No. __-____

IN THE

Supreme Court of the United States

SERGIO VERDU,

Petitioner,

v.

THE TRUSTEES OF PRINCETON UNIVERSITY; THE BOARD OF TRUSTEES OF PRINCETON, UNIVERSITY; CHRISTOPHER L. EISGRUBER; DEBORAH A. PRENTICE; REGAN CROTTY; TONI MARLENE TURANO; LISA M. SCHREYER; MICHELE MINTER; CLAIRE GMACHL; CHERI BURGESS; LYNN WILLIAM ENQUIST; SUSAN TUFTS FISKE; CAROLINA MANGONE; HARVEY S. ROSEN; IRENE V. SMALL,

Respondents.

On Petition For A Writ of Certiorari to the United States Court of Appeals for the Third Circuit

PETITION FOR A WRIT OF CERTIORARI

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December 22, 2022

QUESTIONS PRESENTED

1. Is it an important federal question of law for the U.S. Supreme Court to consider whether U.S. Courts of Appeal should be permitted to issue "NOT PRECEDENTIAL" opinions, as they undermine the Rule of Law by facilitating treatment of facts contrary to governing rules of law and evasion of proper application of law?

2. Is an appropriate occasion for the exercise of the U.S. Supreme Court's supervisory authority over the federal courts, for the sake of the Rule of Law, because Third Circuit used a "NOT PRECEDENTIAL" opinion to render an unprincipled decision misstating the facts contrary to pleaded fact and motion to dismiss rules, evading proper application of law in Title IX and Title VII, and destroying individual livelihoods?

PARTIES

Citations in this Petition will be to the Appendix to this Petition ("__a") and to the 172-page Complaint that was in the Third Circuit Appendix ("Cmplt. ¶___") and excerpted in the Petition's Appendix (54a-105a).

Plaintiff-Appellant-Petitioner Sergio Verdú ("Verdú"), a renowned information theorist, became a faculty member at Princeton University in 1984 and received tenure there in 1989. He had an unblemished disciplinary record for over thirty years. During that time, Verdú received numerous professional accolades and awards, including as the youngest recipient ever of the Claude Shannon Award, the top distinction in his field. Verdú has long been held in the highest esteem by students and colleagues alike. (55a, 64a-65a, Cmplt. ¶¶ 49-53.)

Defendant The Trustees of Princeton University is an educational corporation incorporated in the State of New Jersey which operates Princeton University ("Princeton"), a private university located in Princeton, New Jersey. (Cmplt. ¶¶ 30-31.) The individual Defendants named are officers and professors at Princeton. (Cmplt. ¶¶ 32-44.) From 2014 through the date of Verdú's eventual termination, Princeton was investigated by the U.S. Department of Education's Office for Civil Rights on several occasions for its perceived failure to adequately protect female students from sexual misconduct. Beginning in 2016, Princeton was severely criti-

cized, both outside the institution and within the student body, for failing to protect female graduate students alleging sexual misconduct by male professors. (Cmplt. ¶¶ 66-75.)

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DECISIONS BELOW

This Court's supervisory authority needs to be exercised and an important federal question needs to be addressed so that the federal courts remain courts of law faithful to the Rule of Law and not political bodies rendering law-less, arbitrary edicts that give only lip service to the law because "Not Precedential" opinions white-wash destructive conduct of large institutions, enable McCarthy-like sex-based social pressures to run rampant (here, the #MeToo movement), and wrongly destroy individual livelihoods.

Verdú was terminated from his employment after 34 years following two gender biased, McCarthy-like proceedings by Princeton for purported violations of school policies governing sexual misconduct. The first proceeding was instigated by a 25-year-old female graduate student Yeohee Im ("Im") whose e-mails with Verdú showed Im to have pursued a social relationship with Verdú. The second proceeding ostensibly concerned a consensual relationship with a former graduate student who had graduated years earlier and who *expressly* told the University *not* to pursue the allegations. The termination of Verdú's tenured professorship was based on the second proceeding that a Dean originally decided did not warrant investigation. An un-American mob mentality demanded and got Verdú's head. Courts of law should be bulwarks against the mob and the guillotine, not their supporters.

The Third Circuit issued a "NOT PRECEDENTIAL" opinion (1a-15a), giving lip service to the law but in fact relying upon false statements contrary to pleaded fact and law, affirmed the District Court that had dismissed, on a F.R.Civ.P. 12(b)(6) motion, Verdú's Title IX and Title VII claims (16a-53a). The District Court had relied upon legally and factually erroneous fact findings to rationalize away obvious sex discrimination as a motivating factor in the disciplinary decisions and hostile work environment. The Third Circuit's opinion is reported at 2022 WL 4482457 (3d Cir. Sept. 27, 2022). The District Court's opinion is reported at 2020 WL 1502849 (D.N.J. Mar. 30, 2020).

STATEMENT OF JURISDICTION

This Court's jurisdiction is established by 28 U.S.C. § 1254(1) and Article III, Section 2 of the U.S. Constitution. The Third Circuit's opinion was issued September 27, 2022.

STATUTORY PROVISION INVOLVED

Title IX of the Education Amendments Act of 1972, at 20 U.S.C. § 1681(a), provides: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance."

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e–2(a) states: "It shall be an unlawful

employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's . . . sex . . . ."

STATEMENT OF FACTS

The text of Verdú's Complaint was 172 pages long replete with factual detail that the Third Circuit does not acknowledge and that makes its conclusions unsupportable. The 2-page summary of facts in the Third Circuit opinion (2a-4a) is woefully incomplete and inaccurate. In comparison, the Complaint's introductory "Nature of the Case" (55a-64a) provides more factual detail. The following is a fairer statement of facts from the Complaint and one that does not permit a back of the hand, artificially glib treatment given here by the Third Circuit.

A. First Proceeding (Im).

1. Verdú's Advisory Role and Im.

In Spring 2016, Verdú began advising a 25-year-old female graduate student named Im who sought to foster a closer relationship with Verdú by bringing him sweets and gifts, asking him for recommendations for bars and nightlife/vacation spots, and sending him a love song that she wrote and composed herself. Im discussed with Verdú soccer and Korean film, asked to watch soccer games with

him at his home, and recommended they watch certain movies. Verdú obliged, as he was congenial with his graduate students. (Cmplt. ¶¶ 92-103.)

