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Haley Videckis and Layana White  
7

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 HALEY VIDECKIS and LAYANA  
12 WHITE, individuals,

13 Plaintiffs,

14 v.

15 PEPPERDINE UNIVERSITY, a  
corporation doing business in  
16 California,

17 Defendant.

CASE NO. 2:15-CV-00298-DDP (JCx)

**THIRD AMENDED COMPLAINT  
FOR DAMAGES:**

1. VIOLATION OF RIGHT OF  
**PRIVACY UNDER CALIFORNIA  
CONSTITUTION ARTICLE 1, § 1;**
2. VIOLATION OF CALIFORNIA  
**EDUCATIONAL CODE §§ 220,  
66251, 66270;**
3. VIOLATION OF TITLE IX –  
**Deliberate Indifference;**
4. VIOLATION OF TITLE IX –  
**Intentional Discrimination;**
5. VIOLATION OF TITLE IX –  
**Retaliation for Complaints About  
Discrimination**
6. VIOLATION OF CALIFORNIA  
**CIVIL CODE §§51 et seq. – Unruh  
Act**
7. **INTENTIONAL INFLICTION  
OF EMOTIONAL DISTRESS**

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**I.**  
**PARTIES**

1. Plaintiff HALEY VIDECKIS (“Haley”) is a resident of California and a 20-year-old Caucasian woman, who played basketball at Pepperdine University. She was a transfer student from Arizona State University. She was one of the outstanding players at Arizona State University and earned a PAC 12 All-Freshman honorable mention notice during the 2012-2013 season. In July 2013, she was highly recruited by Pepperdine University (“Pepperdine” or the “University”) and its coaches and transferred to the University to seek better education and further her career to become a WNBA basketball player.

2. Plaintiff LAYANA WHITE (“Layana”) is a resident of California and a 21-year-old African American woman, who played basketball at Pepperdine. She was a transfer student from University of Arizona where she played basketball as one of its top players. She was highly recruited by the University and its coaches and transferred to Pepperdine in January 2014. She believed that transferring to Pepperdine University would provide her better education and further her career to become a WNBA player.

3. Defendant PEPPERDINE UNIVERSITY is a university located in California and is a corporation. The University and its students receive funds from the federal government and the State of California.

**II.**  
**JURISDICTION AND VENUE**

4. This Court has original subject-matter jurisdiction pursuant to 28 U.S.C. Section 1331 because three of Plaintiffs’ claims arise under Title IX of the United States Education Amendments of 1972, 20 U.S.C. Sections 1681-1688 (hereinafter “Title IX”). In addition, pursuant to 28 U.S.C. Section 1367, this Court has supplemental jurisdiction over Plaintiffs’ state law claims.

5. This Court has personal jurisdiction over Pepperdine because it is

1 authorized to do business and conducts business in the State of California in that it  
2 maintains its principal campus in Malibu, California in Los Angeles County.

3 6. Venue is proper in this District pursuant to 28 U.S.C. Sections 1391(a)  
4 & (b), because Defendant resides in this District and a substantial part of the events  
5 or omissions giving rise to Plaintiffs' claims occurred in this judicial district.

6 **III.**

7 **NON PARTIES**

8 7. RYAN WEISENBERG ("Coach Ryan") is the head coach of the  
9 women's basketball team at Pepperdine and acted within the scope and course of his  
10 employment at all times mentioned herein. Coach Ryan is a managing agent of the  
11 University in regards to the decisions as to which of the students will be members of  
12 the basketball team, under what conditions they may play and their code of conduct.  
13 Coach Ryan directed, encouraged, approved, knew and failed to correct and stop the  
14 alleged conduct of his assistant coaches, athletic trainers and academic coordinator  
15 which are part of Plaintiffs' cause of actions against Defendant Pepperdine.

16 8. JORDAN SMITH ("Coach Jordan") is an assistant coach of the  
17 women's basketball team at Pepperdine, reports to Coach Ryan and acted within the  
18 scope and course of her employment at all times mentioned herein.

19 9. MALLORIE WINN ("Coach Mallorie") is an assistant coach of the  
20 women's basketball team at Pepperdine University, reports to Coach Ryan and acted  
21 within the scope and course of her employment at all times mentioned herein.

22 10. TRISHA RANIEWICZ ("Coach Trisha") is an assistant coach of the  
23 women's basketball team at Pepperdine University, reports to Coach Ryan and acted  
24 within the scope and course of her employment at all times mentioned herein.

25 11. KEVIN WRIGHT ("Kevin") is the head athletic trainer of the women's  
26 basketball team at Pepperdine University, reports to Coach Ryan and acted within  
27 the scope and course of his employment at all times mentioned herein.

28 12. KARISSA SCHERER ("Karissa") is an assistant athletic trainer of the

1 women’s basketball team at Pepperdine University, reports to Coach Ryan and acted  
2 within the scope and course of her employment at all times mentioned herein.

3 13. ADI CONLOGUE (“Adi”) is an athletic academic coordinator of the  
4 women’s basketball team at Pepperdine University, works in junction with Coach  
5 Ryan and acted within the scope and course of her employment at all times  
6 mentioned herein.

7 14. DR. STEVE POTTS (“Dr. Potts”) is the Athletic Director at  
8 Pepperdine University, a supervisor of Coach Ryan and acted within the scope and  
9 course of his employment at all times mentioned herein. Dr. Potts is a managing  
10 agent of the University in regards to all athletic teams including the women’s  
11 basketball team, under what conditions they may play and their code of conduct.

12 15. TABATHA JONES JOLIVET (“Title IX coordinator”) is a Title IX  
13 Deputy Coordinator at Pepperdine University and reports to President Benton and  
14 acted within the scope and course of her employment at all times mentioned herein.  
15 She is a managing agent of the University in regards to the University’s compliance  
16 with Title IX.

17 16. ANDREW BENTON (“President Benton”) is the president and a  
18 managing agent at Pepperdine University at all times mentioned herein.

19 **IV.**

20 **SUMMARY OF THE CASE**

21 17. In the spring of 2014, Coach Ryan came to the conclusion that two of  
22 the players on his basketball team were lesbians and were having a lesbian  
23 relationship. The two basketball players were Plaintiffs, Haley and Layana. Coach  
24 Ryan asserted that their lesbian relationship would cause turmoil within the team  
25 and a losing season. Consistent with these assertions, Coach Ryan deliberately  
26 invaded Plaintiffs’ privacy, harassed Plaintiffs and discriminated against Plaintiffs  
27 based on their sexual orientation, in an effort to get them to quit. In this way,  
28 Plaintiffs’ scholarships would be available for recruiting replacement players. In

1 order to accomplish his goal, he was aided by his assistant coaches, trainers and  
2 academic coordinator.

3 18. By September 2014, Coach Ryan was so successful in his endeavor that  
4 Layana attempted to commit suicide and Haley was medically disqualified by the  
5 trainers despite a doctor's diagnosis to the contrary. Plaintiffs complained to the  
6 athletic director and to the Title IX coordinator as to the above. However, the  
7 University officials were deliberately indifferent and refused to take actions to stop  
8 the intrusion, harassment and discrimination. Instead, the Title IX coordinator  
9 issued a cover up report. In December 2014, because of the university's deliberate  
10 indifference to the invasion of privacy, harassment and discrimination based on  
11 sexual orientation, Plaintiffs resigned from the University.

12 19. The University's treatment of Plaintiffs and their perceived and/or  
13 actual sexual orientation and/or relationship was, in part, motivated and driven by  
14 gender stereotypes held by the University, its staff and employees of Plaintiffs as  
15 female athletes and specifically women basketball players. For example, the  
16 University and its employees and staff made improper inquiries into the intimate,  
17 sexual affairs of the Plaintiffs, as female athletes, which were not, and would not, be  
18 made of (or to) their similarly situated male athlete counterparts. Moreover,  
19 Pepperdine, and the Coaches of the Pepperdine women's basketball team, made  
20 statements and announced policies, practices and rules relating to sexual orientation  
21 (and specifically "lesbianism") during Plaintiffs' tenure there, whereas no similar  
22 comments or rules were made regarding sexual orientation for Plaintiffs' male  
23 counterparts. Furthermore, the refusal by the University and its employees and  
24 staff, to accept or accede to Plaintiffs' efforts to maintain the confidentiality of their  
25 sexual orientation and/or relationship amounted to different treatment than would  
26 have been afforded to similar requests by Plaintiffs' male counterparts.

