21-6498

No. 21-_____

In the Supreme Court of the United States

HYE-YOUNG PARK —*Petitioner,*

v.

BOARD OF TRUSTEES FOR THE UNIVERSITY OF ILLINOIS, et al., —*Respondent.*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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November 23, 2021

QUESTIONS PRESENTED

This Case presents conflicting interpretations between the Lower Courts and the Supreme Court regarding the application of res judicata, collateral estoppel, and failure to state a claim under "28 U.S.C. § 1915(e)(2)(B)."

Res judicata & collateral estoppel. The Seventh Circuit held that res judicata applies "even if the decision in the first [suit] was transparently erroneous" because if Gleash [the losing party] "wanted to contest the validity of the district judge's decision (...) he had to appeal [,]" but he did not. *Gleash v. Yuswak*, 308 F.3d 758, 760 (7th Cir. 2002).

Likewise, the Supreme Court held collateral estoppel "prevent[s] relitigation of wrong decisions just as much as right ones" because Hargis [the losing party] had a right to seek review, but Hargis did not. *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 157 (2015).

Res judicata & collateral estoppel do not apply when a losing party had no chance to be heard for the validity of a district judge's decision.

Failure to state claim. The Supreme Court held that a plaintiff must plead "only enough facts to state a claim to relief that is plausible on its face" to defeat a motion to dismiss filed pursuant to Rule 12(b)(6).[1] *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570 (2007). A claim meets the plausibility test "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal,* 556 U.S. 662, 663 (2009).

Alleged misconduct. Petitioner filed lawsuits (Directly related Case Nos. 20-2148 & 20-2149, "2020 Cases") based on: (1) two men's sexual harassment; (2) her reporting of the harassment to the University of Illinois Office of Diversity, Equity, and Access (ODEA); (3) both ODEA's response and the two men's response to her report.

Majority of Petitioner's claims in 2020 Cases were filed in her prior suits presided by District Judge Colin S. Bruce, where his actions led to a judicial result that precludes all resort to judicial remedies that would otherwise

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[1] Rule 12(b)(6) 28 U.S.C and § 1915(e)(2)(B) (ii) are identical –"fails to state a claim on which relief may be granted."

be available to Petitioner. These claims were dismissed under "28 U.S.C. § 1915(e)(2)(B) (i)- frivolous" by applying res judicata & collateral estoppel.

Petitioner's new claims were filed based on new evidence that was uncovered during the discovery of her prior suits; the evidence revealed:

(1) Both harassers deliberately ignored Petitioner and excluded her from academic projects after being informed of her report to ODEA regarding their misconduct.

(2) ODEA sought to get rid of Petitioner by denying her legal student employee status when she challenged their violations of University Policy.

The new claims were dismissed under "28 U.S.C. § 1915(e)(2)(B)(ii)-failure to state a claim."

Reasonable inference.

But for Petitioner's statutorily protected activities (reporting to ODEA), would the harassers have stopped academically interacting with her and excluded her from academic projects?

But for Petitioner's statutorily protected activities (challenging ODEA's violation of University Policy), would ODEA have stopped their investigation by denying her legal status?

Given the situation, the questions presented are:

(1) Whether res judicata & collateral estoppel prevent relitigation of claims and issues in a prior suit when a judge's acts in the prior suit led to a judicial result that precludes all resort to judicial remedies to a litigant.

(2) Whether Petitioner provided "enough facts" to allow the court to draw reasonable inference that Defendants are liable for the misconduct alleged.

PARTIES TO THE PROCEEDINGS

1. Petitioner is Hye-Young (Lisa) **Park**, who was Petitioner in the District Court and Appellant in the Seventh Circuit.

2. Respondents are Defendants Board of Trustees of the University of Illinois (**the Board**), Defendants Michal T. **Hudson**, Heidi **Johnson**, Kaamilyah **Abdullah-Span**, Menah **Pratt-Clarke,** and Robert E. **Stake.**

They were Defendants in the District Court and Appellees in the Seventh Circuit. They have not been served with process and have not participated both in the District Court and the Seventh Circuit.

DIRECTLY RELATED CASES

US Court of Appeals (7th Cir.)

Park v. Board of Trustees of University of Illinois, et al., Nos. 21-1721, 21-1722, 21-2133, & 21-2134. (August 26, 2021) (affirmation of district court's final orders without briefing and warning of further action)

Illinois Central District Court (Urbana Division)

Park v. Board of Trustees of University of Illinois, et al., No. 20-cv-2148
(March 30, 2021) (Judgment).
(June 8, 2021) (Order denying motion to alter or amend Judgment)

Park v. Stake, et al., No. 20-cv-2149
(March 30, 2021) (Judgment).
(June 8, 2021) (Order denying motion to alter or amend Judgment)

Note that the Seventh Circuit consolidated Case Nos. 21-1721, 21-1722, 21-2133, & 21-2134, which are originated from 20-2148 and 20-2149 before the District Court.

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STATUTES AND RULES

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[2] *See* ECF. No. 1-3, Case 20-02148 for the version at the time of investigation.
See also https://oae.illinois.edu/discrimination-and-harrassment-prevention.html for the current version.

[3] *See* ECF No. 1-4, Case 20-2148 for "Title IX."
See also https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html

[4] *See* ECF No. 1-5, Case 20-2148 for "Title IX Q&A."
See also https://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW[5]

US Court of Appeals (7th Cir.)

Hye-Young Park v. Board of Trustees of University of Illinois, et al., Case Nos. 21-1721, 21-1722, 21-2133, & 21-2134.

Appendix A: Order of the Seventh Circuit (August 26, 2021). (affirmation of district court's final orders without briefing and warning of further action)

Illinois Central District Court (Urbana Division)

Hye-Young Park v. Board of Trustees of University of Illinois, et al., 20-2148

Hye-Young Park v. Robert E. Stake, et al., 20-2149

Appendix B-1 & B-2. Chief Judge Sara Darrow's Orders (June 8, 2021) (denying motions to alter or amend Judgment)

Appendix C-1 & C-2. Judge Darrow's Orders (March 25, 2021) (dismissing the cases)

Appendix D-1 & D-2. Magistrate Judge Eric Long's Report and Recommendations (R&R) (January 22, 2021) (recommending dismissal)

Appendix E. District Court Text Orders[6]

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[5] Petitioner is unsure whether the orders in this section were reported or published.

[6] While Petitioner does not agree, she could not appeal the decision because of the Seventh Circuit's warning (sanctions) for further action from Petitioner. *See* the Statement of Case for details.

JURISDICTION

Cases from federal courts: The date on which the United States Court of Appeals decided Petitioner's case was August 26, 2021. The jurisdiction of the Supreme Court is invoked under 28 U. S. C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Lower Courts dismissed the directly related cases

(1) under "28 U.S.C. § 1915(e)(2)(B) (i) is frivolous or malicious" by applying *res judicata and collateral estoppel*, and

(2) under "28 U.S.C. § 1915(e)(2)(B) (ii) fails to state a claim on which relief may be granted."

28 U.S. Code § 1915 - Proceedings in forma pauperis

(e)(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

(B) the action or appeal—

(i) is frivolous or malicious

(ii) fails to state a claim on which relief may be granted

(a)(3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

FRAP, Rule 12(b)(6) and § 1915(e)(2)(B) (ii) are identical –"fails to state a claim on which relief may be granted."