2. Cuff's Involvement.

Paul Cuff ("Cuff") was an Assistant Professor supported by Verdú for tenure, but when Cuff was denied tenure, Cuff wrongly blamed Verdú. In Spring 2017, Cuff reported allegations to then Dean of the Graduate School, Sanjeev Kulkarni ("Kulkarni"), that three years prior, Verdú had been in a consensual romantic relationship with a former female graduate student E.S. supervised by Cuff. (55a-56a, 70a; Cmplt. ¶¶ 4, 104-113, 239-244.)

"E.S." had received her Ph.D. from Princeton over two years earlier and never made a report or complaint about Verdú. Kulkarni was concerned about Cuff's motives and about the lack of any complaint from E.S. Kulkarni told Cuff that no investigation was warranted. (55a-56a, 70a; Cmplt. ¶¶ 4-5, 106-108, 239-245.)

Subsequently, Cuff notified Princeton that Verdú had allegedly acted inappropriately with Im, and Cuff encouraged Im to file a charge of sexual harassment against Verdú with Princeton's Title IX Office over watching movies together. (56a; Cmplt. ¶ 6.)

3. Im's Princeton Complaint.

In April 2017, Im reported to the Title IX office that Verdú had allegedly engaged in a consensual, romantic relationship with E.S. who received her Ph.D. from Princeton in 2015. Im also made allegations of sexual harassment against Verdú to Princeton's Title IX Office. (56a-57a; Cmplt. ¶¶ 7-8, 118-120.)

Im mischaracterized ordinary social interactions with Verdú, in which she enthusiastically participated, as sexual harassment, even though she admitted that Verdú acted professionally during the course of her graduate studies—both before and after the incidents of which she complained. (56a-57a; Cmplt. ¶¶ 7-8, 118-122.)

When complaining to Princeton, Im omitted facts and embellished other facts in a way contradicting her own email communications with Verdú, and Im presented deliberately altered "evidence" in support of her claim of sexual harassment, including select portions of a secretly taped conversation with Verdú and excerpted emails. The full set of emails —produced by Verdú—demonstrated that Im initiated a social relationship with Verdú. (56a-58a; Cmplt. ¶¶ 7-10, 118-122.)

4. Princeton's Investigation.

On April 13, 2017, Princeton notified Verdú of an investigation whether he had sexually harassed Im and issued a "no contact" directive. The same day,

Cuff became Im's faculty advisor. (Cmplt. ¶ 121-122.)

On April 17, 2017, Im was interviewed by the Princeton Title IX Panel convened to investigate her allegations, comprised of three women: Director of Gender Equity and Title IX Administration Regan Crotty; Associate Dean of the Graduate School Lisa Michelle Schreyer; and Deputy Dean of the Faculty Toni Marlene Turano (the "Panel"). (Cmplt. ¶¶ 34-36, 135.)

Also on April 17, 2017, Crotty by phone interviewed E.S. about Im's and Cuff's allegations that she had engaged in a consensual, romantic relationship with Verdú. Notably, E.S. was not an advisee of Verdú's during the time in which she attended Princeton. E.S. denied that anything inappropriate or violative of any policies had occurred. E.S. also denied having a romantic relationship with Verdú. Crotty asked E.S. if there might be any pictures of her and Verdú taken in a Hong Kong bar in 2015, which she denied. Crotty had heard about these pictures from Im, who in the course of her subsequent badgering of E.S. told her that Im's friends were willing to provide statements to the University that E.S. had been seen with Verdú in a Hong Kong bar. After the interview, E.S. called Verdú and asked him not to disclose that he and E.S. had been involved in an extramarital affair. She went on to say that if this information was made public her husband "might kill him." Unconcerned about Policy violations—as the relationship had not violated any Policy—but

about the harm that could result from any disclosure of the relationship, Verdú also denied the relationship when interviewed on April 18, 2017. (65a-66a; Cmplt. ¶¶ 123-124.)

On April 18, 2017, before Verdú was given any notice of the charges against him, he was called to meet with the Title IX Panel and did so. During the interview, Verdú was adamant that he made no sexual advances towards Im, that he only wanted the best for Im and had done nothing to exceed the bounds of the adviser/advisee relationship. Verdú was surprised to learn Im had reported a number of allegations against him. (66a; Cmplt. ¶¶ 126, 129.)

During the April 18 interview, Crotty questioned Verdú about E.S. before the Title IX Panel. Verdú was never informed that the report about E.S. was received simultaneously with Im's sexual harassment complaint or that Im had made the report. Nor was Verdú told that Cuff had also made allegations against him (Verdú) concerning his consensual relationship with E.S. (Cmplt. ¶ 130.)

During the April 18 interview, Verdú provided complete copies of all of his email correspondence with Im. In contrast, Im provided only excerpted copies of her email communications with Verdú, leaving out the love song that she sent to him as well as other emails that showed her enthusiasm for the movies that they watched together and suggesting that they watch other films. On April 20, 2017, Verdú voluntarily provided photographs to

the Title IX Hearing Panel. (66a-67a; Cmplt. ¶¶ 127, 134.)

5. The Charges and the Investigation File.

On April 26, 2017, Crotty notified Verdú of the specific charges against him: "Sexual Harassment and/or Inappropriate Conduct Related to Sex, Gender Identity, or Gender Expression." These charges concerned the occasions when Verdú and Im watched *The Handmaiden*, deemed a "sexually explicit" film by the Panel, and *Oldboy*, at his home. Verdú was accused of making a sexual joke about *Oldboy* and also putting his arm around Im, touching her thigh and cleaning wine off Im's shirt. It had been Im's suggestion that the two watch *Oldboy* and *Thirst* after they watched *The Handmaiden*. Both *Oldboy* and *Thirst* contain nudity, violence and scenes of a sexual nature, and Im's recommendation of these films belied her alleged qualms about *The Handmaiden*. (Cmplt. ¶¶ 136-137.)

Accompanying Crotty's April 26, 2017 letter were electronic copies of the documents comprising the investigation file. Included in the investigation file were printouts from the website "IMDb *Parents*' Guide," a repository of user reviews that provides information regarding sexual content, violent content, profanity and scenes depicting drug and alcohol use in films so that parents can determine whether a particular film is appropriate for viewing

by children. Both parties viewing *The Handmaiden* were adults. (Cmplt. ¶¶ 136-139.)

Also included in the investigation file was a text exchange between Im and another graduate student, only with a redaction (by Crotty) of the student's statement that "[Dr. Verdú] really isn't that kind of person. He is just interested in cultural stuff trying to make the best out of his students." (Cmplt. ¶141.)

The only persons interviewed by the Panel with respect to Im's allegations were Im and Verdú. Crotty (who served on the panel) did not interview any others. The Panel's decision later was purportedly based on its assessment of each party's credibility. (Cmplt. ¶¶ 136-137.)