27 20. In addition, the University, its staff and employees announced, and  
28 implemented, treatment for those, like Plaintiffs, who were in same gender

1 relationships different than the treatment afforded athletes in opposite gender  
2 relationships.

3 **V.**

4 **FACTS**

5 **Inquiries by Adi**

6 21. In the beginning of February 2014 Academic Coordinator Adi, who  
7 was selected by the University to help female basketball players maintain good  
8 grades, pulled Haley into her office to talk. In this meeting, Adi asked Haley if  
9 there were any gay or bisexual players on the team. Haley said no. Although she  
10 was aware of multiple girls on the team that were gay and bisexual, she could not  
11 answer this question honestly because Pepperdine is extremely discriminatory  
12 against the LGBT (Lesbian, Gay, Bisexual and Transgender) community.  
13 Furthermore, Adi asked Haley if she was gay. Haley said no. The next week, Adi  
14 asked Haley to come into her office. The following dialogue occurred.

15 Adi: "I noticed that you and Layana have become very close."

16 Haley: "Yeah, Layana and I have become good friends."

17 Adi: "How close?" "Like BFFs [Best Friends Forever] or more than  
18 that?"

19 Haley: "We are just friends."

20 22. In the study hall room, Adi asked Haley what she was doing for spring  
21 break. Haley told her that she was going home to Chicago and that Layana was  
22 going to visit Arizona. Adi said, "You aren't going to take Layana home with you?"  
23 Haley said no. Adi said, "Aren't you going to miss her?" When Haley and Layana  
24 returned from Vegas where they spent their break, Adi continued asking both Haley  
25 and Layana about their trip. These questions include but are not limited to: What  
26 did you do? Where did you sleep? Did you share a bed? Layana told Adi that she  
27 did not go to Vegas with Haley. Adi then told Layana that she did not believe  
28 Layana and that she knew that Layana was with Haley. Neither Haley nor Layana

1 admitted to Adi that they went to Vegas together.

2       23. In March 2014, every time Haley would see Adi, she asked Haley  
3 about Layana. Adi, “How are you and Layana?” She would ask this question in a  
4 way suggesting Haley and Layana were in a relationship. Adi never asked Haley  
5 how any of her other teammates were doing. Adi would ask Haley if she was going  
6 places with Layana on the weekends and ask personal questions about what they did  
7 together. On March 18, 2014, Adi asked Haley if Layana bought her anything for  
8 her birthday. When Haley said no, Adi seemed surprised. She asked if Layana took  
9 Haley anywhere for her birthday. Haley said no. Adi suggested a restaurant that  
10 Layana and Haley go together on a date. Haley told Adi that she wouldn’t be going  
11 with Layana anywhere on a date. Haley asked Adi very politely to stop asking her  
12 about Layana.

13       24. March 18, 2014 was the first leadership meeting. After the 2013-2014  
14 season, Coach Ryan had a new idea for the team. He chose 6 of his team’s best  
15 “leaders” and began “Leadership Meetings” to discuss the team’s “Core  
16 Covenants.” The Leadership Council was made up of the best leaders on the  
17 basketball team: Krista, Bria, Ea, and Keitra as well as Plaintiffs. Every leadership  
18 meeting occurred with only Coach Ryan in his office. No other coaches were there.  
19 Coach Ryan would have them watch videos, write their ideas and opinions  
20 discussing how to make the team more “successful”, and have group discussions.  
21 He would also discuss his beliefs on what the negatives and positives to their  
22 specific team were.

23       25. Towards the end of the 2014 spring semester, Adi began asking Haley  
24 whom she would be living with in the summer. Adi always asked, “Are you going  
25 to be living with Layana?” There are four people in each dorm and two people in  
26 each room. Adi would ask “Is Layana going to be sleeping in the same room as  
27 you?” “Do you guys push your beds together?” “Do you sleep together?”

28       26. During March and April 2014, Adi was also asking Layana very similar

1 questions. Adi would ask Layana these questions during every weekly academic  
2 meeting and every time she was in study hall. Layana told Adi that Haley was her  
3 best friend and, “No, we are not dating.” Adi asked Layana if she “hung out and did  
4 things with her other best friends the same way she does with Haley.” Layana told  
5 her, “yes, because Haley is just my friend.” Also, every meeting Layana had with  
6 Adi, she would always say, “So how are you and Haley doing?” Adi would ask this  
7 question in the tone as if Layana and Haley are dating. Layana told Adi these  
8 questions were inappropriate and to “please stop.”

9 **Coach Ryan Denounces Lesbianism**

10 27. On April 16, 2014 at 9 a.m., Coach Ryan had a leadership meeting in  
11 which he offended many of the girls on the leadership council. Coach Ryan spoke  
12 on the topic of “lesbianism.” Coach Ryan specifically said the word “lesbianism”  
13 stating the following: “Lesbianism is not tolerated on this team. It is the reason why  
14 teams lose.” “Lesbianism is a big concern in women’s basketball.”

15 **Complaints About Adi and Continued Harassment**

16 28. At the end of April 2014, Layana reported to Coach Ryan (no other  
17 coaches present) that Adi was constantly attempting to ascertain personal  
18 information from her regarding her private life. Coach Ryan assured Layana that  
19 other teammates had also complained about Adi not focusing on academics and he  
20 would soon be having a coach monitor the meetings with Adi. Layana told Coach  
21 Ryan that these questions occurred not only in her academic meetings but when she  
22 was in study hall as well. However, Coach Ryan ignored, and was deliberately  
23 indifferent to the nature of Adi’s inquiries and Layana’s concerns about Adi’s  
24 improper behavior in Study Hall, and elsewhere and neither Coach Ryan, nor  
25 anyone else at Pepperdine took any action to stop Adi from her harassing and  
26 invasive questions about Plaintiffs’ sexual orientation or relationship.

27 29. As a consequence of Pepperdine’s deliberate indifference to Adi’s  
28 harassing and discriminatory behavior, both Plaintiffs were deprived of the services





1 Coach Ryan where he heard these rumors. Coach Ryan said he heard it from a staff  
2 member that the players were with everyday. Keitra told Layana to watch what she  
3 says around the staff members. Keitra told Layana that she thought the “staff  
4 member” was Adi or Karissa, the athletic trainer. When Haley returned to the  
5 University, she confirmed with Keitra, that Coach Ryan asked her “Are Haley and  
6 Layana dating?” Keitra told him no. Keitra also confided to Haley that Adi had  
7 also asked Keitra if she was dating Sahara.

8         33. In May 2014, Layana called a meeting with Coach Ryan to discuss  
9 beginning to file her appeal to NCAA. Transfer students are not allowed to play  
10 basketball for an entire year absent the appeal. Coach Ryan told Layana that he  
11 would be “starting the process right away” and he would also “be in contact with  
12 Pepperdine’s athletic director, Dr. Potts, and the head of compliance, Brian Barrio,  
13 to push the appeal through.” Layana received no response from Coach Ryan about  
14 her appeal or progress towards filing the appeal. Layana, like all NCAA transfer  
15 athletes, cannot submit such an appeal on their own. The athlete requires assistance  
16 from the University’s athletic department which includes their coach, athletic  
17 director, and head of compliance.

