for the subject matter of this action, and personal jurisdiction over the parties to this action.

Nature of Wrongdoing

9. Until October 28, 2011, the Defendants fraudulently concealed information that Reville was known to have a sexual interest in children, and their knowledge about Reville's sexual interest in children. Disclosures about Reville and the Citadel's prior knowledge were not known to the Plaintiffs until after October 28, 2011, when Reville was arrested and charged with various acts of sexual misconduct with minors.

10. Among other things, The Citadel maintains an Alumni Association website.

11. Reville is an alumnus of The Citadel who graduated in 2002. Reville was also a counselor at the Citadel's summer camp from 2002 to 2004. In 2007, before the Plaintiffs' child had ever even met Reville, The Citadel, and Defendants Rosa and Brandenburg, became aware that Reville had demonstrated a sexual interest in children and a willingness to act in inappropriate ways with children.

12. From 1957 to 2006, the Citadel operated a youth summer camp for which the Citadel selected, employed, and supervised counselors.

13. Among the counselors selected, employed, and supervised by The Citadel from 2000 to 2004 was Reville.

14. In operating the summer camp, and in selecting, employing, and supervising employees as counselors, The Citadel assumed a duty to screen, monitor, and supervise its employee counselors, assumed a duty to maintain safety of children who interacted with its employees, and assumed a duty to represent accurately its experience with its counselors.

15. During his tenure as a camp counselor, Reville sexually abused multiple campers on the grounds of the Citadel. To do so, Reville violated rules of the camp, and did so with the knowledge of Deputy Director Jenni Garrott and other camp officials.

16. Among Reville's summer camp victims was a camper, identified in this Complaint by his designation in the Reville guilty plea as John Doe 13. John Doe 13 was sexually abused by Reville in 2003. Reville not only directly abused John Doe 13, Reville used John Doe 13 to report his abuse of other campers by Reville taking those campers into his room at The Citadel to watch pornographic videos with them and coerce them to masturbate with Reville. Reville would tell John Doe 13 about his exploits with other children.

17. In 2005 John Doe 13 was himself a counselor at the Citadel Summer camp.

18. During the 2005 camp session, John Doe 13 went to the office of the person who was second in command of the Summer Camp, Deputy Director Jenni Garrott.

19. John Doe 13's intention in that meeting was to report Reville's sexual abuse, of himself and other minors.

20. As John Doe 13 began his report, and identified Reville as its subject, Ms. Garrott's demeanor immediately changed, and she stated that she did not have time to talk with him. Until John Doe 13 identified Reville as his subject, Ms. Garrott had time to talk with John Doe 13. Ms. Garrott directed John Doe 13 to return to his room. He returned to his room as she directed.

21. Consistent with the practice and custom of The Citadel to suppress information about sexual abuse of children, Citadel Camp Deputy Director Jenni Garrott refused to take the detailed report John Doe 13 was prepared to make about Reville in the summer of 2005.

22. Within an hour of John Doe 13 attempting to report Reville to Deputy Director Jenni Garrott, a Senior Summer Camp Counselor named Patrick Reed, acting at the direction of Jenni Garrott, came to John Doe 13's room and directed John Doe 13 to come with him to the Parade Ground. John Doe 13 complied. At the parade ground, Mr. Reed fired John Doe 13 as a counselor.

23. Acting at Deputy Director Garrott's direction, Senior Summer Camp Counselor Patrick Reed stated, as a pretext for terminating John Doe 13, that the reason John Doe 13 was being terminated as a camp counselor was that John Doe 13 called one of the campers a "faggot." John Doe 13 informed Mr. Reed that John Doe 13 had not called any camper a "faggot." Jenni Garrott was aware that John Doe 13 had not referred to any camper by that term, and the pretext used by Patrick Reed was to conceal the actual reason for terminating John Doe 13: that he had attempted to report Reville to Jenni Garrott for Reville's sexual misconduct with minors.

24. Jenni Garrott knew as early as 2002 that Reville violated camp rules to isolate himself with minor campers. He did so, to her knowledge, more than once. Had she not truncated John Doe 13's report about Reville in 2005, it would have violated the practice and custom of The Citadel to suppress reports of sexual misconduct of Citadel staff with minors, and her prior knowledge and lack of proper supervision of Reville between 2002 and 2005 would have become known. For those reasons, it was preferable that John Doe 13 be terminated from the 2005 Citadel Summer Camp on a pretext.