6. Panel Report.

On May 24, 2017, the Panel issued an 11-page report in which they found that Im's allegations should be assessed as Sexual Harassment rather than Inappropriate Conduct Related to Sex, and the Panel found Verdú responsible for Sexual Harassment. The Panel report stated that Verdú was not charged with any violations concerning any consensual relationship with students, as there was "insufficient information." (Cmplt. ¶ 145.)

The Panel relied on Im's doctored recording of her conversation with Verdú, but made no mention of the fact that Im admittedly erased portions of the recording prior to turning it over as "evidence." The recording contained no admission or evidence

of wrongdoing by Verdú and reinforced both parties' assertions that Verdú and Im continued to have a professional relationship after Im disclosed her alleged discomfort. (Cmplt. ¶ 146.)

The Panel also relied on the fact that Im "sought to change advisors" as part of the "aftermath" of Verdú's alleged wrongdoing. In fact, Im changed advisors when the no-contact order was issued by the Title IX office at the start of the investigation. The report did not mention that Cuff was Im's new advisor nor that he was supporting her financially. (Cmplt. ¶ 147.)

The Panel concluded that Im was credible because, supposedly, her account did not vary, which ignored Im's inconsistency—it was not until Im reported Verdú to the Title IX office that allegations other than his allegedly touching her leg were added to her story. The email correspondence that Verdú provided to the Panel supported his account that Im had pursued a social relationship with him. The correspondence contradicted Im's statement to the Panel that "I did not want to spend time alone with him outside of work." The emails showed that Im enthusiastically agreed to watch the film, *The Handmaiden*, that she later claimed made her uncomfortable. She even recommended the second film that they watched, *Oldboy,* and emailed Verdú joyfully "YES, it is!" when she was told the DVD was on its way. The Panel excused that Im sought to hide the evidence of her personal interest in Verdú. (Cmplt. ¶¶ 148-150.)

The Panel questioned that 25-year-old Im was a consenting adult capable of asking to drink wine in the afternoon and watching "explicit" films. The Panel credited Im's portrayal of herself as a "reluctant" complainant as demonstrating that she had no "ulterior or improper motives" in bringing forward her allegations, but there was no evidence that Verdú took, or would have taken, any actions against Im had she not engaged in social activities with him. Im and Verdú agreed their professional relationship remained that way at all times. Im's allegations of pressure to engage in the social activities were contradicted by her own emails. (Cmplt. ¶¶ 151-153.)

The Panel found that even if Verdú did not intend his conduct to be sexual in nature that his intent was irrelevant because "behavior is judged by its impact on the person directly affected." But the definition of Sexual Harassment in Princeton's Sexual Misconduct Policy requires that unwelcome behavior be "directed at a person based on sex." Verdú consistently denied this was the case; neither the incidental covered-leg contact nor the cleaning of a wine drop could have been reasonably viewed as sex-based. (Cmplt. ¶¶ 157-158.)

The Panel was in possession of evidence from other graduate students, and Verdú's own statements, that Verdú regularly socialized with them, including watching soccer games with individual students and movies with groups of students. The Panel elected not to interview other students about Verdú during these social activities. Instead, the

Panel members elected to transmogrify benign, gender-neutral conduct into sexual harassment. (Cmplt. ¶ 160.)

7. Unwarranted Sanction.

On June 9, 2017, then Dean of the Faculty Deborah Prentice issued a letter to Verdú informing him that based on her review of the Panel's Report, Verdú had violated the Sexual Misconduct Policy, placed Verdú on probation for one year and required him to participate in a "Community Integrity Program" administered by an outside clinical psychologist. Prentice's letter warned any further violation of the *Sexual Misconduct Policy* during probation could result in dismissal and stated a copy of the Panel's report and her letter would be maintained in Verdú's "permanent record." (Cmplt. ¶¶ 165-167.)

B. Retaliation and Hostile Work Environment.

1. Im's Retaliatory Campaign.

Dissatisfied with Verdú receiving probation, Im and Cuff embarked on a retaliation campaign to destroy Verdú's career and reputation and force his termination. Im engaged in a public and social media campaign, against the backdrop of the #MeToo movement and Princeton's alleged failure to protect women. Im disclosed confidential Title IX records and altered recordings to the press, commented for

an article published by the *Huffington Post*, encouraged social media posts against Verdú, filed complaints with professional associations to which Verdú belonged, and publicly accused him of sex crimes. Cuff met with Provost Prentice and questioned the "mildness of the punishment" to Dr. Verdú. In a February 22, 2018 article in *The Daily Princetonian* Cuff described Prentice as "squirmishly" justifying the punishment, which she disclosed to Cuff even though he was not a party to the Title IX proceedings. (58a-59a; Cmplt. ¶¶ 12, 177-187, 192.)

2. *The Daily Princetonian's* Article.

In *The Daily Princetonian's* "Notable Moments From the 2017-2018 Year" the publication noted: "In the Department of Electrical Engineering, the 'Prince' also reported on the Title IX investigation into [Verdú], who was eventually found responsible for sexual harassment." (Cmplt. ¶ 188.)

3. The #MeToo Movement.

In mid-October 2017, the #MeToo movement had re-emerged nationwide as a women's movement against sexual harassment and sexual violence, a primary purpose of which was to publicly identify alleged male perpetrators to be dealt with in the court of public opinion. One year after the emergence of #MeToo, *The New York Times* reported "at least 200 prominent men have lost their jobs after

public allegations of sexual harassment." (Cmplt. ¶ 189.)

4. The *Huffington Post* Article and Its Effect.

On November 9, 2017, the *Huffington Post* published an article, "Grad Student Says Princeton Prof Who Sexually Harassed Her Was Given Slap On the Wrist," for which Im disclosed documents from the Title IX investigation and gave an account contrasting with the version of events she provided to Princeton during the Title IX investigation. Im went so far as to suggest that Verdú was interested in her because Im was a similar age to his daughter. A lawyer quoted by the *Huffington Post* accused Verdú of "grooming behavior" toward 25-year-old Im, who expressed a view of herself as a protector of other students from future harm. (58a; Cmplt. ¶¶ 13, 193-195.)

The November 9, 2017 *Huffington Post* article, published against the backdrop of the #MeToo movement, prompted a firestorm of negative publicity at Princeton, leading to the plastering of flyers across campus with Verdú's photo, calls to the Princeton administration for his termination, exaggerated accusations and unsubstantiated rumors which Im and Cuff fueled by publishing editorials about Verdú in *The Daily Princetonian* newspaper. (59a; Cmplt. ¶¶ 13, 198.)