18         34. On June 4, 2014, Coach Ryan called individual meetings regarding the  
19 training room and athletic trainer Karissa with the entire coaching staff were  
20 present. In Haley’s meeting, Karissa falsely accused Haley of breaking many rules  
21 in the training room dating all the way back into April. Haley said the accusations  
22 were not true, but Coach Ryan cut Haley off and told her she was lying and that she  
23 was wrong. Haley then told the coaches that Karissa was very unprofessional.  
24 Coach Ryan asked her how, so Haley told them about how Karissa was asking  
25 Haley if she ever dated girls and that Karissa told her that Coach Trisha was gay  
26 which made Haley feel uncomfortable. Both Coach Ryan, and Coach Trisha,  
27 responded with deliberate indifference to Haley’s complaints that Karissa had  
28 harassed Haley about Haley’s sexuality and that Karissa was furthering that

1 harassment by falsely accusing Haley of rules violations. In response to Haley's  
2 complaints, Coach Trisha was more concerned with her own standing at Pepperdine  
3 and Coach Trisha laughed and said, "That is not true!" Coach Ryan responded by  
4 yelling at Haley and accused her of lying.

5 35. In addition, Plaintiffs are informed and believe that, later that day,  
6 when Coach Ryan (and/or others) confronted Karissa about Haley's claim that  
7 Karissa had been inquiring about Haley's sexual orientation and disclosing  
8 information about Coach Trisha, Karissa denied doing so. However, Karissa  
9 changed her story the next day and admitted that she had lied to Coach Ryan and  
10 confessed to having the inappropriate conversations with Haley about Haley's and  
11 Coach Trisha's sexual orientation. Coach Ryan met with Karissa and Haley and  
12 required that Karissa apologize to Haley for her the disclosures, and for lying about  
13 it. Haley then requested that Karissa also admit that she had been lying about  
14 Haley's supposed misbehavior during rehab. Coach Ryan refused to treat Haley's  
15 concerns about Karissa's harassment seriously and responded by insisting that all of  
16 these issues be "brushed under the rug". When Haley would not accede to this  
17 request, Coach Ryan began yelling and swearing at her. Later, in the Title IX  
18 investigation, it was confirmed that Karissa had been improperly changing the  
19 records to make it appear as if Haley and Layana were arriving late for rehab (*i.e.*  
20 breaking rules).

21 36. On June 12, 2014, Layana met with athletic director Dr. Potts. In the  
22 meeting with Dr. Potts, Layana said, "I had a meeting with Coach Ryan in May  
23 about filing my appeal to play right away. But I have not seen any progress. I  
24 wanted to know what is going on with the process." Dr. Potts responded to Layana  
25 saying, "I had no idea about your appeal." Layana was very confused and she said,  
26 "I don't understand why Coach Ryan doesn't want to do my appeal. I feel like he  
27 doesn't want me to play right away. I don't understand why and I don't know who  
28 can help me if Coach Ryan doesn't want to file my appeal." Then Dr. Potts said,

1 “I’ll take care of it. Just send me your NCAA appeal letter.” Although Layana sent  
2 information regarding her appeal to Dr. Potts through email after the meeting,  
3 Layana did not receive any follow up of her appeal to this day. The University  
4 announced news this summer that its men’s basketball player A.J. Lapray had  
5 received NCAA approval from his appeal to play immediately after transferring  
6 from Oregon. Furthermore, Layana arrived to Pepperdine six months before A.J.  
7 arrived to Pepperdine, yet his appeal was filed and approved first.

8 37. Later in the month of June 2014, Coach Ryan made another comment  
9 referring to intra-team dating. Coach Ryan made the following statement. “When I  
10 was coaching for the LA Sparks, two of our players were dating and they broke up  
11 in season. That was the reason our team fell apart and lost.” Coach Ryan’s  
12 comments about lesbians were becoming obsessive and very strange. Both Layana  
13 and Haley’s coaches at their previous PAC 12 School would never have  
14 conversations about intra-team dating and never did they use the word lesbianism.  
15 Women’s basketball is stereotyped for having many lesbians, and it is more  
16 expected than prevented. When Haley and Layana heard Coach Ryan’s statement  
17 that he was against the lesbian lifestyle within his team, it made them think Coach  
18 Ryan would pull their scholarships if he confirmed their relationship. At this point,  
19 Layana began to suffer from severe depression.

20 38. During June 2014, the following events took place. Adi asked Layana,  
21 “So do you guys push your beds together in the dorm room? Do you guys sleep  
22 together?” Whenever Layana saw Adi on Fridays in study hall, she would ask her,  
23 “Are you taking your girl home with you this weekend?” referring to Haley. One  
24 Friday, she asked Layana what she was going to do over the weekend and she told  
25 Adi she was going to Disneyland. Adi then asked Layana, “Oh are you taking  
26 Haley to Disneyland?” Layana said, “No, I’m taking my sister with me.” Layana  
27 asked Adi why she wanted to know if she was going to take Haley. Adi replied  
28 sarcastically, “Because you guys are BFFs.” These comments occurred when

1 Layana was in study hall supervised by Adi.

2 39. When Layana achieved 3.0 GPA, the team rule required her to study in  
3 study hall for 2 hours instead of 8 hours per week during the semester and 5 hours  
4 per week during the summer. Because of Adi's questions into Layana's sexual  
5 orientation, she was looking forward to the reduction of study hall hours. However,  
6 Coach Ryan changed the GPA requirement from 3.0 to 3.2 immediately after  
7 Layana achieved a GPA of 3.0. When Coach Ryan changed the GPA requirement  
8 he knew Adi's continued questioning during study hall was upsetting to Layana.  
9 This increased requirement only applied to Layana since the other teammates had  
10 GPAs that were either below 3.0 or above 3.2.

11 40. When Layana and Haley were the only two practicing, Bria, one of  
12 Plaintiffs' teammates, came up to Haley and Layana and asked if they had a minute  
13 to talk. Bria said, "Hey guys. I just want to let you know, be careful what you tell  
14 Adi because she tells Coach Ryan everything." Bria would not say why she made  
15 this statement to only Haley and Layana, but she warned them to be very careful, as  
16 if Adi had told Coach Ryan something bad about Haley and Layana. After Bria left,  
17 Layana and Haley believed that Adi told Coach Ryan that they were dating. They  
18 did not say anything to Bria because they were keeping their relationship very  
19 secret. Haley and Layana agreed to make a more conscious effort to keep their  
20 relationship confidential. Haley and Layana were very afraid that if Coach Ryan  
21 found out they were dating, he would take away their scholarships, especially after  
22 the leadership meeting when he stated, "lesbianism is not tolerated here."

### 23 **False Allegations of Cheating and Additional Improper Inquires**

24 41. In early July 2014, Adi falsely accused Plaintiffs of academic cheating.  
25 The academic coordinator knowingly made the false charges in an effort to make  
26 Plaintiffs quit the basketball team or be disqualified them from the team. However,  
27 there was no evidence of cheating and the charges were dropped. On July 28, 2014  
28 Coach Ryan sent a text message to Krista, Plaintiffs' teammate, that he was

1 disappointed that she wanted to live off-campus with Haley and Layana. Robie,  
2 another teammate, also told Haley and Layana that she was told by Coach Ryan not  
3 to live with Haley and Layana off-campus because they were bad influences. Robie  
4 warned Haley and Layana that Coach Ryan is defaming them and trying to turn their  
5 teammates against them. Robie said she was confused as to why he was doing this.  
6 Robie did not know that Haley and Layana were dating.

7 42. On August 25, 2014, Pepperdine commenced the fall semester and it  
8 was the first day of school. Haley and her teammate Allie were practicing in the  
9 gym. Allie told Haley that Coach Jordan had asked her if Layana and Haley were  
10 dating. Later that same night, Haley asked Bria if Coach Ryan had asked her  
11 whether Layana and Haley were dating. Bria confirmed that it was true.