25. The practice and custom of The Citadel is to suppress reports of sexual misconduct of Citadel staff with minors.

26. Mr. Reed gave John Doe 13 five hours to leave The Citadel campus. Management of the camp would not speak with him. Deputy Director Jenni Garrott saw campers interacting with John Doe 13 after his termination but before his departure, and yelled at John Doe 13 to get away from the Campers and for him to leave the Citadel. The actions by Garrott and Reed to terminate John Doe 13 and remove him from the Citadel campus was because John Doe 13 attempted to report Reville's misconduct. The reason used to terminate John Doe 13 was a pretext.

27. In 2005, Mark Brandenburg became general counsel for The Citadel. The custom and practice of The Citadel to suppress reports of sexual misconduct of Citadel staff with minors was continued under Mr. Brandenburg's tenure.

28. In January, 2006, Defendant Rosa became the President of The Citadel. The custom and practice of The Citadel to suppress reports of sexual misconduct of Citadel staff with minors was continued under Defendant Rosa's tenure.

29. In April, 2007 the Citadel received information from a former camper that in 2002 Reville had, on the premises of The Citadel, and during the course and scope of his employment

with the summer camp, engaged in sexually inappropriate conduct with multiple children under age 16 at its summer camp. The person making the 2007 report is referred to in this complaint as the 2002 camper.

30. Since 2002, the Citadel has known that on multiple occasions Reville would isolate himself with campers, contrary to Citadel rules.

31. Since the summer of 2005, The Citadel has had reason to know that Reville is a person dangerous to children.

32. Conduct reported to The Citadel in each of 2005 and 2007 was sufficient to have Reville terminated from The Citadel's employment, and constituted criminal acts by Reville.

33. No report to law enforcement about Reville was made by anyone at the Citadel in 2005.

34. No report to law enforcement about Reville was made by anyone at the Citadel in 2007.

35. Defendant Rosa and Defendant Brandenburg coordinated between themselves not reporting Reville to law enforcement or anyone else.

36. The Board of Visitors of The Citadel ratified that failure to report by Rosa and Brandenburg, and continues to direct the Citadel to take the position that The Citadel has no duty to report to law enforcement Citadel staff who engage children in group masturbation.

37. The Citadel Board of Visitors continues to advocate not reporting to law enforcement when its staff engages children in group masturbation.

38. Both John Doe 13 and the 2002 camper reported Reville to The Citadel in an attempt to avoid other children being sexually abused by Reville. In 2007, the 2002 camper described to Defendant Brandenburg, under oath, that stopping Reville from harming another child was "the thing I want most."

39. Defendants each knew, or should have known, since 2007, that Reville was dangerous to children. The 2002 camper explained to Defendant Brandenburg how and why Reville was dangerous to children.

40. In both 2005 and 2007, the Citadel concealed information about Reville's criminal conduct. That concealment continued until after October 28, 2011.

41. In 2007, Defendant Brandenburg, at the direction of Defendant Rosa, investigated the information given by the 2002 camper. Brandenburg was chosen precisely because The Citadel could claim (incorrectly) that all information he received could be withheld from others, since he was an attorney.

42. The 2002 camper identified how Reville victimized himself and others. Defendant Brandenburg determined the information was credible, and shared information with both Rosa and the South Carolina Insurance Reserve Fund, which provides insurance coverage for the Citadel. At no point prior to Reville's 2011 arrest was the Defendants' information about Reville shared with law enforcement, employers of Reville, or parents of children around whom Reville worked after 2007.

43. In the Fall of 2009, the Plaintiffs' child began taking athletic supervision from Louis Reville in Mt. Pleasant. The Defendants knew, or should have known, that Reville had undertaken employment that placed him in contact with minor children.

44. Beginning in 2007 and extending through October 28, 2011, the Defendants chose to remain silent about Reville's sexual misconduct with children. The Defendants each knew, or should have known, that failing to report Reville in 2007, or 2008, or 2009, or 2010, or 2011 implicitly represented that the Defendants had no information by which they knew that Reville

was a dangerous person to permit to work around children. That representation was false, and was known to have been false when it was made.

45. The Plaintiffs' child had contact with Reville, and was sexually exploited by Reville, between 2009 and 2011.

46. The Defendants each knew, or should have known, that Reville had undertaken employment that placed him in contact with minor children, including the Plaintiffs' child.