5. Princeton's Failure To Address Im's Violation Of Princeton's Title IX Confidentiality Policies.

In the course of her campaign of retaliation, Im violated Princeton's Title IX policies regarding confidentiality, harassment, and retaliation provisions. Despite repeated requests from Verdú, Princeton refused to address these violations and remedy the increasingly aggressive harassment and hostile environment. On the contrary, Princeton encouraged retaliation against Verdú by supporting Im, holding on November 27, 2017, a "Town Meeting" in response to the "widespread outrage at the actions" of Verdú. Princeton had already been subjected to a number of Office for Civil Rights investigations and was embroiled in a sexual harassment scandal concerning professors in Princeton's German Department. (59a; Cmplt. ¶¶ 13, 192,198-217.)

6. Princeton Warns Verdú Against Disclosure of Im-Verdú E-Mails and Other Confidential Information.

All the while, Verdú was under a gag order. Princeton warned Verdú against disclosing any emails from and to Im or any other confidential information from the Title IX proceedings. Although Im was also subject to such confidentiality orders, Princeton did not enforce them against *her*. Verdú was unable to publicly defend himself against Im's accusations and the unsubstantiated rumors that

were the subject of campus discourse, including nearly a dozen articles in *The Daily Princetonian* attacking his character. Verdú was barred by Princeton from coming to his own defense while Princeton simultaneously allowed Im to attack publicly Verdú. (60a; Cmplt. ¶ 15.)

7. Princeton's Support of Im.

Rather than taking action to quell Im's retaliatory public harassment campaign against Verdú, Princeton condoned her actions by suggesting, through Vice Provost for Institutional Equity and Diversity Minter's comments to *The Daily Princetonian* and *Princeton Alumni Weekly* that the discipline imposed on Verdú was not severe enough. Princeton disregarded the letters it received from academics and former collaborators of Verdú's, vouching for his integrity. One of the letters, signed by over 40 academics from around the world, stated "We call upon Princeton University to carefully reconsider any decision or action that has wrongfully tarnished his reputation and honor." (Cmplt. ¶ 221.)

C. Second Proceeding (E.S.).

Yielding to Im's campaign in the wake of the *Huffington Post* article, the University opened an investigation into the allegations concerning Verdú's consensual relationship with E.S. years earlier. (Cmplt. ¶¶ 222-223.)

1. The Verdú-E.S. Relationship.

Verdú and E.S. had commenced a relationship in Spring 2014 when Verdú had no teacher-student relationship with E.S.; he was neither her advisor nor her teacher. She had taken courses from him *three years* before the relationship began. At no point during their relationship was E.S. under Verdú's supervision. The Verdú-E.S. relationship did not violate University policy, but Princeton would use the affair as an excuse for terminating Dr. Verdú, in an effort to appease Ms. Im and her angry supporters who would not rest until Dr. Verdú was fired. (61a; Cmplt. ¶¶ 19, 235.)

2. Im's Efforts To Drum Up Evidence Against Verdú.

Im had failed to get E.S. to make her own complaint against Verdú. Im's efforts at exacting a harsher punishment against Verdú were successful as over the Summer 2017, Im drummed up enough "evidence" to prompt Princeton to pursue an investigation into whether Verdú and E.S. had a "romantic relationship" more than two years prior to Im reporting the allegation. Im solicited various individuals to provide statements to Princeton officials that, in Summer 2015, Verdú and E.S. were seen kissing at a bar in Hong Kong, during an IEEE Conference. An anonymous individual supplied photographs of a man and woman purportedly kissing, allegedly E.S. and Verdú. In actuality, the photographs provided to Princeton did not show the

woman's face and it was not clear from the photographs that the individuals were kissing. (65a, 67a-68a; Cmplt. ¶¶ 123, 179, 226-228.)

3. Princeton Commences Second Proceeding.

On September 19, 2017, Director of Gender Equity Crotty emailed Im, informing Im that Princeton had received enough information to start an investigation into Im's allegation Verdú and E.S. engaged in a relationship. (70a; Cmplt. ¶ 238.)

On September 25, 2017, Prentice—who had determined Verdú's sanction in the Im proceedings and was now the Provost—emailed a letter to Verdú informing him that "the Office of the Dean of the Faculty has received a report that you may have engaged in conduct with a now former graduate student that violated University policy." The letter informed Verdú that Senior Associate Dean of the Faculty Turano—who had served on Im's Title IX Panel—would lead the review and work with Cheri Burgess, the Director of Institutional Equity and EEO. The letter noted that the Dean of the Faculty, Kulkarni had recused himself "due to his personal and professional relationship with" Verdú. (70a; Cmplt. ¶ 239.)

Prentice's September 25th letter represented to Verdú that "[t]he review will be conducted as confidentially as possible in order to maintain the integrity of the review and to protect the reputations of those involved." Yet, Im had already been notified

of the investigation. The letter did not mention that Princeton was reopening the report about E.S. that was made by Im and Cuff months prior and which Kulkarni and the Title IX panel elected not to pursue. No explanation or justification was given for Princeton's investigation of a report concerning a student in E.S. who had already moved on from Princeton and who herself had not initiated the complaint. (Cmplt. ¶¶ 243-245.)

4. Princeton's Investigation.

In October and November 2017, Verdú was interviewed by investigators; and on December 20, 2017, an investigation report was issued. Princeton did not provide it to Verdú until over one month later, on January 23, 2018 at which time Prentice placed Verdú on administrative leave that precluded Verdú from teaching and from attending or organizing conferences. The details were publicized in *The Daily Princetonian*. (Cmplt. ¶¶ 251-253, 258-260.)

Throughout the E.S. investigation, Princeton violated provisions of the Faculty Handbook, expanded the investigation to include false claims of grading irregularities, distorted the evidence and applicable standards in order to allege a "severe" violation, and railroaded Verdú for the purpose of proving Princeton's dedication to protecting female students and quelling campus outrage over the outcome of the Im investigation. (Cmplt. ¶¶ 248-330.)

5. Second Proceeding Determination.

As a result of the investigation, it was ruled (erroneously) that Verdú violated the policy on Consensual Relations with Students because Verdú served as a reader on E.S.'s dissertation. This determination was made based on the 2015 Hong Kong photographs and the Penn Station report in April 2015—at these times Verdú was not a reader on E.S.'s dissertation. Even if Verdú had been a reader at the time, in that role he had no professional responsibility for E.S.; Cuff and another professor (not Verdú) served as E.S.'s research supervisors while she was at Princeton. The investigators faulted Verdú for failing to disclose the extramarital affair with E.S. even though it had been E.S. who requested Verdú not to disclose the affair. The allegations bore no relationship to Title IX. (68a; Cmplt. ¶¶ 124, 261-262.)