Claims in the directly related cases involve (1) FRAP 10(a) & (e) and Circuit Rule 10(b); (2) Retaliation, 775 ILCS 5, et seq; (3) 42 U.S.C. § 1983 equal protection; (4) Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; (5) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. The relevant provisions are reproduced in the Appendix to this petition (Appendix F).

STATEMENT OF THE CASE

I. Background

1. Directly related cases (2020 Cases) involve violation of Federal Antidiscrimination Laws associated with sex, race, and national origin.

Summary of Petitioner's 2020 Cases.[7]

On May 29, 2020, Petitioner Hye-Young (Lisa) **Park**, proceeding pro se, filed her Complaints against Respondents Board of Trustees of the University of Illinois (**the Board**), Michal T. **Hudson**, Heidi **Johnson**, Kaamilyah **Abdullah-Span**, Menah **Pratt-Clarke** (collectively "**University Officials**"), and Robert E. **Stake** (collectively "**Defendants**").

Park's Complaints ("**2020 Cases**") concern Defendants' violation of Federal Antidiscrimination Laws associated with sex, race, and national origin.

The University of Illinois' Policy and Procedures for Addressing Discrimination and Harassment (**University Policy),**[8] which complies with these laws, is designed to protect complainants from discrimination.

Petitioner claims that Defendants violated her civil rights by violating University Policy and by retaliating against her after she sought relief from sexual harassment and retaliation imposed by Robert Stake and Charles **Secolsky** at the University of Illinois at Urbana-Champaign (UIUC).

Parties and relations.

Relevant to 2020 Cases, Petitioner Park was a student/student researcher through her F-1 OPT (international student employment) at the University.[9]

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[7] Case Nos. 20-2148 and 20-2149 before the District Court.

[8] *See* ECF No. 1-3, 20-2148 for the University Policy.

[9] Park was a student from 2005-2013 and a student researcher from 2013-2014. "Optional Practical Training (OPT) is temporary employment that is directly related to an F-1 [international student visa] student's major area of study."

Stake was Professor Emeritus and Director of the Center for Instructional Research and Curriculum Evaluation (**CIRCE**). Secolsky was a visiting researcher at CIRCE. Both were instructors at the University.

University's Department of Education	
CIRCE	EPSY 490E course
Stake, Director Secolsky, Researcher Park, Researcher	Stake & Secolsky, Instructors Park, Student & Observer

Park worked with Stake & Secolsky on numerous academic projects at the University as stated in ECF No. 212-1, uncontested facts p.4, Case 15-2136:

> "37. Plaintiff [Park] worked with Secolsky [and Stake] on grant proposals including American Educational Research Association (AERA) grant proposal [through CIRCE endorsement starting Jan. 2014], a session at International Congress of Qualitative Inquiry (ICQI) conference at the University, a conference paper to the Center for Culturally Responsive Evaluation and Assessment (CREA) at the University [in Sept. 2014] and the Thailand Seminar Series at the University [in March & April 2014 through CIRCE]."

In her prior cases, the courts found Stake & Secolsky as state actors; Stake allowed Secolsky to take over his authority at the University. Secolsky testified that he was never unsupervised by Stake when it came to his interactions with students, his work with Park, and all of his academic activities at the University. Among other evidence, Secolsky stated he was "authorized to assist students individually with Stake's knowing about it[,]"[10]and helped Park with her writing after he "consulted with Stake for help and permission."[11] (*Id.*, p.8). Everything Secolsky did at the University had to be approved by Stake.

Source: https://www.uscis.gov/working-in-the-united-states/students-and-exchange-visitors/optional-practical-training-opt-for-f-1-students

[10] Secolsky's MSJ #132, p. 6, Case 15-2136.

[11] *Id.* at 8.

Relevant to the cases, University's Office of Diversity, Equity, and Access (**ODEA**) is responsible for issues pertaining to discrimination and harassment; all University Officials as state actors worked together in ODEA:

University's Office of Diversity, Equity, and Access (ODEA)	
Hudson	Title IX-ADA Specialist
Johnson	Director
Abdullah-Span	Senior Associate Director
Pratt-Clarke	Lead Title IX Coordinator, Associate Chancellor

Alleged misconduct.

Park fell victim to Stake & Secolsky's sexual harassment and reported it to ODEA in June 2014. ODEA told her that they could not help other than ask the Education Department to discontinue consulting services with Secolsky because they claimed he had no affiliation with the University. This is against University Policy because (1) Park notified ODEA of Stake & Secolsky's activities at the University; (2) Secolsky was an employee by definition of University Policy (the courts found him as a state actor); & (3) ODEA must work to find "a resolution of the complaint by agreement of the parties [Park.]"[12] Discontinuing a harasser's services is not listed in the Policy.

Park did not understand their response and declined their only option of discontinuing Secolsky's services in fear of potential retaliation by either man. However, sexual harassment continued, and she contacted ODEA again to discuss other alternatives. They did not respond and ignored her ensuing requests.

Park then visited University's Human Resources Department (HR) regarding not only the harassment, but also ODEA's deliberate indifference to her complaints. HR redirected Park back to ODEA and contacted ODEA directly. Park also contacted ODEA again but continued to receive no response.

Meanwhile, after HR contacted ODEA, ODEA met Stake & Secolsky without notifying Park, further violating University Policy. After Stake &

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[12] University Policy 7, ECF No. 1-3, Case 20-2148.

Secolsky learned of Park's complaints, they began to retaliate. Park alerted ODEA of the retaliation and challenged their violations.

ODEA then began to claim that Park had no status at the University, excluding her from their services, and thereby ending their investigation.

As Park endlessly contacted ODEA and challenged their claim and violations of University Policy, they continued to proclaim Park had no status and searched for ways to legitimize their claim even after they were officially informed of her F-1 OPT. Meanwhile, Stake & Secolsky continued to teach at the University as usual and retaliate against Park (e.g., excluding her from all academic projects) with no consequences. Therefore, Park filed suits.[13]

Title IX.

Title IX states: "Sexual harassment of students is (...) a form of sex discrimination."[14]

> Title IX regulations hold the University (the Board) responsible
>
> "for the nondiscriminatory provision of aid, benefits, and services to students. Recipients [the Board] generally provide aid, benefits, and services to students through the responsibilities they give to employees [Stake, Secolsky, and University Officials].
>
> 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, the recipient is responsible for the discriminatory conduct."[15]

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[13] Case Nos. 20-2148 & 20-2149 before the District Court.

[14] "Revised Sexual Harassment Guidance: Harassment of Students By School Employees, Other Students, or Third Parties, Title IX, US Department of Education Office for Civil Rights" (**"Title IX" p.12**).

See Title IX 20, ECF No. 1-4, Case 20-2148 for "Title IX." (Endnote omitted). *See* also https://www2.ed.gov/about/offices/list/ocr/docs/shguide.html

[15] *Id.* at 20.

The Supreme Court held: "Retaliation against a person because that person has complained of sex discrimination is another form of intentional sex discrimination."(*Jackson v. Birmingham Board of Education,* 544 U.S. 167, 174).

See Complaint #1 "STATEMENT OF THE CASE AND FACTS" in Case Nos. 20-2148 and 20-2149 for evidence.

2. Majority of Petitioner's claims against Respondents were filed in her prior cases, where she had no chance to be heard on appeal.