12 43. On August 26, 2014, Layana had a meeting with Coach Ryan and  
13 Coach Mallorie. In this meeting, she asked Coach Ryan if he had been asking  
14 several teammates if Haley and her were dating. He denied these allegations.  
15 Layana told Coach Ryan two players on the team said that he had asked them if she  
16 and Haley were dating. Layana also told him that Coach Jordan asked Allie if they  
17 were dating. Coach Ryan said, "I know for a fact that that is not true. My staff  
18 doesn't gossip. And gossip is what gets people fired." Coach Ryan continued to  
19 deny that he asked any girls, and he claimed that the players were making up these  
20 rumors to start drama. Coach Ryan suggested that Layana call a team meeting and  
21 address this rumor. Layana said she did not think that was necessary when she  
22 could end the rumor in his office right then and there. Then Coach Ryan called  
23 Allie into this meeting to confirm her statement. Allie confirmed that Coach Jordan  
24 asked her. Coach Ryan then called Coach Jordan on speakerphone. Coach Jordan  
25 admitted that she asked Allie if Layana and Haley were dating. Coach Ryan asked  
26 Allie to leave and then kept asking Layana who were the other two girls who said he  
27 asked about Haley and Layana dating. Layana did not release any names. Layana  
28 told Coach Ryan that she promised her teammates she would not get them involved,

1 and all she wanted to do was end the rumor. Coach Mallorie asked Layana why this  
2 situation bothers her so much. Layana answered, “Because I don’t want that  
3 reputation at this Christian school.” Then, Coach Mallorie asked, “So what is really  
4 going on between you and Haley? Are you dating?” Layana told Coach Mallorie  
5 that they were not dating. Thus, Plaintiffs learned, from multiple sources, that  
6 Coach Ryan, Coach Jordan, and others were making inappropriate and harassing  
7 inquiries about Plaintiffs’ relationship and sexuality and Plaintiffs reported and  
8 complained about this to Coach Ryan. His response was not only deliberate  
9 indifference, Coach Ryan flat out lied and denied that he, or anyone else had asked  
10 such questions about the Plaintiffs. Then, when Coach Jordan admitted to the  
11 misbehavior, the coaches continued with their questioning and refused to accept or  
12 acknowledge the inappropriate, illegal and harmful effects of such questions,  
13 especially at Pepperdine which is unwelcoming to LGBT students.

14 44. On September 3, 2014, Layana went to the academic room with her  
15 teammates, Keitra, Kelsey and Whitney, to do their study hall but there were no  
16 more seats left. The players all signed in together and did their homework in the  
17 locker room. Adi went into the study hall room and saw that they all signed in but  
18 were not in the study hall room. Adi called Coach Ryan and told him that  
19 specifically Layana checked in for study hall but was not in the study hall room.

20 45. On September 5, 2014, Coach Ryan called a meeting with Coach  
21 Mallorie, Adi, and Layana. In the meeting, Coach Ryan justified Adi’s accusations  
22 that Layana was not in the study hall room on September 3, 2014. Coach Ryan said  
23 he discussed it with Adi, and Layana would be receiving a punishment. Out of all of  
24 the players that were studying in the locker room, Layana was the only one to get  
25 punished by Coach Ryan and Adi for not being in the academic room for study hall.  
26 The other girls were not punished because Adi claimed that they all left her a note  
27 on her desk before going to the locker room. Layana was with the girls the entire  
28

1 time and she knew for fact that they all did not leave any notes. The punishment  
2 was extra study hall hours the following week.

3 46. After the meeting, Layana was sitting outside the coaches' office with  
4 Haley finishing her homework. Adi walked up to Layana's desk with a book she  
5 needed for class. Instead of handing it to Layana, Adi slammed the book on the  
6 desk in front of her face. Layana packed up her backpack and told Haley that she  
7 needed to leave. That night Layana attempted to commit suicide.

### 8 **Invasions of Medical Privacy and Retaliation**

9 47. In September 2014, Pepperdine, through a variety of its employees and  
10 agents, including Karissa, Coach Ryan, and others, began retaliating against Haley  
11 because of her complaints and invading her privacy. Specifically, Pepperdine  
12 retaliated by refusing to clear Haley to participate in basketball activities based on  
13 an injury to her tailbone, of which Pepperdine had been aware since June 2014, and  
14 which, in no way limited or affected her ability to play basketball. Moreover,  
15 Pepperdine unlawfully invaded Haley's privacy by demanding all of her  
16 gynecological records, after she simply informed Karissa and Coach Ryan that she  
17 was undergoing a routine screen for cervical cancer (which was negative).

18 48. In June 2014, Haley reported to Karissa that she was experiencing pain  
19 in her tailbone when she sat for long periods of time. Haley reported that she  
20 believed the injury was associated with basketball training, specifically  
21 weightlifting. Haley had not experienced any falls or other mishaps in everyday life  
22 that would have caused an injury to her tailbone. Haley also advised Karissa that  
23 the injury did not, in any way, limit or affect her ability to run or play basketball.  
24 Haley asked if an X-ray could be taken to check on the injury. Karissa inexplicably  
25 told Haley that the injury did not appear basketball-related, and that Haley would  
26 need to pay for any X-ray herself, which, at that time, Haley could not afford.  
27 Karissa did, however, arrange for Haley to be seen by the Team orthopedist in the  
28 training room. The Orthopedist checked Haley out, diagnosed a tailbone bruise, and



1 provided a treatment plan of sitting on a pad, and taking Advil for the pain. Neither  
2 Karissa, nor the Orthopedist imposed any restrictions on Haley's basketball  
3 activities at the time, nor refused to clear her to participate. Over the summer, while  
4 vacationing in Mexico with her father, Haley experienced pain while sitting.  
5 Haley's father paid for her to see a doctor (Dr. Babak Barchohana) in California on  
6 August 2014 about her tailbone. Haley visited Dr. Barchohana once and underwent  
7 an MRI. Dr. Barchohana confirmed she had a tailbone bruise and prescribed a  
8 stronger painkiller than Advil, Norco, for when Haley would sit for long periods in  
9 class. Dr. Barchohana did not restrict Haley's ability to practice or play basketball,  
10 in any way.

11 49. In early 2014, Haley's annual gynecological check-up included an  
12 abnormal pap smear. Haley's doctor, Nancy Taylor, merely recommended that she  
13 be rechecked in 6 months (instead of waiting a year).

14 50. When Haley returned to school in September 2014, she advised Karissa  
15 about her visit to Dr. Barchohana and a scheduled recheck of her abnormal pap  
16 smear.

17 51. When Haley returned to school in September 2014, she advised Karissa  
18 that she had visited Dr. Barchohana and that he had prescribed Norco (Haley and the  
19 other team members are required to disclose medications they are taking.)

20 52. In September 2014, Dr. Taylor's office reminded Haley of the need for  
21 a follow-up test and an appointment was scheduled for September 12, 2014. At  
22 about this time, Haley was suffering from the flu and was not participating in  
23 practice.

24 53. On September 9, 2014 Haley advised both Karissa and Coach Ryan  
25 that she would miss practice on Friday September 12, 2014 because she had a  
26 doctor's appointment to recheck the abnormal pap test.

27 54. The next day, September 11, 2014, Karissa dispatched a text and  
28 requested that Layana provide Karissa with all of Layana's gynecological records.

1 At about the same time Karissa sought Layana’s medical records, Karissa contacted  
2 Dr. Taylor seeking all of Haley’s gynecological records. Both Layana and Haley  
3 refused to provide Pepperdine with access to their gynecological records because  
4 these records had nothing to do with their fitness to participate in basketball  
5 activities. No similar requests for such records were made to women or men  
6 participating in basketball at Pepperdine.

7 55. Haley saw Dr. Taylor on September 12, 2014. Dr. Taylor provided  
8 Haley with the following, handwritten, note: “To whom it may concern: I saw  
9 Haley today for follow up of abnormal Pap smear. This problem will have no  
10 impact on her ability to play basketball.” Haley provided this note to Karissa.  
11 However, Karissa inexplicably told Haley that the note was insufficient, and that  
12 Haley would need to be cleared by Dr. Green in the Pepperdine Health Center.