For a First Cause of Action: Gross Negligence (Failure to Warn)

47. This cause of action is alleged against The Citadel under state law.

48. Allegations above are incorporated into this cause of action as if fully stated.

49. Agents and employees of The Citadel failed to warn about Reville's danger to children and his sexual interest in children.

50. The Plaintiffs' child was sexually assaulted by Reville on multiple occasions between 2009 and 2011 as a proximate result of the gross negligence of The Citadel's agents and employees having failed to warn about Reville.

51. Reville has admitted sexually assaulting the Plaintiffs' child multiple times, and has been criminally convicted on that admission.

52. Each of Reville's multiple opportunities to sexually assault the Plaintiffs' child was proximately caused by the various acts of gross negligence by the Defendants. Reville sexually assaulting the Plaintiffs' child was reasonably foreseeable to the Defendants.

53. Starting in 2007, and continuing through 2011, The Citadel possessed, but did not disclose to law enforcement, or Reville's employers, or to parents of children Reville had access

to, or to the children Reville had access to, information by which Reville's sexually exploitive conduct towards children could be impeded.

54. The Citadel had a duty to report Reville to law enforcement. That duty was imposed on The Citadel by federal law, by professional standards, and by state law in the form of the policies of The Citadel.

55. The policies of The Citadel that required reporting applied to all Citadel employees, including Defendants Rosa and Brandenburg.

56. Had The Citadel reported its information at any time between 2007 and 2009, the information would have impeded Reville's access to sexually assault other children, and prevented Reville's sexual abuse of the Plaintiffs' child. Either Reville could have been arrested for sexual misconduct with children, employers could have been alerted to the risk of employing Reville (and either declined to hire him or provide him with heightened supervision), or parents could have made informed judgments about exposing to Reville any child of theirs knowing that Reville had a sexual interest in children.

57. Had these Plaintiffs been informed that Reville had a sexual interest in children, they would not have permitted their child to be around Reville.

58. Knowledge by The Citadel and its officials in 2005 and 2007 placed The Citadel in a special relationship with every other employer of Reville, and those parents whose children were in contact with Reville through those other employers, because of the implicit, but false, representation by The Citadel that Reville was not known to present a danger to children.

59. The information possessed by The Citadel created a duty to warn by The Citadel.

60. The Citadel has publicly acknowledged that in 2007 it had a duty to warn.

61. A duty to report Reville was independently required of The Citadel by federal law, the standard of care for college administrators, and Citadel policy.

62. The Citadel breached its duty, and was grossly negligent in making no disclosure of any type of the information it knew in 2007 that Reville was dangerous to children.

63. The Citadel has on one hand publicly acknowledged it should have reported in 2007 the information it had about Reville, and on the other hand claimed it had no obligation to report.

64. In fact, as The Citadel knew, Reville was dangerous to children due to the sexual interest Reville had in children. In 2007 that sexual interest was known to Reville, his victims, and to officials at The Citadel, including Defendants Rosa and Brandenburg and other Citadel agents and employees.

65. Starting not later than April, 2007, the Citadel had an obligation to use reasonable care to protect children with whom Reville interacted, and the parents of such children.

66. The Citadel undertook no steps to warn either the children with whom Reville interacted, the parents of those children, Reville's employers, or law enforcement, that Reville had a sexual interest in children.

67. Having learned that Reville had a sexual interest in children, The Citadel's concern was solely with The Citadel. The interests of children being protected from sexual assault by Reville after 2007, and of children sexually assaulted by Reville before 2007, were of no significance to The Citadel.

68. Injunctive relief is properly imposed upon The Citadel to compel The Citadel to concern itself with protecting children from sexual assault by persons known to have a sexual interest in children. The Citadel should be enjoined from failing to report to law enforcement any sexual assault or sexual misconduct which occurs on The Citadel campus.

69. Unless The Citadel is ordered to do so, The Citadel and its officials will continue its practice of failing to concern itself with protecting children from sexual assault by persons known to have a sexual interest in children, and The Citadel will continue to disregard any interest in protecting children from sexual assault by persons known to have a sexual interest in children.

70. For example, while The Citadel stated publicly, through Defendant Rosa, in November, 2011, that “we didn’t do what should have been done,” implying that The Citadel agreed that Reville should have been reported to law enforcement in 2007, those comments by Rosa were disingenuous and were made merely for public consumption, and to further mislead the public about The Citadel. The Citadel has taken, and continues to take, the position that it has no duty to make any report to law enforcement, and had no duty to report Reville to law enforcement.