Park's **"2015 Case"** (15-2136) and **"2020 Cases"** (20-2148 & 20-2149) share the same background information[16]: (1) Stake & Secolsky's harassment, (2) Park's complaints of said harassment to ODEA, (3) Stake & Secolsky's actions taken against Park because of said complaints, and (4) ODEA's actions taken against Park because of her complaints against ODEA for their violation of University Policy.

The majority of Park's claims against Defendants were filed in 2015 Case presided by District Judge Colin S. Bruce, where she had no chance to be heard on appeal. The Lower Courts dismissed them in 2020 Cases under res judicata/ collateral estoppel.

Judge Bruce's Replacements and Violations led to Preclusion.

In 2015 Case:

(1) Judge Bruce knowingly replaced facts with false statements ("**Replacements**") which his rulings were then founded on, and denied Park's motions to correct the false statements by considering them as collateral attacks on his verdict, violating FRAP 10(e).

(2) He neither included both Park's motions to correct the false statements and his orders over her motions [crucial documents] on the record, nor sent them to the Seventh Circuit, violating Circuit Rule 10(b) & FRAP 10(a)(e) ("**Violations**").

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[16] Park compares her 2020 Cases with her 2015 Case because her other prior "**2018 Case**" (18-2090) and "**2019 Case**" (19-2107) were also dismissed under res judicata/collateral estoppel by referring to 2015 Case. The Seventh Circuit also ruled on Park's appeals (from 2018 and 2019 Cases) by referring to 2015 Case (15-2136).

(3) Judge Bruce's **Replacements** along with his **Violations** precluded Park's chance to be heard on appeal.

In other words, his rulings based on the false statements he made were not open to correction on appeal because the Seventh Circuit affirmed the District judgment without considering the crucial documents that were not on the record for their review ("**Preclusion**"). Note that "Preclusion" should not be confused with "issue preclusion (Collateral Estoppel)."

Preclusion caused by Judge Bruce led to a "Domino Effect."

Judge Bruce dismissed Park's ensuing suits (2018 & 2019 Case) under res judicata/collateral estoppel while utilizing his false statements from 2015 Case. Further, Magistrate Judge Eric **Long** and Chief Judge Sara **Darrow** also utilized the false statements in their 2020 Case orders and dismissed the Cases under res judicata/collateral estoppel.

In 2020 Cases, Park repeatedly pointed out Judge Bruce's conflicting statements in both his orders and among federal judges' orders; she explained how **Preclusion** caused by Judge Bruce's acts led to a "Domino Effect," resulting in federal judges dismissing Park's claims by utilizing each other's false statements, complicating matters even further.

> ***Example 1*: In 2015 Case**, Judge Bruce originally stated:
> "Plaintiff does claim that, between July 1 and August 2, 2014 [after Park's report to ODEA], Secolsky did things Plaintiff considered to be a form of harassment [after her report to ODEA]" (2015 Case Jan. 30, 2018 Order 48, ECF No. 162. Case No. 15-2136, emphasis added).[17]

ODEA acknowledged Secolsky's continuous misconduct after Park's report, stating, "it has been determined that Respondent Secolsky, whom Complainant alleges continues to inappropriately engage her."[18]

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[17] *See* ECF No. 1-2, pp. 28-77, Case No. 20-2148 for examples.

[18] 2015 Case ODEA Reports dated October 21, 2014 and November 21, 2014, ECF No. 133-7, Case No. 15-2136, emphasis added.

However, in **2018 Case**, the Seventh Circuit dismissed Park's claims by misciting 2015 Case, stating that Park "could not identify a single instance of harassment after she complained to the ODEA, so no university defendant could be liable for failing to correct a situation that did not require remedying[.]"[19]

Then, in his **2019 Case** order, Judge Bruce newly states that the Seventh Circuit above "succinctly summed up" the **2015 Case** (Order 2, ECF No. 6. Case No.19-2107), contradicting his original statement, "Plaintiff does claim (...) Secolsky did things Plaintiff considered to be a form of harassment" in his **2015 Case** order.

Judge Darrow later utilized this false statement in **2020 Cases**, stating:

> "The district court later entered summary judgment in Defendants' favor on the Title IX claims against the Board and the substantive due process claim against Hudson and Johnson because Plaintiff did not identify any instances of harassment after she met with the ODEA and therefore had not presented evidence that any defendants had denied her due process or discriminated against her. 2015 Case Jan. 30, 2018 Order 45–52, ECF No. 162." (Order 6, ECF No. 15, 20-2148, emphasis added).

2015 Case	2018, 2019, 2020 Cases
Plaintiff identified sexual harassment after reporting to ODEA	Plaintiff did not identify sexual harassment after reporting to ODEA

The facts reveal that Park identified many instances of harassment and retaliation from Stake & Secolsky after her report to ODEA.

Example 2: In 2015 Case order, Judge Bruce originally acknowledged Park and Secolsky's University-related work during the period of sexual harassment and retaliation (sex discrimination) after her June 2014 report to ODEA:[20]

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[19] *See* the Seventh Circuit Order in Docket #22, p.4 Case # 18-2101 or Park v. Board of Trustees of the University of Illinois 754 Fed. Appx. 437, 438-439 (7th Cir. Nov.21, 2018), which, Judge Bruce asserts, "succinctly summed up" Park's prior cases (#6, p.2, 19-2107).

[20] Park worked with Stake & Secolsky on numerous academic projects at the University as stated in ECF No. 212-1, uncontested facts p.4, 15-2136. This has been presented numerous times to Defendants and before the District Court.

> "They also collaborated on academic matters. Plaintiff worked with Secolsky on grant proposals, a conference paper to the Center for Culturally Responsive Evaluation and Assessment (CREA) at the University [from Jan. -Sept 2014]." (Order 6. ECF No. 162, 15-2136).
>
> Park "worked for Secolsky's company (...) for approximately two weeks (from July 15 to July 28, 2014)," (Stipulation 6, ECF No. #212-1, 15-2136).
>
> "Her job officially started on or about July 15, 2014" (Order 10, ECF No. 162, Case 15-2136).

Judge Bruce also acknowledged that even during the two weeks, Park and Secolsky worked on University-related projects:

> "Plaintiff provides an email from July 28, 2014, indicating that she and Secolsky worked on a project for the Culturally Responsive Evaluation and Assessment (CREA) program at the University. The project was presented on September 18-20, 2014" (Court Order #306, p.4, 15-2136).
>
> He then contradicts himself, stating,
>
> "in any case, Plaintiff has presented no evidence that this alleged harassment was done in the context of Secolsky's and Plaintiff's respective relationships with the University, as opposed to Plaintiff's private employment with Secolsky's company." (Order 48. ECF No. 162, Case No. 15-2136).

Later, Judge Bruce added another false statement, "Plaintiff had been hired by Secolsky to work for his private company on July 1, 2014." (Order 3, ECF No. 306. Case 15-2136).

University Attorneys subsequently exploited Judge Bruce's false statement: "The District Court pointed out that all of the materials in her motion to supplement referenced conduct that occurred after Plaintiff had been hired by Secolsky to work for his private company on July 1, 2014." (#44, p.15, 18-3225, emphasis added).

Later, the Seventh Circuit fabricated another false statement: "Five months after she began working for him, Secolsky decided to end her job."[21]

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[21] The Seventh Circuit Order 3, ECF No.74, Case No. 18-3017.