13 56. On September 16, 2014, Haley met with Dr. Green. Haley provided  
14 Dr. Green with the September 12, 2014 note from Dr. Taylor. Dr. Green advised  
15 Haley that she was cleared for the issue for which she was under the care of Dr.  
16 Taylor. In an effort to provide Pepperdine with the records they sought, Haley also  
17 provided Dr. Green with a note from the doctor treating her for the flu. That  
18 handwritten note, from Dr. Afshine Emrani, and dated September 11, 2014 stated:  
19 “To whom it may concern – Patient is under my care and has urine infection/flu  
20 virus and is on antibiotics & should be able to go back to training Monday.” Before  
21 Haley left the appointment, Dr. Green told her that he would need to run a  
22 mandatory urine test to check if she had a urine infection. (Later, Haley requested  
23 Dr. Green’s notes from the visit to see exactly what she was tested for, but the  
24 Pepperdine Health Center did not provide her with any of Dr. Green’s notes from  
25 her visit.)

26 57. Within hours after seeing Dr. Green at the Health Center on September  
27 16, 2014, Haley received an email from Karissa stating, “You will not be cleared for  
28 participation until the documentation from the spine specialist has been brought to

1 the athletic medicine center.” As Haley had already left campus, she provided the  
2 documents the next day. This email referred to the tailbone injury which Haley had  
3 reported in June 2014, and for which the Pepperdine Orthopedist examined and for  
4 which she had never been restricted from participating in basketball activities.

5 58. On September 17, 2014, Haley called the health center and asked to  
6 speak with Dr. Green to find out why she was not cleared for the tailbone issue.  
7 Ultimately, Dr. Green advised Haley that he had been unaware of the tailbone issue,  
8 and that she needed to provide documentation to Karissa. He responded via email to  
9 the front desk that he did clear Haley because he was unaware of her spine condition  
10 and Haley could not be cleared until she brought documentation to Karissa. Haley  
11 provided Karissa with all of the documentation from her visit to Dr. Barchohana on  
12 September 17, 2014 (the documentation included the MRI report and the  
13 prescription for Norco).

14 59. Karissa’s sent Haley an email at 1:38 pm on September 17, 2014: “The  
15 documents that you have provided regarding your doctor’s visit at the Southern  
16 California Orthopedic Institute do provide us with enough information. What we  
17 need is a diagnosis, treatment plan, and any treatment recommends that the  
18 physician has prescribed.”

19 60. Then, Karissa’s boss Kevin, the Head Trainer, emailed Haley at 2:34  
20 pm on September 17, 2014: “In order for medical clearance to be considered at  
21 Pepperdine you have been asked to provide the athletic training center details of a  
22 recent physician visit regarding your sacrum. Today you provided an MRI report to  
23 the athletic training center ... Please get us the following information regarding your  
24 sacrum: All the physician notes on diagnosis and plan for treatment.”

25 61. Haley called Coach Ryan and explained that Dr. Barchohana had  
26 already released all of the documentation his office had on file for her. She asked  
27 Coach Ryan if he can come with her to the training room to speak with Kevin and  
28 Karissa about her seeing the basketball team orthopedic if it is necessary, to be

1 cleared for her tailbone injury. Coach Ryan told her that he would not help her.  
2 Then, Haley sent an email to Kevin and addressed Kevin's request to a diagnosis  
3 and treatment. "Regarding your concerns for the diagnosis not being in the  
4 documentation, please note page 3 of my paperwork. Located above the  
5 prescription note is "DX" (diagnosis): "Coccygeal" (tailbone) pain." Neither Kevin  
6 nor Karissa responded to Haley's email that the diagnosis was on page 3.

7 62. During this time when Pepperdine was seeking to invade, and invading,  
8 Haley and Layana's gynecological records and issues, and improperly refusing to  
9 clear Haley to participate in basketball activities, Karissa wrongly told Haley that "It  
10 is obvious you are hiding and lying about something."

11 63. On September 18, 2014, Haley, after unsuccessful efforts to have her  
12 concerns addressed, met with Karina who is an assistant for the athletic director Dr.  
13 Potts. She told Karina that she felt Coach Ryan did not want her on the team  
14 anymore. She explained that Coach Ryan had told her there was nothing he could  
15 do about it and that neither Dr. Potts nor President Benton could help her. Karina  
16 told Haley that Dr. Potts was not there, but he could meet with her at 9 a.m. the next  
17 morning.

18 64. On September 19, 2014, Haley met with Dr. Potts and Karina in his  
19 office. Dr. Potts was extremely rude in this meeting and he would not let her  
20 explain her side of the story. Within minutes, Haley was in tears by the way he was  
21 yelling at her for bringing this issue to his attention. Not only did Haley complain to  
22 Dr. Potts about not being cleared, Haley told him that Layana was also not cleared  
23 and had not been cleared to practice since May. Haley told Dr. Potts that it felt like  
24 the staff was trying to keep both Haley and Layana off the court and get them kicked  
25 out of the school. After class that day, Haley called Coach Ryan. On the phone,  
26 Haley said she needed to take the weekend to decide if she could be a part of the  
27 team. She said, "I am very unhappy with the way I have been treated here." Coach  
28 Ryan did not ask her why, but he said he wanted a decision by Sunday morning at 8

1 a.m. because he did not want to “drag it on.” Haley told him that she needed until  
2 Monday to make a good decision.

3 65. On Monday, September 22, 2014, Haley called Coach Ryan and told  
4 him “I am not ready to make a decision today and I want to talk to you when you  
5 return from Florida on Thursday to give me enough time to think.” Coach Ryan  
6 became very angry and said, “No, I do not want to drag this on. You will give me a  
7 decision by 5 p.m.” Haley told Coach Ryan, “You can say whatever you want but I  
8 will not sign papers that I voluntarily quit. If you want to kick me off the team just  
9 because I need more time to make a decision, that’s your choice.” Coach Ryan  
10 refused and told Haley to give him a decision by 5 p.m. He said he would send an  
11 email to Dr. Potts saying that Haley would voluntarily quit if she did not give Coach  
12 Ryan a decision by that time. And, in fact, Coach Ryan dispatched an email at 9:11  
13 p.m. on September 23, 2014, in which he stated that Haley’s failure to make a  
14 decision by his artificial deadline of 5:00 p.m. on Monday September 22, 2014  
15 meant that Haley had quit the team and that Coach Ryan, and Pepperdine, was now  
16 treating Haley as an ex-member of the team.

17 66. On September 24, 2014, Haley sent Dr. Potts the following email. “I  
18 would like to inform you of my last communication with Coach Ryan over text.”  
19 On Monday, September 22, Haley advised Coach Ryan in writing, “I have not made  
20 a decision to quit. I would like to discuss the situation when you come back from  
21 Florida. I have not voluntarily quit nor did I ever agree to Coach Ryan’s deadline.”

22 67. Dr. Potts replied to Haley on the same day, “I understand that you have  
23 expressed concerns regarding your participation as a student-athlete here and that an  
24 investigation into those concerns has begun. Until then, as you requested, you are  
25 relieved from all activities related to our women’s basketball team.”

26 68. On November 7, 2014, Haley received the following letter from the  
27 Title IX investigator Tabatha. “I have conducted a thorough investigation of your  
28 claims and have attached a letter, which represents the conclusion to the

1 investigation. After thoroughly investigating the allegations, I have found that there  
2 is insufficient evidence to conclude that harassment or sexual orientation  
3 discrimination occurred. According to the team doctor, Dr. Gary Green has not  
4 received this documentation to medically assess your fitness to play.” The so-called  
5 “investigation” by the Title IX Investigator responded to the complaints by Plaintiffs  
6 in the same manner by which Pepperdine had responded to all prior complaints, by  
7 trying to “sweep under the rug” the fact that Plaintiffs had been subjected to  
8 harassment, discrimination, and retaliation, on account of their sexual orientation  
9 and same gender relationship. The investigation was neither fair, thorough, nor  
10 proper.