6. Provost Prentice's Recommendation.

On March 2, 2018, Provost Prentice issued a recommendation to Princeton President Eisgruber that Verdú be dismissed or, in the alternative, suspended for two years. Prentice concluded that if Verdú and E.S. had been engaged in a consensual, romantic relationship at the time of the Hong Kong conference, there was *no violation* of the policy on Consensual Relations with Students, but still criticized Verdú for exercising "poor judgment" for "talking, flirting and kissing" at a public bar with a "young woman" in Hong Kong. Prentice acknowl-

edged Dr. Verdú's reputation as a "generous and able mentor to men and women alike," but her recommendation dredged up Ms. Im's Title IX allegations (despite her prior assertion that the cases were unrelated) to further admonish him. (Complt. ¶¶ 271, 278-279.)

7. President Eisgruber's Ordered Search Of Verdú E-Mail Account In Violation Of Princeton Rules

In April 2018, President Eisgruber, in violation of Princeton's rules, ordered a search of Verdú's e-mail account, which showed that Verdú and E.S. were involved in a consensual relationship beginning in April 2014. (71a-72a; Complt. ¶¶ 289-297.)

8. Verdú's Termination.

On May 21, 2018, President Eisgruber issued a recommendation memo to the Board of Trustees that Verdú be dismissed from Princeton. In this memo, Eisgruber falsely stated that E.S. was under Verdú's supervision and that Verdú and E.S. were in a sexual relationship when they were in a teacher-student relationship. Eisgruber equated Verdú's protection of E.S. by not disclosing their relationship with dishonesty. (66a, 77a-91a; Complt. ¶¶ 124, 304.)

Verdú appealed to the University "CCFA" which held a 30-minute session with Verdú and then denied the appeal. (Complt. ¶¶ 308-318.)

On September 24, 2018, Verdú was notified that the Board of Trustees had terminated his employment at Princeton effective September 24, 2018. Verdú's reputation was destroyed, he was required to reimburse the University $376,985.50 for the University's share of equity in the residence in which Verdú lived with his family, Verdú was and remains unemployed, and Verdú has suffered physical ailments. (Complt. ¶¶ 324-330.)

D. District Court Proceedings; Appeal.

On May 13, 2019, Verdú brought this action against Princeton and against the individual defendants involved in the Im and E.S. investigations and the faculty disciplinary processes. Verdú alleged sex discrimination, retaliation and hostile work environment claims under Title IX and Title VII. (Cmplt. ¶¶ 332-673.)

On August 15, 2019, Defendants moved to dismiss the Complaint. On March 30, 2020, the District Court issued an Opinion and associated Order granting the motion to dismiss with respect to Verdú's federal claims against Princeton and declining to exercise supplemental jurisdiction over Verdú's state law claims. (16a-53a.)

Verdú filed and briefed a timely appeal; but on September 27, 2022, the Third Circuit, without oral argument, affirmed in a "NOT PRECEDENTIAL" opinion. (1a-17a.)

ARGUMENT

A. The Grounds For Granting The Petition.

This Court, per its Rule 10, should grant the petition for a writ of certiorari for two reasons:

1. It is an important federal question of law for the U.S. Supreme Court to consider whether U.S. Courts of Appeal should be permitted to issue "NOT PRECEDENTIAL" opinions as they undermine the Rule of Law by facilitating treating facts contrary to governing rules of law and evading proper application of law. "NOT PRECEDENTIAL" opinions serve no valid purpose in the lower federal courts and give apparent license to arbitrariness.

2. It is an appropriate occasion for the exercise of the U.S. Supreme Court's supervisory authority over the federal courts, for the sake of the Rule of Law, because the Third Circuit used a "NOT PRECEDENTIAL" opinion to render an unprincipled decision misstating the facts contrary to pleaded fact and motion to dismiss rules, evading proper application of law in Title IX and Title VII, and destroying an individual livelihood. The nature of adjudication is the application of law to a set of facts which should then be "precedent."

B. Supervisory Authority and Important Federal Question.

The reasons for granting the writ of certiorari are intertwined: the Third Circuit's use of the NOT

PRECEDENTIAL" opinion provides: (i) an important federal question of law for the U.S. Supreme Court to consider whether U.S. Courts of Appeal should be permitted to issue "NOT PRECEDENTIAL" opinions, as they facilitate treatment of facts contrary to governing rules of law and evasion of proper application of law, and (ii) an appropriate occasion for the exercise of the U.S. Supreme Court's supervisory authority over the federal courts, for the sake of the Rule of Law.

1. The Rule of Law.

The Rule of Law is the norm that supports the equality of all citizens before the law, secures a nonarbitrary form of government, and more generally prevents the arbitrary use of power. The Rule of Law creates a just order in which everyone within a society (including both private citizens and government officials) are subject to the law, and that those laws are administered fairly and justly. The intention of the Rule of Law is to protect against arbitrary governance and is necessary to maintain a free society.

Ideas about the Rule of Law have been central to Western political and legal thought since at least Aristotle in 350 BC: (i) "the rule of law . . . is preferable to that of that of any individual," *Politics*, Book III, 15, 1287a, 19-20; (ii) "The law ought to be supreme over all. . . So that of democracy be a real form of government, the sort of system in which all things are regulated by decrees is clearly not a democracy in the true sense of the word, for decrees relate only to particulars," *Politics*, Book IV, 4,

1292a, 32-37; (iii) "For law is order, and good law is good order . . ." *Politics*, Book VII, 4, 1326a, 29-30.

Article 39 of the Magna Carta (1215) was written to ensure that the life, liberty, or property of free subjects of the king could not be arbitrarily taken away: "No freemen shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land."

James Harrington wrote that among forms of government an "Empire of Laws, and not of Men" was preferable to an "Empire of Men, and not of Laws." *Oceana*, p. 37 (1656). John Locke wrote that "freedom of men under government is, to have a standing rule to live by, common to every one of that society . . . and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man." *Second Treatise of Government*, Ch. IV, sec. 22 (1690). Thomas Paine wrote in *Common Sense*, Thoughts on the Present State of American Affairs (1776), that "in America, *the law is king.*"

Montesquieu's work on the Rule of Law is best known in connection with his looking to the English Constitution and his insistence on the separation of powers—particularly the separation of judicial power from executive and legislative authority; the judiciary has to be able to do its work as the adjudicators of the laws independent of legislators and executive policy-makers. *The Spirit of the Laws*, Book XI, ch. VI (1748).