The facts reveal that these statements are false. No employment existed between Park and Secolsky's company; there are no records of any employees or any projects done under the company.[22]

Preclusion and Domino Effect caused by Judge Bruce led to the following Seventh Circuit's rulings, which were founded on many false statements:

- *Park v. Bd. of Trs. of Univ. of Ill.*, 754 F. App'x 437, 439 (7th Cir. 2018).
- *Park v. Secolsky,* 787 F. App'x at 900 (7th Cir. 2019).

Then, the 2015 Case closed, sealing false statements as factual.[23]

This has caused an outbreak as other lower courts have begun citing the false statements in the rulings above. For example, citing *Park v. Secolsky,* 787 F. App'x at 900, 905 (7th Cir. 2019), the *Cunning* Court states:

> "(finding causation requirement not satisfied for Title IX claim because after Petitioner "reported [the] misconduct to [the school], the only harassment she experienced was during her employment at [the alleged harasser's] company, outside of [the school's] purview"). *Cunning v. W. Chester Univ.*, CIVIL ACTION NO. 20-836, 10 (E.D. Pa. Feb. 25, 2021).

This is a false statement as discussed; harassment did occur within the school's purview and Park was not employed at Secolsky's company.

In summary, the majority of Park's claims in 2020 Cases against Defendants were filed in her prior cases where Judge Bruce's actions led to a judicial result that precludes all resort to judicial remedies that would otherwise be available to Park. The District Court dismissed the claims by applying res judicata & collateral estoppel, and the Seventh Circuit affirmed without allowing Park's brief.

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[22] Park was misled to believe that she worked for Secolsky's company for the two weeks, but recently discovered that her work was affiliated with University projects, not his company. Regardless, sexual harassment occurred in the University context. *See* filings regarding motions to correct, ECF Nos. 34-36, Case No. 20-2148 for details.

[23] *Park v. Secolsky*, 787 F. App'x 900 (7th Cir. 2019), cert denied 140 S. Ct. 1277 (2020).

3. Petitioner's new claims were founded on new factual allegations.

Park's new claims also share the same background information, but these new claims arise from new evidence uncovered during the discovery of her prior suits. For example, newly discovered emails and notes among University Officials reveal:

(1) Abdullah-Span & Pratt-Clark also worked closely with Hudson & Johnson regarding Park's complaints.

(2) They were officially informed of Park's F-1 OPT status by Julie Misa, Director of the International Student and Scholar Services.

(3) They sought to get rid of Park after she challenged their violations of University Policy; Johnson's email reads: "Do we have a statement from AHR stating that she is not considered an employee?"

(4) After failing to find proof that Park was not an employee, they decided to not consider her F-1 OPT as a valid status to exclude her from their services to cover up their violations.[24]

This new evidence led to new claims in 2020 Cases which were not in 2015 Case. However, the District Court dismissed them by originally applying "collateral estoppel and is therefore frivolous." (Order 9, ECF No. 13, Case No. 20-2149). Later, the District Court changed its reason for dismissal under "failure to state a claim," and the Seventh Circuit affirmed.

See Section "Reasons for Granting the Petition" herein for details.

II. Proceedings Below

The Seventh Circuit consolidated the cases which originated from Case Nos. 20-2148 and 20-2149 before the District Court.

1. District Court Proceedings

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[24] *See* Complaint 35-42, ECF No.1, Case No. 20-2148 for evidence. Defendants ironically argued that Petitioner had no status at the time of investigation while acknowledging her F-1 OPT as employment. *See* University MSJ #125, p.3, 15-2136.

Judge Bruce recused himself from all pending cases involving Petitioner.

(1) May 29, 2020, Park filed her Complaints (20-2148 and 20-2149, "2020 Cases"). She also filed another case against Judge Bruce (20-2150), who presided over her prior cases before the District Court. In these suits, Park addressed false statements fabricated by Judge Bruce.

(2) June 4, Judge Bruce submitted an "Order of Recusal" pursuant to 28 U.S.C. § 455(a), where he disqualified himself in all pending cases involving Park including her 2015 Case (15-2136) as he stated:

> "The court hereby recuses itself from all pending cases involving Plaintiff. Therefore, the court directs that the clerk transfer Case Nos. 15-2136, 20-2148, 20-2149, and 20-2150 to Chief Judge Darrow." (ECF. No. 6. p.5).

Judge Sue Myerscough also recused herself.

(3) June 8, the Cases were reassigned to Judge Sue Myerscough for further proceedings.

(4) October 28, Judge Myerscough recused herself. These cases were reassigned to Chief Judge Sara Darrow.

Magistrate Judge Long recommended dismissal of Petitioner's Complaints by applying res judicata.

(5) January 22, 2021, Magistrate Judge Eric Long utilized the false statements and entered Report and Recommendations ("R&R"), recommending Park's Complaints to be dismissed by applying res judicata.

(6) February 10, Park filed Objections to the R&R.

Chief Judge Darrow dismissed Petitioner's Complaints as frivolous by applying res judicata and collateral estoppel.

(7) March 25, Chief Judge Darrow utilized the false statements in R&R and dismissed Park's Complaints as frivolous by applying res judicata and collateral estoppel. Judgements entered on March 30. She also denied Park's motion for her Amended Complaints.

(8) March 31, Park filed her Motions to Alter or Amend a Judgment where she identified Judge Darrow's use of false statements as discussed earlier.

Chief Judge Darrow changed the reason for dismissal by applying res judicata/collateral estoppel and failure to state a claim.

(9) June 8, Judge Darrow denied Park's Motions to Alter Judgements.

Regarding Park's claims previously raised in her 2015 Case, Judge Darrow dismissed them under 28 U.S.C. § 1915(e)(2)(B)(i)-frivolous or malicious by applying res judicata and collateral estoppel. Referring to the false statements Park identified, Judge Darrow held that both res judicata and collateral estoppel still apply even if the judgment was founded on false statements.[25]

Regarding Park's new claims that were not raised in her 2015 Case, Judge Darrow dismissed them under 28 U.S.C. § 1915(e)(2)(B)(ii)-failure to state a claim.[26]

About the IFP Motions, Judge Darrow stated:

> "the Court granted Plaintiff in forma pauperis status. (...) However, the Court doubts that her appeal is taken in good faith" and ruled "Plaintiff may file a statement of her grounds for appeal within fourteen days" to decide her IFP Motions (Order 6, ECF No.25).

(10) June 18, Park filed her Statements for her Ground for Appeal where she *repeatedly* explained that (1) she had no chance to be heard on appeal; (2) the newly discovered facts should be interpreted in the total context; & (3) she provided "enough facts to state a claim to relief that is plausible on its face."

Chief Judge Darrow did not respond to critical issues raised by Petitioner.

(11) June 21, after reading Park's Statements, Judge Darrow simply denied her IFP Motions without addressing the critical issues regarding **Preclusion** and her factual allegations **in the total context.**

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[25] *See* Order 4, ECF No. 25, Case No. 20-2148 and Order p. 4-5, ECF No. 23. Case No. 20-2149.

[26] *See* Order 9, ECF No. 23, Case No. 20-2149, quotation marks & internal citation omitted.

Text orders after the Seventh Circuit's final Order.

(12) July 30 & August 2, Park filed motions to correct the record.

(13) October 28, 2021, TEXT ORDERS entered by Judge Darrow.