71. Without injunctive relief from the Court, The Citadel will continue to ignore its duty to report and, if and when caught, it will claim that it was merely mistaken, when in fact there is, and has long been, a custom and practice at The Citadel to withhold information about sexual misconduct by Citadel employees and staff. The custom and practice continues.

72. In maintaining silence about Reville after 2007, the Citadel breached its various duties to warn and report, and acted in a grossly negligent manner.

73. As a direct and proximate result of the failures by the Citadel from 2007 to 2011, and the Citadel’s gross negligence, as exhibited on multiple occasions and in multiple ways, the Plaintiffs’ child was sexually assaulted by Reville.

74. The Plaintiffs have incurred costs for treating their child, for providing their child professional care while maintaining his anonymity, and have lost the services of their child, as alleged in more detail below.

75. The Plaintiffs have suffered tangible and intangible injury as a result of the conduct by The Citadel.

76. The Plaintiffs are entitled to damages and injunctive relief as a result of the conduct of The Citadel.

For a Second Cause of Action: Loss of Services

77. This cause of action is alleged against The Citadel under state law.

78. Allegations above are incorporated into this cause of action as if fully stated.

79. The Citadel had a duty to refrain from any act or omission which might cause harm to a minor child within a foreseeable danger, including the Plaintiffs' minor child.

80. Every parent has an interest in avoiding injury to his or her child, and sustains an injury himself or herself when his or her child is injured.

81. The Citadel was grossly negligent, in at least the following particulars:

- a. In failing to report Reville's conduct to law enforcement;
- b. In failing to report Reville's conduct to Reville's employers starting in 2007,
- c. In failing to report Reville's conduct to parents of children under supervision and control of Reville,
- d. In failing to correct the implicit, but false, representation by The Citadel that Reville was not known by The Citadel to be an improper person to supervise and control children; when in fact it was known to officials at The Citadel that Reville had a sexual interest in children and that the implicit representation it made by its silence was false,
- e. In failing to disrupt or impede in any way Reville's sexual interest in children;
- f. in failing to have sufficient education and training for its President, administrators, general counsel, employees, staff, and agents about reporting persons known to have engaged in sexual misconduct with children;
- g. By creating conditions where children, including Plaintiffs' child, would be isolated with a person known to be sexually interested in children, while The Citadel withheld the information that would have enabled the Plaintiffs to

knowingly choose whether to permit their child to participate in an activity under the supervision and control of a person with a sexual interest in their child.

- h. In warning Reville of the 2007 complaints against him, to provide him information about his risk of discovery and provide him the opportunity to adjust the means by which he approached children and families to gain access for purposes of sexual manipulation of children, making him even more dangerous to families.

82. Plaintiffs have been harmed as a result of the gross negligence of The Citadel as set forth above, in that they have had impaired their interests in the services and companionship of their child by proximate result of the conduct by The Citadel.

83. As a proximate result of the conduct of The Citadel, the Plaintiffs must be mindful of the potential for long-lasting effects on their child of Reville's sexual abuse, and must be mindful of the increased risks of harm that accompanies a minor's sexual abuse and which extends well into adulthood.

84. Conduct by The Citadel has been aimed directly at the parents' interest in their child and the parent-child relationship. Among other things, since 2007 officials at The Citadel remained silent even though it had direct knowledge that Reville's conduct had caused to the parents of the 2002 camper damage to those parents and to the relationship between those parents and their child.

85. Plaintiffs are entitled to a judgment against The Citadel, for damages in an amount to be determined by the jury, and injunctive relief to be ordered by the Court.

**For a Third Cause of Action:
Violation of 42 U.S.C. § 1983 Count One: State Created Danger**

86. This cause of action is directed against Defendants Rosa and Brandenburg individually under federal, not state, law, pursuant to 42 U.S.C. § 1983, in their individual and official

capacities acting within the course and scope of their respective positions at The Citadel.

87. Allegations above are incorporated into this cause of action, other than allegations of negligence and gross negligence by agents and employees of The Citadel, and the allegations about a special relationship between the Defendants and the Plaintiffs or between the Defendants and the Plaintiffs' child.

88. Defendants Rosa and Brandenburg acted intentionally so as to harm the parents' interest as to their child, and created a danger for the Plaintiffs, or by their conduct were deliberately indifferent to the dangers created for the Plaintiffs interests.