11 69. On December 1, 2014, Haley sent to the University the following note  
12 from her doctor. “Based on her previous MRI findings, the patient’s diagnosis and  
13 treatment plan remain unchanged. It is acceptable for the patient to return to  
14 basketball without restriction. No more notes/treatment are necessary at this time.”  
15 Notwithstanding neither Haley nor Layana have been cleared to play basketball.

16 **CLAIM I – VIOLATION OF RIGHT OF PRIVACY UNDER CALIFORNIA**  
17 **CONSTITUTION, ARTICLE 1, § 1**

18 70. Plaintiffs repeat the allegations set forth in paragraphs 1 through 69 as  
19 if set forth in full herein.

20 71. California’s Constitution provides that all citizens have an inalienable  
21 right to pursue and obtain a right to privacy. Cal. Const. Art. I, § 1.

22 72. Plaintiffs had reasonable expectations of privacy as to (a) their sexual  
23 orientation, (b) their personal relationship, and (c) their medical records and,  
24 specifically, their gynecological records, that were unrelated to their ability to play  
25 basketball for the Pepperdine varsity women’s basketball team.

26 73. These reasonable expectations of privacy entitled them to freedom from  
27 intrusion into these private matters by Pepperdine, Coach Ryan, the assistant  
28

1 basketball coaches, the athletic trainers, the academic coordinators, and all other  
2 members of Pepperdine’s faculty, administrators, and staff.

3 74. This right of privacy also protected Plaintiffs from the disclosure to  
4 their parents and other persons from whom they had decided to keep their sexual  
5 orientation private from having this information disclosed to them by Pepperdine, or  
6 from having Pepperdine place Plaintiffs in the position of having to disclose the  
7 information to such persons against Plaintiffs’ will.

8 75. Pepperdine, through its agents, Coach Ryan, the assistant basketball  
9 coaches, the athletic trainers, the academic coordinators, and others, intentionally  
10 intruded on Plaintiffs’ right to privacy by (a) continually asking questions regarding,  
11 and seeking to determine, Plaintiffs’ sexual orientation and personal relationship, (b)  
12 questioning other students and engaging in other efforts to determine Plaintiffs’  
13 sexual orientation and personal relationship, and (c) demanding access to Plaintiffs’  
14 gynecological records although Pepperdine had no basis to believe, and there was no  
15 rational basis to believe, that those records would provide any information regarding  
16 Plaintiffs’ ability or qualifications to play on the varsity women’s varsity basketball  
17 team.

18 76. By forcing Plaintiffs off the women’s basketball team and revoking  
19 their athletic scholarships, Pepperdine placed Plaintiffs in the position of having to  
20 disclose to their parents and others from whom they had chosen to keep the  
21 information confidential their sexual orientation, because their sexual orientation,  
22 and Pepperdine’s discrimination and harassment as a result of their sexual  
23 orientation, are what resulted in the removal from the team, the elimination of their  
24 scholarships, and their resulting withdrawal from the school.

25 77. Plaintiffs suffered damages including financial damages and extreme  
26 emotional distress as a result of Pepperdine’s invasions of the right to privacy.

27 78. Plaintiff White attempted suicide, was compelled to give up her  
28 basketball scholarship, and leave Pepperdine because she did not have the financial

1 resources to continue to attend the university without her scholarship, which has  
2 interrupted her education and undoubtedly ended her chance to pursue a career with  
3 the WNBA.

4 79. Plaintiff Videckis was compelled to give up her basketball scholarship,  
5 and leave Pepperdine because she did not have the financial resources to continue to  
6 attend the university without her scholarship, which has interrupted her education  
7 and undoubtedly ended her chance to pursue a career with the WNBA.

8 80. Pepperdine and its agents' ongoing and multiple intrusions into  
9 Plaintiffs' right to privacy were substantial factors in the above decisions.

10 81. Coach Ryan, an agent of Pepperdine, directly engaged in these  
11 invasions into Plaintiffs' rights to privacy and/or was aware of the conduct of his  
12 assistant coaches, trainers, and academic coordinator who were under his control  
13 and direction. Coach Ryan had actual knowledge of the conduct of those under his  
14 control and direction, and either directed it, encouraged it, or was deliberately  
15 indifferent to it, and refused to stop it or prevent it.

16 82. Dr. Potts, Pepperdine's Athletic Director, had actual knowledge of the  
17 invasions into Plaintiffs' rights to privacy by Coach Ryan, assistant coaches,  
18 trainers, and academic coordinator who were under his control and direction, but  
19 was deliberately indifferent to it and refused to stop or prevent it.

20 83. Similarly, Tabatha, Pepperdine's Title IX Coordinator, had actual  
21 knowledge of the invasions into Plaintiffs' rights to privacy by Coach Ryan,  
22 assistant coaches, trainers, and academic coordinator who were under his control  
23 and direction, but was deliberately indifferent to it and refused to stop or prevent it.  
24 To the contrary, she issued a cover-up report after a sham investigation in which she  
25 declined to review or consider evidence proffered by Plaintiffs and declined to  
26 conduct interviews that would have confirmed Plaintiffs' reports.

27 84. Pepperdine ratified the conduct through its agents, Coach Ryan, Dr.  
28 Potts, and Tabatha, all of whom had actual and apparent authority to remedy



1 Plaintiffs' complaints. Coach Ryan and Dr. Potts are managing agents of  
2 Pepperdine.

3 85. Plaintiffs have suffered actual damages, including compensatory and  
4 emotional damages, as a result of Pepperdine's intrusions into their rights to privacy.

5 86. Pepperdine's intrusions into Plaintiffs' rights to privacy were malicious  
6 and oppressive, and its agents acted with reckless and callous disregard of or  
7 indifference to Plaintiffs' rights such that Plaintiffs are entitled to punitive and  
8 exemplary damages for the Pepperdine's conduct.

9 **WHEREFORE**, Plaintiffs respectfully request that this Honorable Court  
10 enter judgment against Pepperdine by awarding compensatory damages, punitive  
11 damages, and such other and further relief as this Court deems reasonable and just.

12 **CLAIM II – VIOLATION OF CALIFORNIA EDUCATIONAL CODE §220.**

13 **66251. 66270**

14 **Disparate Treatment - Discrimination**

15 87. Plaintiffs incorporate by reference each and every allegation contained  
16 in paragraphs 1 through 86 as though set forth fully herein.

17 88. Coach Ryan intentionally discriminated against Plaintiffs because he  
18 believed that they were lesbians having a relationship.

19 89. Plaintiffs received disparate treatment as they were treated differently  
20 than the other students in the University including but not limited to the following.  
21 Other students were not subject to pervasive questioning about their sexual  
22 orientation. Other players were not required to submit their gynecology medical  
23 records. Other players, unlike Haley and Layana, were not punished unfairly for  
24 minor violations and/or given lesser punishments. Other injured players, unlike  
25 Layana, were allowed to attend basketball practice. Appeals to the NCAA so that  
26 the basketball players could play immediately were routinely and immediately  
27 processed for other players but Layana's appeal was never processed. Other players  
28 only had to provide minimal information to the trainers about non-basketball injury.

1 Haley was required to provide extensive medical documents including doctor's  
2 notes. Other players had the support of the coach in getting medical clearance from  
3 the trainers. Haley had no support from her coach.

4 90. Coach Ryan is responsible for the discrimination of his assistant  
5 coaches, trainers and academic coordinator because he directed and encouraged the  
6 discrimination. He had actual knowledge of the discrimination and was deliberately  
7 indifferent to it.

8 91. The athletic director had actual knowledge of the discrimination and  
9 was deliberately indifferent to it.

10 92. The Title IX coordinator had actual knowledge of the discrimination  
11 and was deliberately indifferent to it.

12 93. Defendant Pepperdine University had actual knowledge of the  
13 discrimination and was deliberately indifferent to it.

14 94. Defendant's motive in the discrimination was to get Plaintiffs off the  
15 basketball team because they were lesbians who were in a relationship. This  
16 discrimination was a substantial factor in causing Plaintiffs' harm.