The District Court interprets that Circuit Rule 10(b) requires only the orders to be sent to the Seventh Circuit.[27]

2. Proceedings on Appeal

The Seventh Circuit affirmed and warned Petitioner of sanctions for further litigations.

(13) August 26, 2021, the Seventh Circuit summarily affirmed the final orders of the District Court without allowing Park's brief and warned Park that any "further attempts to relitigate these matters may lead to sanctions."

REASONS FOR GRANTING THE PETITION

I. The Lower Courts overruled the Supreme Court.

This Case presents conflicting interpretations of the law between the Lower Courts & the Supreme Court; the Lower Courts disregarded the Supreme Court's ruling in the application of 28 U.S.C. § 1915(e)(2)(B)(i)-frivolous by applying res judicata/collateral estoppel and 28 U.S.C. § 1915(e)(2)(B)(ii)- failure to state a claim.

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[27] Park interprets that Circuit Rule 10(b) requires the District Court to include both the motions and the orders to be sent to the Seventh Circuit. Regardless, it appears to Park's knowledge that the District Court neither sent its motions nor its orders to the Seventh Circuit.

However, she could not appeal the decision because the Seventh Circuit warned Park (sanctions) for further action; the Seventh Circuit clerks also advised Park not to file anything else related to the case after its final order.

When a lower court blatantly ignores a previous Supreme Court ruling, the Supreme Court may decide to hear a case to correct or simply override the lower court's ruling. Therefore, granting this petition will allow the Supreme Court to provide clear guidance in the application of 28 U.S.C. § 1915(e)(2)(B) to ensure consistent implementation of the law nationwide.

Reasons for granting this petition include the following sections:
(1) The Lower Courts misapplied "res judicata & collateral estoppel."
(2) The Lower Courts misapplied "failure to state a claim."

II. The Lower Courts misapplied "res judicata & collateral estoppel."

Majority of Petitioner's claims.

Regarding the majority of Petitioner's 2020 claims filed in her prior cases, Park argued that the final judgement in the first (2015 Case) was not on the merits because it "was founded on non-factual statements."[28]

Park also pointed out that the Lower Courts miscited 2015 Case order: "Plaintiff did not identify any instances of harassment after she met with the ODEA" as discussed in "Statement of the Case" herein. However, they did not correct or modify the false statements on the record, violating FRAP 10(e).

Instead, citing *Gleash v. Yuswak*, 308 F.3d 758 (7th Cir. 2002) and *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138 (2015), they held that both res judicata & collateral estoppel still apply even if the judgment was not on the merits. Here, the Lower Courts misapplied the citations, which Park had also addressed:

Gleash's Court "dismissed on the ground of claim preclusion (res judicata) even if the decision in the first was transparently erroneous" because Gleash had a chance to be heard on appeal in the first suit: "If Gleash wanted to contest the validity of the district judge's decision — either on the merits or on the ground that he should have been allowed to re-plead — he had to appeal." *Id.* at 760.

Likewise, in *B&B*, Hargis had the right to "seek review in the U.S. Court of Appeals for the Federal Circuit, or it can file a new action in district court." *Id* at 144 (2015). Hargis did neither.

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[28] Order 4-5, ECF No. 23, quoting Mot. Alter. Amend J. 9, ECF No. 15.

Preclusion (No chance to be heard on appeal).

Unlike Gleash & Hargis, Park did not have a chance to be heard on appeal against Judge Bruce's decision in the 2015 Case.

Judge Bruce "act[ed] in a manner that precludes all resort to appellate or other judicial remedies that otherwise would be available"[29] because the Seventh Circuit stated, "we cannot admit on appeal documents that were not made a part of the record in the district court.'" (Seventh Circuit Order p.9, ECF No. 74, Case No. 18-3017).

Before and after Judge Darrow's first order dated on March 25, 2021, Park repeatedly explained that "Judge Bruce's Replacements and Violations led to Preclusion" as discussed in "STATEMENT OF THE CASE" hereinbefore, but to no avail.[30]

In summary, Judge Bruce refused to correct his false statements and violated Federal rules, resulting in Preclusion; the Lower Courts misapplied Gleash & Hargis. Therefore, the Lower Courts overruled the Supreme Court by misapplying res judicata & collateral estoppel.

III. The Lower Courts misapplied "failure to state a claim."

Petitioner's new claims.

The Lower Courts dismissed Park's new claims (supported by new factual allegations founded during the discovery) under "failure to state a claim."

To defeat a motion to dismiss filed pursuant to Rule 12(b)(6),[31] the Supreme Court does not require "heightened fact pleading of specifics, but only enough facts to state a claim to relief that is plausible on its face" *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570 (2007).

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[29] *Stump v. Sparkman,* 435 U.S. 349, 370 n. 3/1 (1978) (Powell, J., dissenting). (Internal citation omitted). Justice Powell cites *Bradley v. Fisher,* 13 Wall. 335, 349 (1872) and *Pierson v. Ray,* 386 U.S. 547 (1967). Note that the dissenting opinion drew on *Pierson v. Ray, supra,* at 554.

[30] *See also* Objs. p.3-4, ECF No.13 and Comp. 7-23, ECF No. 1. Case No. 20-2148.

[31] Federal Rules of Civil Procedure, Rule 12(b)(6) and § 1915(e)(2)(B) (ii) are identical – "fails to state a claim on which relief may be granted."

A claim meets the plausibility test when:

(1) the plaintiff provides "more than labels and conclusions, (...) Factual allegations must be enough to raise a right to relief above the speculative level." *Id.* at 555. (quotation marks, citations, and footnote omitted);

(2) "the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal,* 556 U.S. 662, 663 (2009) (internal citations omitted).

Further, in reviewing a Rule 12(b)(6) motion, a court must accept all well-pleaded facts in the complaint as true and view them in the light most favorable to the plaintiff. *Sonnier v. State Farm Mutual Auto. Ins. Co.,*509 F.3d 673, 675 (5th Cir. 2007). The pleadings include the complaint and any documents attached to it. *Collins v. Morgan Stanley Dean Witter,* 224 F.3d 496, 498–99 (5th Cir. 2000). A district court should "allow ample opportunity for amending the complaint when it appears that by doing so the pro se litigant would be able to state a meritorious claim." *Mast v. Chase,* 2013 WL 1785520 (N.D. Ind. April 25, 2013).

Park provided ample evidence attached to her Complaints to support her new claims; the Lower Courts must accept all well-pleaded facts in the complaint and the attachments as true and view them in the light most favorable to Park. She also provided her Amended Complaints which state meritorious claims, but they were denied.

New evidence was discovered.

In 2020 Cases, Park filed new claims against Stake, University Officials (Hudson, Johnson, Abdullah-Span, and Pratt-Clarke), and the Board based on new evidence uncovered during the discovery of her prior suit:

- **Emails and notes** among University Officials reveal Abdullah-Span & Pratt-Clark worked closely with Hudson & Johnson regarding Park's complaints from the beginning.

- **Records** reveal Human Resources reached out to ODEA after Park visited HR.

- **Hudson's note** reveals ODEA was informed by Julie Misa, Director of the International Student and Scholar Services, that Park was on F-1 OPT (international student employment) "using the U. of I, as employer."

- **Johnson's email** to Hudson & Abdullah-Span reads: "Do we have a statement from AHR stating that she is not considered an employee?"

- **Hudson's meeting note** reads Hudson & Johnson discussed about "disposing of this case as soon as possible."