89. Defendants Rosa and Brandenburg analyzed the facts reported to them in 2007 and made a conscious decision to not report Reville's conduct.

90. Each Plaintiff has an interest, cognizable under the United States Constitution, in the bodily integrity of their minor child, including an interest in familial relations and the care, custody, management and bodily integrity of their minor child.

91. Each Plaintiff has an interest, cognizable under the United States Constitution, to raise their child in an environment free from sexual abuse.

92. Conduct by the Defendants Rosa and Brandenburg posed a direct injury, and direct harm, to the Constitutional interest of each of the Plaintiff Parents. It was foreseeable to Defendants Rosa and Brandenburg in 2007 that failing to report Reville's known and demonstrated sexual interest in children would leave Reville at liberty to subject other children to sexual abuse and to deprive each of the Plaintiffs, along with other parents, of their personal Constitutional rights.

93. The Plaintiffs' parental interests have been directly affected by Rosa and Brandenburg failing to report Reville because it is parents who act in the interest of their child in arranging

schooling and extracurricular activity for their children. Defendants Rosa and Brandenburg having failed to report someone sexually interested in children who was known to work around children posed a direct risk of injury to that personal, parental interest as well as a risk of injury to their child. This complaint does not seek relief on behalf of the child, but on behalf of each of the parents.

94. In 2007, when investigating what had been reported about Reville's sexual interest in children, Defendants Rosa and Brandenburg carefully considered the interests of The Citadel and acted entirely in the interest of The Citadel, at the expense of the interests of the Plaintiffs, whose interests (and the interests of their child) was ignored. Defendants Rosa and Brandenburg were each deliberately indifferent to the interests of parents, children, and families who might be affected by Reville, including the Plaintiffs.

95. By their actions and inactions, Defendants Rosa and Brandenburg themselves each created for the Plaintiffs (and the Plaintiffs' child) the danger of enabling Reville's access to unwitting children and families so Reville could continue to sexually exploit children.

96. Defendants Rosa and Brandenburg each knew, and were deliberately indifferent to, Reville continuing in 2007 to sexually exploit children.

97. The conduct by the individual Defendants was egregious and arbitrary, and reflected a callous disregard so ill-conceived and malicious that it shocks the conscience. Defendants Rosa and Brandenburg concealed Reville's sexual abuse of children, concealed what was known about Reville's sexual interest in children, alerted Reville to the allegations of the 2002 camper and his parents, enabled Reville to revise his tactics for sexual exploitation to avoid detection by parents, and assisted Reville to create the harm suffered by Plaintiffs.

98. Defendants Rosa and Brandenburg coordinated between themselves and among others at The Citadel their decision not to report Reville to law enforcement in and after 2007. In doing so Defendants Rosa and Brandenburg acted under color of state law and within the scope of their official duty.

99. Since April, 2007, Defendants Brandenburg and Rosa have each had reason to know, and have known, that Reville is dangerous to children.

100. Defendants Rosa and Brandenburg are each aware that parents are individually affected when their child has been sexually abused.

101. Defendants Brandenburg and Rosa are each aware that parents whose children have been sexually abused have additional concerns to attend to as their children age, such as an increased risk of harm from substance abuse and other complications. "Trigger" mechanisms can occur throughout an abuse victim's life to disrupt the victim's stability. Those changes are now a permanent part of the responsibility for these parent Plaintiffs, and those permanent changes were proximately caused by the misconduct of Defendants Rosa and Brandenburg.

102. In 2007, Defendants Rosa and Brandenburg were each deliberately indifferent to the known risk to the Plaintiffs as to reporting to law enforcement Reville's criminal conduct.

103. The harm ultimately caused to the Plaintiffs, Reville sexually exploiting their child and burdening the Plaintiffs' parental obligations to their child, was foreseeable to each of Defendants Rosa and Brandenburg, and directly resulted from Reville's not having been reported and having had continued access to children after 2007.

104. Defendants Rosa and Brandenburg each willfully disregarded the safety of all parents of children with whom Reville could isolate himself after April, 2007.

105. Defendants Rosa and Brandenburg each assumed a duty to the Plaintiffs in investigating the 2007 reports about Reville.

106. Once the Defendants Rosa and Brandenburg confirmed that the 2007 report about Reville's sexual misconduct with children was credible, the Defendants exacerbated that risk by meeting with Reville in 2007 to alert him to the reports, but took no action to report that sexual interest to law enforcement.