17 95. Plaintiffs' harm included among other things the following. Layana  
18 suffered extreme emotional distress which resulted in her attempted suicide. She  
19 was forced to give up playing basketball, lose her scholarship and leave the  
20 University. Haley suffered extreme emotional distress, the wrongful  
21 disqualification of playing basketball for the team, the loss of her scholarship, and  
22 leaving the University.

23 96. Defendant Pepperdine University ratified the discrimination once it had  
24 knowledge of the conduct and refused to prevent it from continuing. Coach Ryan  
25 was responsible for the discrimination and was a managing agent of the University.  
26 The discrimination was malicious and oppressive. Therefore, Plaintiffs are entitled  
27 to punitive damages.

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**Harassment**

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97. Coach Ryan intentionally, severely, and pervasively harassed Plaintiffs because they were lesbians who were having a relationship on the team by including but not limited to the following. He continually asked questions about their sexual orientation. He encouraged his assistant coaches, trainers and academic coordinator to ask questions about Plaintiffs’ sexual orientation. He punished Plaintiffs unfairly for minor violations. The trainers demanded Plaintiffs furnish their complete current and future gynecologist medical report for no legitimate reason. He refused to allow Layana to attend basketball practice because of her injury. He refused to process Layana’s appeal to the NCAA so that she can play immediately. He refused to allow Haley to play basketball on the basis that she had not provided sufficient medical information on her non-basketball injury. He refused to help Haley to get medical clearance from the trainers.

98. The harassing conduct was so severe, and pervasive that a reasonable person in Plaintiffs’ circumstances would have considered the University’s environment to be hostile and abusive. Plaintiffs considered the University’s environment to be hostile and abusive.

99. Coach Ryan is responsible for the harassment of his assistant coaches, trainers and academic coordinator because he directed and encouraged the harassment. He had actual knowledge of the harassment and was deliberately indifferent to it.

100. The athletic director had the actual knowledge of the harassment and was deliberately indifferent to it.

101. The Title IX compliance officer had the actual knowledge of the harassment and was deliberately indifferent to it.

102. Defendant Pepperdine University had the actual knowledge of the harassment and was deliberately indifferent to it.

103. Defendant’s motive in the discrimination was to get Plaintiffs off the

1 basketball team because they were lesbians who were in a relationship. This  
2 harassment was a substantial factor in causing Plaintiffs' harm.

3 104. Plaintiffs' harm included among other things the following. Layana  
4 suffered extreme emotional distress which resulted in her attempted suicide. She  
5 was forced to give up playing basketball, lose her scholarship and leave the  
6 University. Haley suffered extreme emotional distress, the disqualification of  
7 playing basketball for the team, the loss of her scholarship, and leaving the  
8 University.

9 105. Defendant Pepperdine University ratified the harassment once it had  
10 knowledge of the conduct and refused to prevent it from continuing. Coach Ryan  
11 was responsible for the harassment and was a managing agent of the University.  
12 The harassment was malicious and oppressive. Therefore, Plaintiffs are entitled to  
13 punitive damages.

#### 14 **Retaliation**

15 106. Plaintiffs complained to the athletic director that Coach Ryan, his  
16 assistant coaches, trainers and academic coordinator had harassed and discriminated  
17 against them because Coach Ryan believed that Plaintiffs were lesbians who were in  
18 a relationship on the team.

19 107. Plaintiffs' reporting of Coach Ryan's conduct and that of his assistant  
20 coaches, trainers and academic coordinator to the athletic director was a motivating  
21 factor in Coach Ryan continuing to harass and discriminate them.

22 108. Coach Ryan is responsible for the retaliatory conduct of his assistant  
23 coaches, trainers and academic coordinator because he directed and encouraged  
24 their retaliatory conduct. He had actual knowledge of the retaliatory conduct and  
25 was deliberately indifferent to it.

26 109. The athletic director had the actual knowledge of the retaliatory  
27 conduct and was deliberately indifferent to it.

28 110. The Title IX coordinator had the actual knowledge of the retaliatory

1 conduct and was deliberately indifferent to it.

2 111. Defendant Pepperdine University had the actual knowledge of the  
3 retaliatory conduct and was deliberately indifferent to it.

4 112. The retaliatory conduct was a substantial factor in causing Plaintiffs'  
5 harm.

6 113. Plaintiffs' harm included among other things the following: Layana  
7 suffered extreme emotional distress which resulted in her attempted suicide. She  
8 was forced to give up playing basketball, lose her scholarship and leave the  
9 University. Haley suffered extreme emotional distress, the disqualification of  
10 playing basketball for the team, the loss of her scholarship, and leaving the  
11 University.

12 114. Defendant Pepperdine University ratified the retaliatory conduct once it  
13 had knowledge of the conduct and refused to prevent it from continuing. Coach  
14 Ryan was responsible for the retaliatory conduct and was a managing agent of the  
15 University. The retaliatory conduct was malicious and oppressive. Therefore,  
16 Plaintiffs are entitled to punitive damages.

17 **CLAIM III – VIOLATION OF TITLE IX, 20 U.S.C. §§ 1681, ET SEQ.**

18 **(Deliberate Indifference to Harassment)**

19 115. Plaintiffs repeat the allegations set forth in paragraphs 1 through 114 as  
20 if set forth in full herein.

21 116. At all relevant times, the educational programs and/or activities at  
22 Pepperdine received federal financial assistance. Pepperdine receives Federal  
23 financial assistance through, inter alia, the Pell Grants that fund the education of  
24 certain Pepperdine students, as well as other funds.

25 117. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681, et  
26 seq. ("Title IX") provides that "[n]o person in the United States shall, on the basis of  
27 sex, be excluded from participation in, be denied the benefits of, or be subjected to  
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1 discrimination under any education program or activity receiving Federal financial  
2 assistance.” 20 U.S.C. § 1681(a).

3 118. Title IX defines the educational institutions covered by its requirements  
4 as “any public or private preschool, elementary, or secondary school, or any  
5 institution of vocational, professional, or higher education . . .” 20 U.S.C. §  
6 1681(c).

7 119. Title IX confers a benefit on persons discriminated against on the basis  
8 of sex, and Plaintiffs are members of that category of persons for whose special  
9 benefit the statute was enacted.

10 120. Plaintiffs had a right to not be subject to sexual discrimination,  
11 harassment or abuse while they participated in the educational programs and  
12 activities while students at Pepperdine.

13 121. Pepperdine’s harassment and discrimination against Plaintiffs by  
14 members of its administration, faculty, and staff are sexual discrimination and/or  
15 harassment prohibited by Title IX, 20 U.S.C. §§ 1681, et seq. because such  
16 harassment was based on their gender and their failure to conform to stereotypical  
17 views of females.

18 122. Plaintiffs’ reports, and attempts to report, to Pepperdine’s Head Coach  
19 of the Women’s Basketball Team, its Athletic Director, and Title IX Coordinator,  
20 were reports to appropriate persons including Coach Ryan, Dr. Potts, and Tabatha,  
21 the Title IX Coordinator, who had authority to take corrective action that could have  
22 ended the discrimination.

23 123. Further, Plaintiffs are informed and believe that Pepperdine, through  
24 these representatives and others, had actual notice of the pervasive harassment of,  
25 discrimination of, and violation of Plaintiffs’ rights as a result of prior complaints  
26 concerning actions by the faculty, administration, and staff.

27 124. Plaintiffs are informed and believe that Coach Ryan, Dr. Potts and  
28 Tabatha each had authority to address the acts of discrimination and harassment, and

1 institute corrective measures including, but not limited to, protecting Plaintiffs from  
2 such treatment.

3 125. The decisions of these individuals, and each of them, to refuse to  
4 address Plaintiffs' allegations, to continue the systemic policies and practices  
5 directed at them despite multiple complaints, and to refuse institute any corrective  
6 measures, were official decisions to ignore the pervasive and serious harassment and  
7 discrimination to which Plaintiffs were being subjected on account of their sex,  
8 gender, and failure to conform to stereotypical views of females.