- **Johnson's deposition** (ECF No. 129, 15-2136) reads that University Officials decided not to consider Park's F-1 OPT as valid status:

> "Lisa Park was not an employee" (p.25).
>
> "We also verified that she was not a student" (p.25).
>
> "We had already determined Lisa Park was not affiliated" (p.40).

- **Hudson's deposition** reveals that she was not sure if the harassers were telling the truth during her only meeting with them. Nevertheless, she stopped the investigation after the meetings because ODEA concluded that Park was neither a student nor an employee at that time.

- **Secolsky's deposition** reveals that his meeting with Hudson was "cordial." Hudson thanked him for coming, placing no emphasis on the gravity of his sexual harassment whatsoever.

- **ODEA disposition** reads that Stake originally "vehemently denied the allegation regarding the physical contact between himself and the Complainant."

- **Stake's email to Secolsky** reads:

  "Chuck, Things have taken a bad turn. Head of ed psych canceled my class yesterday. (...) Since you left, I have had one email from Lisa [Park] asking me to meet with her. I did not respond. It seems pretty far fetched but she may have had something to do with the canceling."

- **A medical note from Park's psychiatrist** reads that she was:

  "in great distress at that time [2014] due to encounters with Charles Secolskey [sic] and Professor Robert Stack [sic]. I [psychiatrist] recalled your [Park's] relating to me incidents with both of these men in which you encountered unwanted sexual conversation and contact. It was readily apparent that these incidents were traumatic and caused you great distress."

See Complaint #1 "STATEMENT OF THE CASE AND FACTS" in Case Nos. 20-2148 and 20-2149 for evidence.

New evidence applied into the total context led to reasonable inference of new claims.

Title IX states that an important factor to evaluate a claim is "the totality of the circumstances in which the behavior occurs that is critical in determining whether a hostile environment exists." (Title IX, p.17). To present the totality of the circumstances, the following section introduces University Policy & Federal Antidiscrimination Laws for reference and applies the new evidence into the total context.

The University Policy is designed to protect Complainant from discrimination:

"This policy is designed to promote a safe and healthy learning and work environment and to comply with multiple laws that prohibit discrimination, including: Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, (...) Title IX of the Education Amendments Act of 1972, (...) and the Illinois Human Rights Act."

Knowledge of Title IX. As Title IX coordinators, University Officials "must have knowledge of the requirements of Title IX, of the school's own policies and procedures on sex discrimination, and of all complaints raising Title IX issues throughout the school." (Title IX Q&A, p.18, emphasis added)[32].

As a recipient institution, the University is also obligated "to ensure that school employees are aware of their [Title IX] obligations under such state and local laws and the consequences for failing to satisfy those obligations." (*id.*, p.12).

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[32] "Questions and Answers on Title IX and Sexual Violence, US Department of Education Office for Civil Rights" ("Title IX Q&A"). *See* ECF No. 1-5, p.18, Case 20-2148.

University Officials must know:

"Title IX protects any 'person' from sex discrimination. Accordingly, both male and female students are protected from sexual harassment engaged in by a school's employees, other students, or third parties." (Title IX, p.13) and "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."(*id.* at 22, end note omitted).

Immediacy regarding sex discrimination. Title IX states:

"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." (Title IX, p.15).

University Policy requires that once University Officials received Park's complaint of sexual misconduct on June 26, 2014, they must have:

"committed to the prompt and equitable resolution of all alleged or suspected violations of this policy about which the University knows or reasonably should know, regardless of whether a complaint alleging a violation of this policy has been filed and regardless of where the conduct at issue occurred." (University Policy p.6).

Hearing of Complainant's expectation. To this end, University Policy requires that first, University Officials must discuss "what outcome or remedy she is seeking" listed on the form "Informal Resolution Request Form" (**IRRF**) after it is signed by Park. (University Policy p.7).

Immediacy regarding retaliation. University Officials must take immediate action to prevent retaliation against Park as Title IX requires:

> "The school should also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs. This includes retaliatory actions taken by the school and school officials. When a school knows or reasonably should know of possible retaliation by other students or third parties, including threats, intimidation, coercion, or discrimination (including harassment), it must take immediate and appropriate steps to investigate or otherwise determine what occurred. Title IX requires the school to protect the complainant and ensure his or her safety as necessary." (Title IX Q&A, p.27).

Applying this new evidence into the total context then leads to several new claims that tie together. These include (1) Retaliation claims, 775 ILCS 5, et seq against Stake & University Officials, which lead to (2) 1983 equal protection claims against Stake & University Officials, which then lead to (3) Title VI & Title IX claims against the Board.

Reasonable inference of 1983 equal protection claim and 775 ILCS 5, et seq retaliation claim against University Officials.

ODEA was deliberately indifferent to the harassers' sex discrimination.

- Park, with her F-1 OPT student visa, worked as a researcher with Stake & Secolsky at CIRCE when sexual misconduct occurred. However, Park remained silent and continued to act natural to avoid jeopardizing her career.

- June 2014, after Park could not hide her trauma any longer, she alerted ODEA of their sexual harassment based on sex and race[33] which occurred during their academic collaboration at the University. ODEA initially stated that they

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[33] Racial discrimination is also involved; Secolsky stated, "my psychiatrically incited inappropriateness" was done because "I thought that Korean girls, Asian women, liked white guys." (Secolsky Motion ECF No. 132, p.32; Secolsky Deposition, ECF No. #128, p.114, Case No. 15-2136).

"have an obligation as it relates to inappropriate conduct on this campus"[34] but took no action and ignored her continuous requests (violating University Policy) as the harassment continued.

- July 2014, Park desperately searched for help elsewhere; she sought help from the University's Human Resources (HR) regarding not only Stake & Secolsky's sexual misconducts but ODEA's deliberate indifference to her complaints as well. HR also redirected her back to ODEA and reached out to ODEA on July 30 regarding Park's complaints.

- Park, with no choice, contacted ODEA again to see if anything had changed since her last visit but still received no response. Meanwhile, on August 4 & 5, ODEA met with Stake & Secolsky without notifying her, further violating University Policy. Secolsky stated that his meeting with Hudson was "cordial." Hudson thanked him for coming, placing no emphasis on the gravity of their sexual harassment whatsoever (Secolsky Dep. 137-138, ECF No. 128, 15-2136).

- Hudson stated in her deposition that, during her meeting with Stake, she "didn't have a sense [if he was telling the truth because that] was my first time meeting him." (ECF No. 125-8, p.31, 15-2136).

- After the unauthorized meetings, Secolsky told Park that Stake was angry, and began to retaliate against her. On August 6 & 7, Park notified ODEA of Secolsky's retaliation and confronted their violations of University Policy.

- August 7, 2014, after a lengthy period with no response, ODEA finally responded and, for the first time, began to claim that Park had no status at the University, so they had no jurisdiction over her complaints. Even although Hudson doubted Stake's honesty, she stopped the investigation after only one meeting each because ODEA "concluded that she [Park] was neither a student nor an employee on the campus." (ECF No. 125-8, p.49).

- To the contrary, on August 14 & 18, ODEA was officially informed twice by Julie Misa, Director of the International Student and Scholar Services, that Park was on F-1 OPT "using the U. of I, as employer." Nevertheless, they sought for proof that Park was not considered an employee.

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[34] Hudson's email to Park on July 16, 2014.