107. Alerting Reville to the reports in 2007, but failing to report Reville to law enforcement in 2007, enabled Reville not only to continue sexually exploiting children, but alerted Reville to his need to more skillfully conceal his misconduct with children. Defendants Rosa and Brandenburg each assisted Reville's sexual exploitation of children and were consciously and deliberately indifferent to the interests of the Plaintiffs and their child.

108. After his 2007 meeting with Defendant Brandenburg, which had been coordinated with Defendant Rosa, Reville changed the tactics by which he ingratiated himself to parents and arranged by those new methods to continue his access to sexually exploit children.

109. Defendants Rosa and Brandenburg used their authority to enable Reville's continued access to children, to create the danger that otherwise would not have existed for Reville's crimes to occur, and to make that danger more potent by alerting Reville to the complaints so he could adjust his techniques to better allay parental suspicions.

110. Defendants affirmatively acted to create and exacerbate a dangerous situation for the Plaintiffs and their child, who were within the identifiable harm of which the Defendants were aware in 2007.

111. This complaint concerns the injury caused to the Parents.

112. Defendants Rosa and Brandenburg were active tortfeasors with Reville in the harm to the Plaintiffs, and willfully disregarded the safety of the Plaintiffs and their child.

113. Without the involvement of Defendants Rosa and Brandenburg, and their informing Reville about the 2007 complaints, Reville would have been unaware of the need to refine his approach to gaining parental confidence. But for the conduct of Defendants Rosa and Brandenburg in failing to report Reville but alerting Reville to his danger of detection, Reville's opportunities to assault the Plaintiffs' child would not have existed.

114. Defendants Rosa and Brandenburg each used their positions as state actors and were deliberately indifferent to the harm to the Plaintiffs and their child.

115. Defendants Rosa and Brandenburg were each aware that Reville had continued access to children after 2007 and that those children and their Parents were each exposed to the increased risk of harm that the Defendants used their state positions to create by alerting Reville to the 2007 complaints against him, and making Reville even more dangerous to families than he would otherwise have been.

116. Plaintiffs were in a worse position as a result of the 2007 intervention and non-action by the Defendants Rosa and Brandenburg, and their child was exposed to an even greater risk from an alerted and forewarned Reville, and their conduct prevented the timely investigation, apprehension, and prosecution of Reville.

117. Actions by Defendants Rosa and Brandenburg were deliberate, and concealed Reville's sexual abuse despite professional standards for university administrators, internal policies of The Citadel, and provisions of the Clery Act, 20 U.S.C. § 1092(f). Conferring with Reville without reporting him to law enforcement made Reville an even more dangerous threat to the Plaintiffs and had the foreseeable consequence of harm to the Plaintiffs and their child.

118. Plaintiffs were in the discrete class of foreseeable victims, as they are parents of an adolescent boy in the Charleston area exposed to Reville because Defendants Rosa and Brandenburg informed Reville of the 2007 complaints, allowed Reville to separate from The Citadel with no mention of the sexual abuse, and withheld Reville's conduct from law enforcement.

119. Defendants Rosa and Brandenburg were told in 2007, by the parents of the 2002 camper, how damaging it was to both the parents, as well as to their child, to have their child subjected to Reville's sexual exploitation. The Defendants were told the parents were "absolutely furious" that their child was exposed at The Citadel to Reville's misconduct, and the parents related the multitude of problems caused for their son, hence for them, by Reville's misconduct.

120. The Plaintiffs' child would have had no exposure to Reville had Defendants Rosa and Brandenburg not (a) alerted Reville to the 2007 complaints and (b) maintained silence about Reville's misconduct. After 2007 Reville altered his tactics and changed the setting of the opportunity he sought to sexually interact with children. The conduct by Defendants Rosa and Brandenburg shocks the conscience in the disregard each had for children and families.

121. The Plaintiffs are entitled to actual and punitive damages in amounts to be determined by the trier of fact.

**For a Fourth Cause of Action:
Violation of 42 U.S.C. § 1983 Count Two: Supervisor Liability**

122. This cause of action is directed against Defendant Rosa, under federal, not state law, pursuant to 42 U.S.C. § 1983, in his individual capacity acting within the course and scope of his position at the Citadel.

123. Defendant Rosa was the supervisor to Brandenburg and others at The Citadel.

124. Allegations above are incorporated into this cause of action other than allegations of negligence and gross negligence, and the allegations about a special relationship between the Defendants and the Plaintiffs or the Plaintiffs' child.

