

No. _____

In the
Supreme Court of the United States

MELISSA E. ING,

Petitioner,

v.

TUFTS UNIVERSITY,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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February 16, 2024

QUESTIONS PRESENTED

Petitioner Dr. Melissa Ing is a highly talented dental educational leader, researcher, and author. She was denied promotion to full professor because she reported sexual harassment of an accused serial sexual harasser. Respondent Tufts University claims Petitioner was unworthy and that retaliation and discrimination played no roles in Respondent's decision, but this position ignores demonstrably false information and critical evidence. The imposition of a protective order violated 20 U.S.C. § 1681-1688 Title IX law due to mandatory requirements to report unlawful sexual harassment, retaliation and discrimination. The lower court excluded critically important evidence which caused the courts to rule against Petitioner unjustly.

The Questions Presented Are:

1. Whether the lower court relied on demonstrably false information, submitted by Tufts University to reject Dr. Melissa Ing's retaliation and gender discrimination claims, subsequent to sexual harassment and patient safety whistleblowing reporting. (18 U.S.C. § 1001 and 18 U.S.C. § 1621)
2. Whether the lower court failed to utilize critical evidence demonstrating that Dr. Ing pled retaliation and disparate treatment subsequent to sexual harassment and patient safety whistleblowing reporting.
3. Whether the lower court improperly applied the laws 42 U.S.C. § 2000e, 20 U.S.C. § 1681 and M.G.L. Ch. 151B.

PARTIES TO THE PROCEEDINGS

Petitioner and Plaintiff-Appellant below

- Petitioner is Melissa E. Ing, D.M.D., E.M.B.A.
Melissa Ing was appellant in the First Circuit.

Respondent and Defendant-Appellee below

- Respondent is Tufts University. Tufts University was appellee in First Circuit.

LIST OF PROCEEDINGS

United States Court of Appeals for the First Circuit
No. 23-1030

Melissa Ing, *Plaintiff, Appellant* v. Tufts University,
Defendant, Appellee

Date of Final Opinion: August 29, 2023

Date of Rehearing Denial: September 19, 2023

United States District Court for the District of
Massachusetts

No. 1:21-cv-10032-RGS

Melissa Ing v. Tufts University

Date of Final Order: October 13, 2022

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PETITION FOR A WRIT OF CERTIORARI

Melissa E. Ing, DMD, EMBA, respectfully petitions the Supreme Court for a writ of certiorari to review the judgment of the 1st Circuit of Appeals.



OPINIONS BELOW

The opinion of the United States Court of Appeals for the First Circuit was issued on August 29, 2023. App.1a. The First Circuit affirmed the judgment of the District Court (1:21-cv-10032-RGS), issued on October 13, 2022, App.17a, denying Petitioner's claims against Respondent, Tufts University, on summary judgment, refusing to alter or amend that ruling under Fed. R. Civ. P. 59(e), holding that there was no error.

Petitioner sought rehearing by the Court pro se, since attorney recused himself from the case, which was denied on September 19, 2023. A copy of the First Circuit's ordering denied rehearing is attached as App.33a.



JURISDICTION

The First Circuit Court of Appeals entered judgment on August 29, 2023. App.1a.

A timely petition for rehearing was denied by the First Circuit Court of Appeals on September 19,

2023. A copy of the order deny rehearing appears at App.33a.

Justice Jackson extended the time in which to file an extension for writ of certiorari, (the application number 23A466) until February 16, 2024.

Jurisdiction is invoked under 28 U.S.C. § 1254(1).



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 1001

False Statements “knowingly and willingly... make any materially false, fictitious, or fraudulent statement or representation” in the course of “any matter within the jurisdiction of the executive, legislative, or judicial branch” of the federal government. There is no requirement that the statement be under oath.

18 U.S.C. § 1621 – perjury against lying.

Statute makes it a crime to “willfully and contrary to (an) oath state or subscribe any material matter which he does not believe to be true.” It likewise criminalizes doing so in a written statement made under penalty of perjury, and it applies to statements made in federal court or other proceedings under oath, including congressional hearings.

20 U.S.C. § 1681-1688

Title IX of the Education Amendments of 1972 prohibiting discrimination on the basis of sex in any federally funded education program or activity.

29 U.S.C. § 651-678

Occupational Safety and Health Act of 1970 purpose is to reduce the incidence of personal injuries, illness, and death, among working men and women in the United States that result from their employment.

42 U.S.C. § 2000e

Title VII of the Civil Rights Act of 1964. Prohibits covered employers from discriminating on the basis of race, national origin, sex, or religion.

MGL Chapter 151 B

violation for an employee to be discriminated against due to her gender or being subjected to a hostile environment due to her gender, due to sexual harassment.