- August 26, Johnson sent an email to Hudson & Abdullah-Span which reads: "Do we have a statement from AHR stating that she is not considered an employee?" Hudson's meeting note also reads Hudson & Johnson discussed about "disposing of this case as soon as possible."

Although they failed to find proof, University Officials continued to proclaim that Park had no status, excluding her from their services (further violating University Policy which led to Stake & Secolsky's continuous retaliation).

Note: Although University Officials were aware of Secolsky's continuous harassment even after being alerted by Park as stated in an ODEA report: "it has been determined that Respondent Secolsky, whom Complainant alleges continues to inappropriately engage her,"[35] they stopped their investigation.

- Meanwhile, Stake & Secolsky continued to teach, work on CIRCE activities at the University, and retaliate. Park, on the other hand, subsequently suffered PTSD-induced panic attacks and excruciating chest pain, which led to a heart attack. She was directly sent to the emergency room.

Defendants' inexcusable negligence and failure to help Park not only ruined her career, they put her life at risk. On August 5, 2014, Jose Ochoa, Emergency Department MD, wrote, "Pt with a lot of stress and has flashbacks to the harassment." He continued to state, "she may **die** if not fully evaluated."[36]

- October 2014, Park met Johnson to address ODEA's deliberate negligence to her complaints, their violations of University Policy, and their decision to exclude her from their service by not considering her F-1 OPT as a valid status, which is **discrimination based on national origin**. Park followed up with an email providing evidence of sexual harassment and stated:

> "While suffering from difficulties on a multiple level including psychological conflicts and physical damages, I have patiently made an effort to follow proper procedures to address the issues with your office, Robert Stake, and Charles Secolsky. I have provided enough information that substantiate my difficulties, yet your office has been very passive

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[35] *See* ECF No. 1-2, Case 20-2148 for ODEA Reports dated November 26, 2014. Emphasis added.

[36] *See id.* for Evidence of Park's psychological and physical injuries for Park's near-fatal injury.

> while providing a written report that does not make sense on a very basic level [referring to their claim of Park having no status at the University]."[37]

- November 2014, Park met Johnson again and addressed ODEA's violations resulting in Stake & Secolsky's retaliation (e.g., excluding her from all collaborative academic work and defaming her in their academic field). Park demanded "an apology, a rewritten report, training, and/or compensation" for the loss of everything she had worked for due to ODEA's actions. Johnson, fully aware of the damage done to Park, later followed up with an email, stating:

> "Please note that I did not agree to provide you with an apology, a rewritten report, training, and/or compensation. When we met yesterday you requested those items, but I did not agree to them. I wanted to make sure that I clarified this misunderstanding."[38]

Park contacted ODEA over 60 times challenging their violations yet they continued to claim that they have no jurisdiction over her complaints.[39]

But for Park's statutorily protected activities (challenging their violations of University Policy), would ODEA have illegally stopped their investigation by denying her valid status?

ODEA's own misconducts (deliberate ignorance to both men's misconduct and ODEA's retaliation) are "enough facts to state a claim to relief that is plausible on its face." Therefore, for her new claims, Petitioner provided "enough facts" to allow the court to draw reasonable inference that Defendants are liable for the misconduct alleged.

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[37] Park's email to Johnson on Oct 26, 2014, emphasis added.

[38] Johnson's email to Park on Nov. 19, 2014.

[39] *See* Complaint 35-42, ECF No.1, Case No. 20-2148 for evidence. Defendants ironically argued that Petitioner had no status at the time of investigation while acknowledging her OPT as employment. See University MSJ #125, p.3, 15-2136.

Reasonable inference of 775 ILCS 5, et seq retaliation claim against Stake.

- Park and Stake had communicated with each other on academic matters for many years, from 2005-2014; Stake's attorney acknowledged their frequent and interactive communication, stating:

> "She continued throughout October [2013] to call on Dr. Stake to help her with her job applications to Michigan and Purdue. He helped her in November. He helped her in December. In February [2014], she asked if he would extend her email, which he did. She helped out with the Thai student visits in April [2014]" (Transcript during the trial pp. 5-6, ECF 289, Case No. 15-2136).

As discussed hereinbefore, Park worked with Stake & Secolsky on numerous academic projects at the University as stated in ECF No. 212-1, uncontested facts p.4, Case 15-2136:

> "37. Plaintiff worked with Secolsky [and Stake] on grant proposals including American Educational Research Association (AERA) grant proposal [through CIRCE starting Jan. 2014], a session at International Congress of Qualitative Inquiry (ICQI) conference at the University, a conference paper to the Center for Culturally Responsive Evaluation and Assessment (CREA) at the University [in Sept. 2014] and the Thailand Seminar Series at the University [in March & April 2014 through CIRCE]."

- Stake's sexual harassment began in 2011; he admitted to assaulting Park by attempting to kiss her. *See* Transcript 3, ECF No. 288, 15-2136. After several failed attempts, Stake successfully kissed Park on October 14, 2013.

- After meeting with Hudson and learning about Park's complaints, Stake became angry and abruptly stopped communicating with Park:

> "On August 4, 2014, ODEA personnel met with Stake concerning Plaintiff's accusations. On August 5, 2014, ODEA met with Secolsky regarding Plaintiff's accusations. On that same day, Secolsky informed Plaintiff that Stake was angry at having been questioned by ODEA and told her that Stake was refusing to speak to him. Secolsky also told Plaintiff that he (Secolsky) was very unhappy with her complaining, stating that "I lost my reputation... I lost everything ... they know everything."' (District Order)[40]

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[40] District Order p.7, ECF No. 33, Case No. 15-2136. Emphasis added.

- Hudson's meeting note with Stake states: "Respondent Stake *vehemently* denied the allegation regarding the physical contact between himself and the Complaint."[41] Since then, Stake stopped academically helping Park, ignored her emails, and excluded her from all projects at CIRCE.

- Stake's email to Secolsky on January 27, 2015, states:

  "Since you left [in December 2014], I have had one email from Lisa asking me to meet with her. I did not respond."

This confirmed Stake's retaliation, deliberately ignoring Park's emails after learning about her complaints.

But for Park's statutorily protected activities (coming forward with her complaint), would Stake have stopped interacting with Park and excluded her from academic projects? Therefore, this is a new retaliation claim against Stake, supported by "enough facts to state a claim to relief that is plausible on its face."

Fallacies in the Lower Courts' orders.

The District Court originally dismissed Park's new claims by applying "res judicata and collateral estoppel and is therefore frivolous." (Order 9, **ECF No. 13**, Case No. 20-2149).

It then later changed the reason in its order (**ECF No. 23**) stating:

> "It is true the 2015 lawsuit focused primarily on the University and its officials' response to Secolsky's harassment and misconduct, not Stake's. *See* Park v. Secolsky, 787 F. App'x 900, 903–05 (7th Cir. 2019). Therefore, Plaintiff is likely correct that the 2015 case did not actually decide the issues involved in the claims against Pratt-Clarke and Abdullah Span in the current case." (p.7, emphasis added).

Then, it dismissed her new claims against Abdullah-Span & Pratt-Clarke with a different reason by applying "failure to state a claim." It states in Order 9, **ECF No. 23**, Case No. 20-2149 (emphasis added):

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[41] ODEA report dated on October 17, 2014. Emphasis added.