125. As supervisor to Brandenburg and others, Defendant Rosa has supervisor liability for the conduct of The Citadel, not from *respondeat superior* but for his supervisory indifference or tacit authorization of his subordinates' failure to report Reville.

126. Rosa's indifference proximately caused the interference between the plaintiffs and their child and the loss of the child's services from the child's sexual abuse. The harm to and injury to the parents' interest was not incidental to the harm to their child, but was a direct harm to their parental relationship as a foreseeably affected interest, and was directly harmed as a proximate result of Rosa's inactions.

127. Rosa had actual or constructive knowledge in April, 2007, that Reville had a sexual interest in children and was a danger to children.

128. In April, 2007, Rosa was deliberately indifferent to Brandenburg's failure to report Reville.

129. In June and July, 2007, Rosa approved Brandenburg's travel to Texas to take the July 1, 2007 statement of the 2002 camper, and Rosa had actual or constructive knowledge of the content of that statement as well as Brandenburg's evaluation of the 2002 camper's statement.

130. Rosa had actual or constructive knowledge of Brandenburg's 2007 detailed analysis of how to protect The Citadel from Reville's conduct, and the lack of analysis of how to protect other children from Reville's conduct.

131. When Brandenburg returned from Texas and reported to Rosa, Rosa was

deliberately indifferent to Brandenburg's failure to report Reville.

132. Failing to report Reville permitted the harm to the Plaintiffs' constitutional interests to continue unchecked.

133. Rosa failed to take action as a supervisor. His inaction caused a violation of the Plaintiffs' rights by his failing to require that Reville be reported.

134. As supervisor, Rosa had actual or constructive knowledge that his subordinate was engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to every parent whose child was exposed to Reville. Rosa was aware, actually or constructively, that Brandenburg had confirmed Reville's misconduct with multiple children, and had confirmed its harmful impact on parents other than the Plaintiffs.

135. Rosa was actually or constructively aware that Brandenburg had done a detailed analysis of a course of action to take to protect The Citadel from Reville's misconduct but had made no analysis or proposal for action to protect other parents from Reville.

136. Rosa had actual or constructive knowledge that Brandenburg was familiar with Reville, and was not himself capable of making an independent judgment about Reville.

137. Rosa had actual or constructive knowledge that Brandenburg would not permit his own children to be around Reville based on the knowledge Brandenburg had acquired in his official capacity, and Rosa had actual or constructive knowledge that Brandenburg proposed no action to protect the interests of other parents from Reville.

138. Rosa had knowledge of conduct engaged in by Brandenburg that posed a pervasive and unreasonable risk of constitutional injury to each of the plaintiffs.

139. It is "pervasive" and "unreasonable" to permit a known pedophile to have undisturbed and unreported access to any parent's child.

140. It is “pervasive” and “unreasonable” to alert a known pedophile that his behaviors with children have been the subject of one or more complaints, to enable that known pedophile to adjust the techniques by which he gained the trust of parents whose children he wanted to sexually exploit so as to injure each of the Plaintiffs.

141. On multiple occasions between 2007 and 2009, Rosa had the opportunity to himself report Reville or have his subordinates report Reville. He failed to do so. Each omission posed an unreasonable risk of harm of constitutional injury to each of the Plaintiffs.

142. Rosa’s supervisory response to Brandenburg’s strategy to make no report about Reville was so inadequate as to show deliberate indifference to, or tacit authorization of, Brandenburg’s repeated, and deliberate, failures to report Reville.

143. An affirmative causal link exists between Rosa’s inaction and the particular constitutional injury suffered by each of the Plaintiffs.

144. Had Rosa required Brandenburg to report Reville, Brandenburg would have reported Reville.

145. Had Rosa required Brandenburg to alter The Citadel’s personnel records to assure that Reville would get no recommendation for any work around children, Brandenburg would have done so.

146. Rosa as supervisor demonstrated continued inaction in the face of documented abuses by Reville which affected multiple minors and their families.

147. An affirmative causal link exists between Rosa’s inaction and the harm suffered by the Plaintiffs. Had Rosa acted at any time in 2007 or 2008 to require that either Reville be reported to law enforcement or The Citadel assure that its internal recordkeeping would prevent Reville from getting any job working around children, the harm Reville caused to each of the

Plaintiffs would not have occurred.