Montesquieu's views were received well by thinkers such as David Hume associated with the 18th century Scottish Enlightenment—the Scottish Enlightenment being an important if not dominant influence on the American founding, *see* R. Galvin, *America's Founding Secret: What The Scottish Enlightenment Taught Our Founding Fathers* (2012); G. Wills, *Inventing America: Jefferson's Declaration of Independence* (1978); D.N. Robinson, "The Scottish Enlightenment and the American Founding," *The Monist*, vol. 90, no. 2, 173-181 (Peru, Illinois 2007); and Montesquieu's views on the separation of powers had a profound effect on the American founding, particularly in the work of James Madison whose *The Federalist Papers* 47 (1788) states on the separation of powers: "The oracle who is always consulted and cited on this subject is the celebrated Montesquieu." The U.S. Constitution in its Articles I, II and III is framed by the separation of powers. Alexander Hamilton's *The Federalist Papers* 78 (1778), in defending judges under Article III of the U.S. Constitution holding office pending good behavior, quotes Montesquieu that there is no liberty if the power of judging is not separated from legislative and executive powers. The Rule of Law is reflected in judges, legislators and executive officers of Government taking an oath of office to uphold the U.S. Constitution.

Victorian jurist A.V. Dicey popularized the phrase the "Rule of Law," noting, among other things, that the Constitution is pervaded by the Rule of Law on the ground that that general prin-

ciples of the Constitution are with us the result of judicial decisions determining the rights of private persons in particular cases brought before the courts. *An Introduction to the Study of the Law of the Constitution*, pp. 17, 187-195 (1885).

What the history of the Rule of Law teaches is that an important demand of the Rule of Law is that judges should exercise their power within a constraining framework of law rather than in an arbitrary, *ad hoc*, or purely discretionary manner on the basis of their own preferences or ideology.

2. Treatment of Pleaded Facts.

The Third Circuit's 2-page recitation of the facts (2a-4a) entirely leaves out the pleaded facts in the 172-page Complaint giving rise to the claims of Title IX and Title VII discrimination. The Third Circuit, in a footnote, asserts the facts it states are taken from the Complaint because on a Rule 12(b)(6) motion, the Court is to accept all well-pleaded allegations as true and construe the facts in the light most favorable to the plaintiff; the Third Circuit cited *Lewis v. Atlas Van Lines, Inc.*, 542 F.3d 403, 405 (3d Cir. 2008) (2a-3a), but it is the general rule in the federal courts.

But what the Third Circuit then does is to treat the facts falsely and summarily in a way that makes a mockery of what is the well-established Rule 12(b)(6) rule and the pleaded facts.

a. First Proceeding (Im).

In one paragraph, the Third Circuit describes the first proceeding involving Im as Im accusing Verdú of sexual harassment and Princeton investigating and determining Verdú had violated Princeton's sexual misconduct policy and putting Verdú on probation. (5a-6a.)

Nothing was said about (pp. 5, 7, 10 above) how Im omitted facts and embellished other facts in a way contradicting her own email communications with Verdú, how Im presented deliberately altered "evidence" in support of her claim of sexual harassment, including select portions of a secretly taped conversation with Verdú and excerpted emails, and how the full set of emails—produced by Verdú—demonstrated that Im initiated a social relationship with Verdú.

Nothing was said about (p. 7 above) how Verdú was adamant that he made no sexual advances towards Im and had done nothing to exceed the bounds of the adviser/advisee relationship.

Nothing was said about (pp. 9, 10 above) how the Hearing Panel relied on Im's doctored recording of her conversation with Verdú, but made no mention of the fact that Im admittedly erased portions of the recording prior to turning it over as "evidence" and that the recording contained no admission or evidence of wrongdoing by Verdú and reinforced both parties' assertions that Verdú and Im continued to have a professional relationship after Im disclosed her alleged discomfort.

Nothing was said about (p. 11 above) how the definition of Sexual Harassment in Princeton's Sexual Misconduct Policy requires that unwelcome behavior be "directed at a person based on sex," how the evidence did not support a finding under that policy and how no burden of proof was applied.

b. Retaliation and Hostile Work Environment.

The Third Circuit acknowledges that Im did not believe Princeton had punished Verdú sufficiently, a feeling enhanced by Im's relationship with Cuff, who held a grudge against Verdú, and that Im engaged in a public-pressure campaign against Verdú. (3a.)

But nothing was said about (pp.12-15 above) the specifics of that public and social media campaign, which was conducted against the backdrop of the #MeToo movement and Princeton's alleged failure to protect women: Im disclosed confidential Title IX records and altered recordings to the press, commented for an article published by the *Huffington Post*, encouraged social media posts against Verdú, filed complaints with professional associations to which Verdú belonged, and publicly accused him of sex crimes.

Nothing was said about (p. 14 above) how on November 9, 2017, the *Huffington Post* published an article, "Grad Student Says Princeton Prof Who Sexually Harassed Her Was Given Slap On the Wrist," for which Im disclosed documents from the

Title IX investigation and went so far as to suggest that Verdú was interested in her because Im was a similar age to his daughter, and how the November 9, 2017 *Huffington Post* article, published against the backdrop of the #MeToo movement, prompted a firestorm of negative publicity at Princeton, leading to the plastering of flyers across campus with Verdú's photo, calls to the Princeton administration for his termination, exaggerated accusations and unsubstantiated rumors which Im and Cuff fueled by publishing editorials about Verdú in *The Daily Princetonian* newspaper.

Nothing was said about (p. 15 above) how in the course of Im's campaign of retaliation, Im violated Princeton's Title IX policies regarding confidentiality, harassment, and retaliation provisions, how despite repeated requests from Verdú, Princeton refused to address these violations and remedy the increasingly aggressive harassment and hostile environment, and about how Princeton encouraged retaliation against Verdú by taking a position that supported Im, holding on November 27, 2017, a "Town Meeting" in response to the "widespread outrage at the actions" of Verdú.

Nothing was said about (pp. 15-16 above) how Princeton warned Verdú against disclosing any emails from and to Im or any other confidential information from the Title IX proceedings and about how Verdú was unable to publicly defend himself against Im's accusations and the unsubstantiated rumors that were the subject of campus discourse,

including nearly a dozen articles in *The Daily Princetonian* attacking his character.

c. Second Proceeding (E.S.)