9 126. These actions, and inactions, by these individuals amounted to  
10 deliberate indifference by Pepperdine to the reports, and to Plaintiffs' rights to not  
11 be subject to sexual discrimination, harassment, or abuse while they participated in  
12 the educational programs and activities, including, but not limited to, the women's  
13 varsity basketball program while students at Pepperdine.

14 127. As a result of this deliberate indifference Plaintiffs have been faced  
15 with the dilemma of maintaining strict secrecy and confidentiality over their private  
16 lives or risk harassment or even expulsion from Pepperdine.

17 128. Pepperdine's harassment of Plaintiffs, its repeated failure to take  
18 corrective actions, and its deliberate indifference to Plaintiffs' reports were  
19 malicious and oppressive, and its agents acted with reckless and callous disregard of  
20 or indifference to Plaintiffs' complaints and well-being such that Plaintiffs are  
21 entitled to punitive and exemplary damages for the Pepperdine's conduct.

22 **WHEREFORE**, Plaintiffs respectfully request that this Honorable Court  
23 enter judgment against Pepperdine by awarding compensatory damages, attorneys'  
24 fees and costs pursuant to 42 U.S.C. § 1988, punitive damages, and such other and  
25 further relief as this Court deems reasonable and just.

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1 be, LGBT.

2 136. Pursuant to Pepperdine’s official, but publicly undisclosed, policy and  
3 practice, it urges its administration, faculty, and staff to engage in efforts to identify  
4 students, such as Plaintiffs believed to be LGBT, to pressure Plaintiffs to disclose  
5 their sexual orientation, and then to harass or pressure Plaintiffs to withdraw from  
6 school, be eliminated from any athletic teams (including the elimination of any  
7 athletic scholarships), and/or to be expelled from the school.

8 137. Pepperdine’s harassment of Plaintiffs based on their sexual orientation,  
9 perceived sexual orientation, and/or failure to comply with expected gender roles, is  
10 harassment based on “sex” for purposes of Pepperdine’s obligations under Title IX  
11 not to discriminate against students based on their sex.

12 138. Pepperdine’s policies and practices directed at the identification,  
13 harassment, and targeting of Plaintiffs amount to institutional discrimination by  
14 Pepperdine in violation of Title IX including the requirement that students not be  
15 excluded from participation in programs based on their sex.

16 139. Pepperdine’s policies and practices, and their effect on Plaintiffs, were  
17 malicious and oppressive, and its agents acted with reckless and callous disregard of  
18 or indifference to Plaintiffs’ rights such that Plaintiffs are entitled to punitive and  
19 exemplary damages for the Pepperdine’s conduct.

20 **WHEREFORE**, Plaintiffs respectfully request that this Honorable Court  
21 enter judgment against Pepperdine, by awarding compensatory damages, punitive  
22 damages, attorneys’ fees pursuant to 42 U.S.C. § 1988, and costs, and such other  
23 and further relief as this Court deems reasonable and just.

24 **CLAIM V – VIOLATION OF TITLE IX, 20 U.S.C. §§ 1681, ET SEQ.**

25 **(Retaliation for Complaints About Discrimination)**

26 140. Plaintiffs repeat the allegations set forth above in paragraphs 1 through  
27 142 as if set forth herein in full.

28 ///

1           141. At all relevant times, the educational programs and/or activities at  
2 Pepperdine received federal financial assistance. Pepperdine receives Federal  
3 financial assistance through, inter alia, the Pell Grants that fund the education of  
4 certain Pepperdine students.

5           142. Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681, et  
6 seq. (“Title IX”) provides that “[n]o person in the United States shall, on the basis of  
7 sex, be excluded from participation in, be denied the benefits of, or be subjected to  
8 discrimination under any education program or activity receiving Federal financial  
9 assistance.” 20 U.S.C. § 1681(a).

10           143. Title IX defines the educational institutions covered by its requirements  
11 as “any public or private preschool, elementary, or secondary school, or any  
12 institution of vocational, professional, or higher education . . .” 20 U.S.C. §  
13 1681(c).

14           144. Title IX confers a benefit on persons discriminated against on the basis  
15 of sex, and Plaintiffs clearly are members of the category of individuals for whose  
16 special benefit the statute was enacted.

17           145. Pepperdine retaliated against Plaintiffs after they reported the  
18 harassment and discrimination to which they were being subjected to persons with  
19 authority to address the acts of discrimination and harassment, and institute  
20 corrective measures, including Coach Ryan, Dr. Potts and Tabatha, Pepperdine’s  
21 Title IX Coordinator.

22           146. Specifically, after Plaintiffs reported and complained about the  
23 harassment to which they were being subjected, including complaints made to the  
24 Coaches and other staff as alleged herein.

25           147. Retaliation against students who report harassment based on their  
26 sexual orientation, their perceived sexual orientation, and/or their failure to conform  
27 to stereotypical views of females is actionable discrimination under Title IX.

28 ///

1 148. Pepperdine’s retaliation toward Plaintiffs was malicious and  
2 oppressive, and engaged in with reckless and callous disregard of or indifference to  
3 Plaintiffs’ complaints and well-being such that Plaintiffs are entitled to punitive and  
4 exemplary damages for the Pepperdine’s conduct.

5 **CLAIM VI – VIOLATION OF THE UNRUH ACT,**

6 **California Civil Code §§ 51 et seq.**

7 **(Discrimination)**

8  
9 149. Plaintiffs repeat the allegations set forth above in paragraphs 1 through  
10 151 as if set forth herein in full.

11 150. The California Unruh Act, California Civil Code section 51, *et seq.* (the  
12 “Unruh Act”), provides, inter alia, that “All persons within the jurisdiction of this  
13 state are free and equal, and no matter what their sex, ... or sexual orientation are  
14 entitled to the full and equal accommodations, advantages, facilities, privileges, or  
15 services in all business establishments of every kind whatsoever.” Cal. Civ. Code §  
16 51(b).

17 151. Schools such as Pepperdine are “business establishments” covered by  
18 the Unruh Act.

19 152. Pepperdine discriminated against Plaintiffs in connection with its  
20 provision of full and equal accommodations, advantages, facilities, privileges, and  
21 services based on Plaintiffs’ sexual orientation and perceived sexual orientation.

22 153. Plaintiffs have suffered actual damages, including both emotional and  
23 financial damages, as a result of Pepperdine’s actions in breach of the Unruh Act.

24 WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter  
25 judgment against Pepperdine by awarding compensatory damages, treble damages  
26 pursuant to Cal. Civ. Code § 52(a), attorney’s fees pursuant to Cal. Civ. Code §  
27 52(a), costs, and such other and further relief as this Court deems reasonable and  
28 just.



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g. Such other and further relief as this court may deem proper and just.

Dated: May 26, 2015

Respectfully submitted:

**ZUBER LAWLER & DEL DUCA LLP**  
JEREMY J. GRAY  
JEFFREY J. ZUBER

By: /s/ Jeremy J. Gray  
Attorneys for Plaintiffs Haley Videckis  
and Layana White

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**DEMAND FOR TRIAL BY JURY**

Plaintiffs hereby demand a trial by jury.

Dated: May 26, 2015

Respectfully submitted:

**ZUBER LAWLER & DEL DUCA LLP**  
JEREMY J. GRAY  
JEFFREY J. ZUBER

By: /s/ Jeremy J. Gray  
Attorneys for Plaintiffs Haley Videckis  
and Layana White

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 777 S. Figueroa Street, 37th Floor, Los Angeles, California 90017 USA.

On May 26, 2015, I served true copies of the following document(s) described as **THIRD AMENDED COMPLAINT FOR DAMAGES**: on the interested parties in this action as follows:

Paula Tripp Victor  
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Peter B. Rustin  
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University

**BY CM/ECF NOTICE OF ELECTRONIC FILING:** I caused said document(s) to be served by means of this Court's electronic transmission of the Notice of Electronic Filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF Users set forth in the service list obtained from this Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 26, 2015, at Los Angeles, California.

/s/ Robert Mendoza  
Robert Mendoza