148. Each of Rosa's multiple inactions as supervisor was aimed not only at the interests of their child but also, and more directly, at the Plaintiff parents, who were the decision-makers and caretakers of their child, his education, and his extra-curricular activities.

149. Rosa was deliberately indifferent to Brandenburg's failure to report and failure to adjust The Citadel's internal files on Reville, or, alternatively, Rosa authorized Brandenburg's failures, and acquiesced in the constitutionally offensive conduct of his subordinates, among them Brandenburg.

150. Rosa is liable to each of the Plaintiffs for the proximate and natural consequences of his actions.

151. By 2007 it was clearly established that parents had constitutionally protected interests in their children and that Rosa could be held liable under 42 U.S.C. § 1983 for constitutional violations committed by Brandenburg, and that failing to report Reville or otherwise prevent him from working around children was improper.

152. A reasonable person in Rosa's position would have known that his actions were unlawful and inadequate to the risk of harm and threat posed by Reville to each of the Plaintiffs.

153. Rosa's inaction to the known risks posed by Reville shocks the conscience and is completely unacceptable as a response to a known pedophile.

154. In Rosa's public statements, he was careful to refer not to what more he should have done but what The Citadel should have done. Rosa will continue to disclaim his responsibility for creating the harm to the Plaintiffs.

155. Despite his public statements about his inaction, Rosa has either embraced, or acquiesced in, the argument by The Citadel that neither Rosa, nor anyone else at The Citadel,

had a duty to report Reville. Rosa's public statements to the contrary, that more should have been done as to Reville, were disingenuous and designed solely for public relations. Rosa has said one thing and done another.

156. Rosa's disingenuous public comments, in contrast to The Citadel's formal position denying any and all liability to report Reville, also shock the conscience.

157. Rosa identifies his function at The Citadel as primarily fundraising. Rosa's supervisory responsibilities have been exercised so as to maximize fundraising. Maintaining silence as to Reville despite the significant risk of harm he posed was one strategy adopted by Rosa so as to not interfere with his fundraising activities for The Citadel.

158. Rosa had actual or constructive knowledge that his subordinate, Brandenburg, was engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to citizens like the Plaintiffs.

159. Rosa's inaction was so inadequate as to show deliberate indifference to or tacit authorization of the alleged offensive practices of failing to report Reville, and failing even to adjust The Citadel's internal records to inhibit Reville from working around children.

160. Rosa had actual or constructive knowledge that Brandenburg met with Reville in 2007, enabling Reville to alter the approach he used to make himself even more dangerous to the interests of parents such as the Plaintiffs.

161. Rosa had actual or constructive knowledge from the Arpaio experience that the best response to a sexual abuse claim was not maintaining silence but to widely broadcast to parents that abuse had been reported. Rosa as supervisor explicitly or implicitly approved a course of conduct known to be against the Constitutional interests of each of the Plaintiffs.

162. The Plaintiffs are each entitled to actual and punitive damages in amounts to be determined by the trier of fact.

Request for Jury Trial

163. Plaintiff requests trial by jury for each cause of action above, actual damages as assessed by the jury for the first and second causes of action, actual and punitive damages for the third cause of action, and injunctive relief.

164. Under the first and second causes of action, pursuant to S.C. Code § 15-77-300, Plaintiffs seek costs and reasonable attorneys fees to be taxed against The Citadel for acting without substantial justification. Under the third and fourth causes of action, pursuant to 42 U.S.C. §§ 1983 and 1988, the Plaintiffs seek costs and reasonable attorneys fees against Defendants Rosa and Brandenburg, as applicable, and actual and punitive damages as provided by law. Under each cause of action Plaintiffs seek injunctive relief to enjoin the Defendants from failing to report to law enforcement information it receives about sexual misconduct which occurs on the campus of The Citadel, and for such other and further relief as is deemed just and proper.

Respectfully submitted,

Dated: _____

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr.
Circuit Court Judge
Case No.: 2011-CP-10-9200

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APR 04 2016

SC Court of Appeals

Appellate Case No. 2015-001920

Mother Doe A.....Appellant,

v.

The Citadel.....Respondent.

And

Case No.: 2013-CP-10-6330

John Doe 201 and Jane Doe 201.....Appellants,

v.

The Citadel.....Respondent.

CERTIFICATE OF COUNSEL

Pursuant to Rule 210(g), SCACR the undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and does not contain any other material.



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March 25, 2016