In one paragraph, the Third Circuit describes the second proceeding involving E.S., a graduate student whose dissertation Verdú was said (incorrectly) to have evaluated, and Verdú and E.S, denied the relationship but Princeton determined that Verdú and E.S. had engaged in an impermissible romantic relationship and Princeton's President recommended Verdú be fired because he had lied. (3a-4a.)

Nothing was said about (pp. 4, 17 above) the Complaint's pleading that Dean Kulkarni had originally determined that no investigation as to E.S. was warranted, that Verdú and E.S. had commenced a relationship in Spring 2014 when Verdú had no teacher-student relationship with E.S.—Verdú was neither her advisor nor her teacher. She had taken courses from him *three years* before the relationship began, and that at no point during their relationship was E.S. under Verdú's supervision.

Nothing was said about (p. 19 above) how no explanation or justification was given for Princeton's investigation of a report concerning a student in E.S. who had already moved on from Princeton years earlier and who herself had not initiated the complaint.

Nothing was said about (p. 20 above) how it was erroneously ruled that Verdú violated the policy on Consensual Relations with Students because Verdú served as a reader on E.S.'s dissertation, that this ruling was made based on the 2015 Hong Kong photographs and the Penn Station report in April 2015—which were times Verdú was not a reader on E.S.'s dissertation, and that Verdú was faulted for failing to disclose the extramarital affair with E.S. even though it had been E.S. who requested Verdú not to disclose the affair.

Nothing was said about (pp. 20-21 above) how Provost Prentice concluded that if Verdú and E.S. had been engaged in a consensual, romantic relationship at the time of the Hong Kong conference, there was *no violation* of the policy on Consensual Relations with Students.

Nothing was said about (p. 21 above) President Eisgruber issuing a recommendation that Verdú be dismissed from Princeton based on false assertions E.S. was under Verdú's supervision, Verdú and E.S. were in a sexual relationship when they were in a teacher-student relationship, and Verdú's protection of E.S. by not disclosing their relationship equated with dishonesty.

Nothing was said about (pp. 17, 21-22 above) Princeton using the affair as a mechanism for terminating Verdú, in an effort to appease Im—and her angry supporters who took the *Huffington Post* article at face value—who would not rest until Verdú was fired.

In short, the treatment of facts in the Third Circuit opinion is fraudulent. Proper application of law cannot be based upon such wildly false treatment of facts. The Rule of Law does not permit a "NOT PRECEDENTIAL" opinion to be a license for such wildly false treatments of fact.

3. Title IX Test.

The Third Circuit recites the test, taken from Justice Barrett's opinion in *Doe v. Purdue*, 928 F.3d 652, 667-668 (7th Cir. 2019), adopted in *Doe v. University of the Sciences*, 961 F.3d 203, 209 (3d Cir. 2020), for Title IX discrimination from: "[T]o state a claim under Title IX, the alleged facts, if true, must support a plausible inference that a federally-funded college or university discriminated against a person based on sex." (6a.)

But then the Third Circuit asserted that litigants can characterize their claims however they wish (6a) and proceeded to analyze Verdú's Title IX claims under the pre-*Doe v. Purdue* doctrinal classifications of erroneous outcome, selective enforcement and retaliation developed principally by the Second Circuit in *Yusuf v. Vassar College*, 35 F.3d 709 (2d Cir. 1994). (6a-11a.)

The Third Circuit did not acknowledge that: (i) the May 13, 2019 dated Complaint was drafted and filed when the *Yusuf* categories were the law in the Third Circuit; (ii) Verdú had argued the appeal employing the Title IX test of *Doe v. Purdue*, 928 F.3d at 667-668, and *Doe v. University of the*

Sciences, 961 F.3d at 209, decisions which had been handed down after the Complaint was drafted and filed; and (iii) under the test of *Doe v. Purdue*, 928 F.3d at 667-668, and *Doe v. University of the Sciences*, 961 F.3d at 209, Title IX discrimination was clearly pleaded.

Indeed, the case provided an illustration of how the test of *Doe v. Purdue*, 928 F.3d at 667-668, is the better legal method rather than rigidly adhering to the *Yusuf* doctrinal classifications.

4. Title IX Erroneous Outcome.

The Third Circuit purported to analyze the two proceedings under the erroneous outcome test, summarily rejecting the Title IX claim as to the first (Im) proceeding because what supposedly Verdú complained about reflect merely "the pressure on Princeton to enforce its sexual-misconduct policy" which were not enough to support a plausible Title IX claim (6a-7a) and rejecting the Title IX claim as to the second (E.S.) proceeding because supposedly Verdú admitted his guilt (7a-8a). The Third Circuit's rationales brazenly ignored what was pleaded. The Rule of Law is mocked when a basic rule of procedural law governing motions to dismiss is flouted by ignoring what is clearly pleaded. The Rule of Law does not permit a "NOT PRECEDENTIAL" opinion to be a license for such flouting of basic law.

a. First Proceeding (Im).

While Complaint paragraph 344 (102a-103a) pleads pressures placed upon Princeton for supposedly not protecting female students, three other Complaint paragraphs contain detailed lengthy pleadings supporting gender bias.

First, Complaint paragraph 342 (92a-100a) pleads a litany of procedural and adjudicative irregularities supporting an inference of gender bias consistent with *Menaker v. Hofstra*, 935 F.3d 20, 34 (2d Cir. 2019), *Doe v. Purdue*, 928 F.3d 652, 669 (7th Cir. 2019), *Doe v. Columbia*, 836 F.3d 46, 57 (2d Cir. 2016), and *Doe v. Univ. of Arkansas-Fayetteville*, 974 F.3d 858, 864-865 (8th Cir. 2020), including: Crotty's conflict of interest as a Title IX Director of Gender Equity and Title IX Administration and a panel member supposedly impartially investigating Im's allegations, formulating charges against Verdú and adjudicating them; Crotty's withholding of evidence and information to Verdú; the lack of questioning by the panel of Im's alteration of evidence and about Cuff's role; the panel's disregard of evidence undercutting Im's credibility, her e-mails contradicting her claims of discomfort with Verdú; Im's selective disclosure of her own e-mails; Im's destruction of part of a secret recording of Verdú; despite the need for a credibility determination, there was no cross-examination; the panel impeached Verdú over his description of *The Handmaiden* but then refused Verdú's offer to the film which Im had enthusiastically watched but

later claimed made her uncomfortable; the panel misinterpreted the definition of sexual harassment that required that the unwelcome conduct be directed at a person.