"Plaintiff alleges that she did not inform University officials until June 26, 2014 of Stake's harassment or misconduct. Compl. 30. (It is not clear when Abdullah-Span and Pratt-Clarke specifically became aware of the harassment). And she does not allege that Stake assaulted or harassed her after that time. *Cf. Id.* at 22–30, 56.

The only allegations of conduct by Stake after June 2014 are that he 'did not reply to any of her emails.' *Id.* at 29.

There are no alleged constitutional violations that either Abdullah-Span or Pratt-Clarke knew about that they condoned, facilitated, or approved of, and there is no allegation that they should have known yet turned a blind eye to any harassment. *Cf. Park*, 787 F. App'x at 905 (noting in the appeal of the 2015 suit that state actors 'can be liable only for their own misdeeds; they cannot be held vicariously liable for the acts of their subordinates' and affirming the district court's denial of Plaintiff's equal-protection harassment claims against Stake, Hudson, and Johnson based on Secolsky's harassment because she argued only that the officials 'failed to prevent [Secolsky's] harassment and turned a blind eye to it')."

Before addressing the fallacies, Park first wishes to straighten out the District Court's errors in its order (**ECF No. 23**):

(1) Park has not filed any claims against University Officials directly related to Stake & Secolsky's misconduct. She filed claims against University Officials & Stake due to **their own misconduct** of violating University Policy which complies with Federal Antidiscrimination Laws.

(2) Park filed claims against the Board directly related to sex discrimination of University Officials & Stake as Title IX holds "educational institutions [the Board] liable for their own misconduct" as "teacher's [state actors'] sexual harassment of a student may render a school district liable for sex discrimination under Title IX." *Hansen v. Bd. of Tr. of Hamilton Se. Sch. Corp.*, 551 F.3d, 604, 605 (7th Cir. 2008) (internal citation omitted).

Returning to the main issue, the order (**ECF No. 23**) has many fallacies which the Seventh Circuit nevertheless affirmed:

Fallacy 1: The Lower Courts' negligence regarding parties involved.

Oddly, the order only mentions the claims against **Abdullah-Span & Pratt-Clarke.** It does not mention:

(1) **Hudson & Johnson,** when "the issues involved in the claims against Pratt-Clarke and Abdullah Span" also apply to Hudson & Johnson because all University Officials were deeply involved in Park's case from the beginning;

(2) **Stake,** when the claims against University Officials involve their deliberate indifference to Park's complaints regarding Stake's misconduct after her report to ODEA;

(3) **the Board,** when the claims against all Defendants led to Park's new claims against the Board.

Fallacy 2: The Lower Courts' negligence regarding new claims.

The order only mentions the 1983 equal protection claim. It does not mention other claims which tie together with the 1983 equal protection claim such as 775 ILCS 5, et seq (retaliation), Title VI (race or national origin discrimination), and Title IX (sex discrimination).

Fallacy 3: The Lower Courts' negligence of the total context of Title IX.

The order also does not mention the following statements in the context of Title IX: "It is not clear when Abdullah-Span and Pratt-Clarke specifically became aware of the harassment" and "only allegations of conduct by Stake after June 2014 are that he 'did not reply to any of her emails.'"

According to Title IX, after ODEA was alerted about Park's complaints, Abdullah-Span (Associate Director of ODEA) & Pratt-Clarke (Lead Title IX Coordinator) must know about Park's complaints; they are obligated to be "committed to the prompt and equitable resolution of all alleged or suspected violations of this policy about which the University knows or reasonably should know" and they are required to "not only take steps to prevent retaliation but also take strong responsive action if it occurs." This also applies to Hudson (Title IX Specialist) & Johnson (Director of ODEA).

> "5. Deputy Title IX Coordinators [Hudson, Johnson, & Abdullah-Span] are University employees who have been trained and designated by the Lead Title IX Coordinator to receive and investigate allegations of sexual harassment.

> B. Administrative Responsibility: The Associate Chancellor [Pratt-Clarke] will serve as the Lead Title IX Coordinator in the operation of these procedures. To assure consistent assessment and handling of complaints, the Associate Chancellor will have the lead responsibility for overseeing all aspects of this policy. Vice chancellors, deans, directors and department heads will share the responsibility for the effective functioning of these procedures within their units, subject to oversight by the Office of Diversity, Equity, and Access." (University Policy p.10).[42]

According to the Supreme Court, retaliation from University Officials, Stake, & Secolsky is a form of sex discrimination: "Retaliation against a person because that person has complained of sex discrimination is another form of intentional sex discrimination." (*Jackson v. Birmingham Board of Education,* 544 U.S. 167, at 174). This also leads to the new claims against the Board.

Fallacy 4: Additional new claims against the Board.

1983 equal protection claim (University Defendants' deliberate indifference to Park's complaints) and retaliation claims against both University Officials & Stake also lead to additional new claims against the Board including the following Title VI & Title IX (Hostile Environment, Quid Pro Quo, & Retaliation) claims:

Race & National Origin Discrimination, **Title VI** of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] (Park v. the Board). Title VI prohibits discrimination on the basis of race, color or national origin under any program or activity receiving federal financial assistance. Defendants did not consider Park's F-1 OPT as a valid status, excluding her from the University's services preventing "Discrimination and Harassment." This is national origin discrimination.

Hostile Educational Environment, **Title IX** of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.] (Park v. The Board). Defendants' sex discrimination constitutes a hostile environment because their discrimination was sufficiently serious that it denied or limited Park's ability to participate in or benefit from the school's program based on sex.[43] *See* Title IX, pp. 15-17 for "Factors Used to Evaluate Hostile Environment Sexual Harassment."

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[42] *See* ECF No. 1-3, Case 20-2148.

[43] *See* ECF No. 1-4, Case 20-2148 for "Title IX."

Quid Pro Quo, **Title IX** (Park v. The Board). Quid Pro Quo rises "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 employees' responsibilities to provide aid, benefits, or services." *Id.*at 20.

Retaliation, **Title IX** (Park v. The Board). University Officials & Stake retaliated against Park because of her statutorily protected activities.

However, the order did not address any of these claims.

In summary, the Lower Courts overruled the Supreme Court by misapplying "res judicata & collateral estoppel" and "failure to state a claim."

Park had no chance to appeal the majority of her claims due to Preclusion. Her new claims are supported by newly discovered factual allegations; she provided enough facts to state a claim to relief that is plausible on its face so that the court may draw reasonable inference that Defendants are liable for the alleged misconduct.

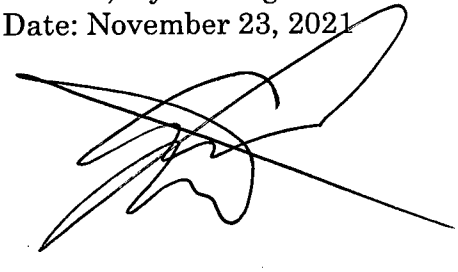
This Case presents an excellent opportunity to address the fundamental purpose of 28 U.S. Code § 1915(B), which exists "to stop the suit immediately, saving time and money for everyone concerned."[44] However, the Lower Courts' misapplication of this code resulted in considerably more resources wasted.

Granting this petition will provide lower courts with definitive guidance over proper application of the law to uphold uniformity for the greater public good nationwide.

CONCLUSION

For the foregoing reasons, the Court should grant the petition.

Respectfully submitted,
Petitioner, Hye-Young Park
Date: November 23, 2021



[44] *Gleash v. Yuswak*, 308 F.3d 758, 761 (7th Cir. 2002).