Second, Complaint paragraph 343 (100a-102a) pleads adjudicative irregularities—"the Panel's report shows that gender bias was a motivating factor behind their erroneous finding that Plaintiff [Verdú] violated the Sexual Misconduct Policy," citing (a) by all accounts, the Verdú-Im professional relationship was not affected by the purported sexual harassment; (b) the Panel relied upon the IMDh *Parents Guide* to determine whether the content in *The Handmaiden* was appropriate for a 25-year old woman; (c) Verdú was serving wine to Im despite Im's request each and every time for red wine; (d) the Panel ignored that Im requested that she and Verdú watch *Oldboy* and *Thirst* after watching *The Handmaiden*; (e) the Panel report reflected the gender-biased assumption that Verdú's actions toward Im were sexual because Im is female and Verdú is male; and (f) Verdú was expressly discouraged from appealing by the panel and Verdú's 55-page, 82-attachment appeal was rejected in one sentence.

Third, Complaint paragraph 345 (103a-104a) pleads that Princeton engaged in investigations and adjudications of males resulting in unduly severe sanctions while not making comparable efforts as to females. The severity of sanction reflects a gender biased belief that males need to be sanctioned severely for sexual misconduct. Gruber,

Anti-Rape Culture, 64 U. Kansas L. Rev. 1027 (2016).

b. Second Proceeding (E.S.).

The Third Circuit notes that Verdú claimed sex discrimination as to the second proceeding (E.S.) because of the lack of any evidence of sexual misconduct, Princeton pressed the proceeding despite E.S. not wanting a case to occur, the procedural irregularities in the investigation and a variety of public pressures placed upon Princeton. The sole ground for affirming the dismissal of the claim was, supposedly, Verdú admitted his guilt so as to undercut his claim of sex discrimination. But Verdú did not admit guilt.

Quite differently, what is pleaded is that that E.S., when interviewed by Crotty denied anything improper with respect to Verdú, that E.S. then pleaded with Verdú not to reveal their relationship, that Verdú was unconcerned about policy violations—as the relationship had not violated any policy—but about the harm that could result from any disclosure of the relationship, that along with E.S., Verdú denied the relationship when interviewed in April 2017 by Crotty. (65a-66a; Cmplt. ¶¶ 123-124.)

The District Court's opinion was dead wrong about this point. The three Complaint paragraphs cited (8a) contradict the assertion. *First*, Complaint paragraph 229 simply quotes the Faculty Rules proscribing sexual and romantic professor-student

relationships. *Second*, Complaint paragraph 235 (68a-69a) denies such a relationship here, stating:

> Dr. Verdú and E.S. commenced a relationship in Spring 2014. At the time, Dr. Verdú had no teacher-student relationship with E.S., he was neither her advisor nor her teacher. She had taken courses from him *three years* before the relationship began. At no point during the course of their relationship was E.S. under Dr. Verdú's supervision.

Third, in Complaint subparagraph 298(h) (74a-75a), Verdú denied dishonesty to the investigators about the relationship with E.S., stating in pertinent part:

> [T]he investigators simply assumed that any fact not remembered and volunteered by Dr. Verdú, about events that took place years before he was questioned, signaled dishonesty. Moreover, when Dr. Verdú merely agreed to serve as a reader was irrelevant to whether doing so in September 2015 violated the policy on Consensual Relationships with Students. As set forth *supra* at Paragraphs 107-108, 235-237, 252, 261, 264, 266, 268 and 278, it did not. This is yet another example of the investigators grasping at straws to find a policy violation.

Worse, the Third Circuit (and the District Court) ignored the Complaint's pleading that Princeton's Provost recognized that the Verdu-E.S. relationship did not violate Princeton Policy but that Princeton's President misrepresented it in order to justify Verdú's termination. (66a, 77a-91a; Cmplt. ¶¶ 124, 271, 278-279, 304; pp. 17-21.)

5. Title IX Selective Enforcement.

The Third Circuit rejects Verdú's Title IX selective enforcement claim (a) because the allegations are either "too abstract" or "too conclusory" and (b) because the allegations for the erroneous outcome theory of sex discrimination that were also applicable to the selective enforcement theory of sex discrimination were rejected for the same reasons.

As discussed above, the Complaint's allegations flatly contradict the Third Circuit's grounds for rejecting the erroneous outcome theory, and thus those reasons cannot be invoked as to the selective enforcement theory.

Allegations that females are investigated less frequently than males and females are punished less severely than males are plainly not too abstract, but rather are easily comprehensible and justify discovery. Allegations that Princeton treated Im more favorably than Verdú are not too conclusory, particularly given the specific and lengthy detail in the Complaint about how Im was treated more favorably than Verdú in the investigation, in the Panel hearing and report and with respect to

Im's public pressure campaign. (65a-67a; Cmplt. ¶¶ 76-221; see pp. 12-16 above.)

When a litigant comes into court with the kind of factual detail that Verdú has in the Complaint, the litigant should be able to expect treatment per the law and not be given the back of the hand with convenient but false characterizations. The Rule of Law does not permit a "NOT PRECEDENTIAL" opinion to be a license for such treatment.

6. Title VII Hostile Work Environment.

Two unjustified statements in the Third Circuit opinion are: (i) "Verdú's complaint never connects the purported "hostile work environment" and Im's public pressure to any purported sex-based discrimination" (9a-10a) and (ii) Verdú did not allege the harassment he suffered was motivated by sex discrimination (13a-14a).

Verdú pleaded the connection between the "hostile work environment" and Im's public pressure to sex-based discrimination. The hostile work environment was created by Im engaging in a public and social media campaign, against the backdrop of the #MeToo movement and Princeton's alleged failure to protect women, attacking Verdú as a sexual predator with the aim of forcing his termination; and Verdú was terminated for violating Policy he did not violate because Verdú was an accused male, albeit a falsely accused male, in a second proceeding that E.S. did not want and Dean Kulkarni originally determined no investigation was warranted

but that culminated in Verdú being terminated based on a purported violation of Policy that Verdú did not violate. (*See* pp. 16-22 above; 58a-59a; Cmplt. ¶¶ 12, 177-187, 192, 357-378, 226-298).

The Third Circuit's denial that the hostile work environment was motivated by sex is an unprincipled, untruthful denial of the obvious. Verdú was wrongly attacked publicly as a sexual predator in Im's publc campaign to get Verdú fired. Princeton enabled McCarthy-like sex-based social pressures to run rampant (here, the #MeToo movement) and terminated Verdú. The Rule of Law does not permit a "NOT PRECEDENTIAL" opinion to be a license for such treatment.

CONCLUSION

Based on the foregoing, this Court should grant the petition for a writ of certiorari and such other and further relief as deemed just and proper.

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