MGL Chapter 149 § 187

health care providers; protection from retaliatory action by health care facilities.



STATEMENT OF THE CASE

A. Introduction

This case presents substantial, important questions, and omissions, involving United States 20 U.S.C. § 1681-1688 (Title IX) and 42 U.S.C. § 2000e (Title VII) laws.

Title IX prohibits sexual harassment, abuse, retaliation, and discrimination at any federally funded institution. More than 50 years later, Title IX is not working.¹

Sexual harassment is found in EVERY sector, it is especially rife in academia.²

In 2018, National Academies of Science, Engineering, and Medicine (NASEM) reported; 58% of faculty are sexually harassed.³ 38% of female and 23.4% male graduate students report sexual harassment by faculty or staff.⁴ App.35a. The latest

¹ *Title IX: Falling Short at 50*, USA TODAY Investigation <https://www.usatoday.com/in-depth/newsinvestigations/2022/05/26/title-ix-falling-short-50-exposes-how-colleges-still-fail-women/9722521002/>

² *When It Comes to Sexual Harassment, Academia is Fundamentally Broken*, SCIENTIFIC AMERICAN, 2018

³ *Sexual Harassment in Academic Science, Engineering, and Medicine 2018 Report*. <https://www.nationalacademies.org/our-work/sexual-harassment-in-academia>

⁴ Rosenthal, Smidt, and Freyd, *Still Second Class: Sexual harassment of graduate students*. (2016) PSYCHOLOGY OF WOMEN QUARTERLY. 2016.

research from U. Massachusetts, Amherst shows 99.8% victims do not report.⁵ Victims that come forward are punished.³

Department of Education's Office of Civil Rights finds blatant institutional Title IX violations, the only way to sanction is removing federal funding, which rarely happens.¹ As a result, institutions skirt Title IX law.

For instance, the Department of Education cited Tufts University in 2014 for mishandling a nationally highlighted student rape case.⁶ Eventually, Tufts was nudged into compliance. Gender-based violations are overlooked in academia because institutions select their own Title IX Compliance Officers. This is a conflict of interest because OEO's mainstay is to preserve institutional reputation and federal funding rather than victims' safety.

Protective orders and NDAs silence victims yet violate Title IX's mandatory reporting. Sexual harassment, abuse, gender harassment, retaliation, and discrimination thrive in secrecy and perpetual cover-up.^{7,8} Sexual harassers are typically serial. Often,

⁵ *Employer's Responses to Sexual Harassment*, Center for Employment Equity/UMass Amherst 2023. <https://www.umass.edu/employmentequity/employers-responses-sexual-harassment>

⁶ *Tufts accepts finding it violated law in sex assaults*, THE BOSTON GLOBE <https://www.thebostonglobe.com/metro/2014/05/09/reversal-tufts-accepts-finding-that-violated-title-sexual-assault-cases/AIjGY7mlMgZRXmPIgslxl/story.html>

⁷ Hershcovis et. al. See *No Evil, Hear No Evil, Speak No Evil. Theorizing network silence around sexual harassment*, JOURNAL OF APPLIED PSYCHOLOGY 106 (12) 2021.

harassers receive little/no punishment and transfer from institution to institution. This phenomenon is so common that it is coined “Pass the Harasser”. In 2019 The Chronicle of Higher Education called Pass the Harasser Higher Education’s ‘Worst-Kept Secret’.⁹

B. Factual Background

Tufts violated 3 extremes of wrong-doing, putting Dr. Melissa Ing, her peers, patients, students, and staff, through physical and mental abuse.

- 1) Hiding serial sexual harassment and known perpetrators at Tufts University School of Dental Medicine. (20 U.S.C. § 1681-1688)
- 2) Resultant retaliation and discrimination. (42 U.S.C. § 2000e, M.G.L. Chapter 151B)
- 3) Hiding high bacteria/dirty water within the dental building and dental water lines. (29 U.S.C. § 651-678)

Dr. Ing began working at Tufts Dental, her alma mater, in 2011. Shortly afterwards, colleague Dr. Roland Vanaria began sexually harassing Dr. Ing. The harassment became persistent, intensifying in early 2017.

Formal serial complaints were filed against Dr. Vanaria by faculty and students. Supplemental (sealed documents) Appendix (“SSA”) SSA.1a-5a, App.37a-43a.

⁸ Hershcovis et al., *Complicity and silence around sexual harassment are common-Cuomo and his protectors were a textbook example*, THE CONVERSATION 2021.

⁹ Brown and Mangan. ‘Pass the Harasser’ Is Higher Ed’s Worst-Kept Secret. How can Colleges Stop Doing it? THE CHRONICLE OF HIGHER EDUCATION. 2019.

Dr. Vanaria regularly slapped his thighs, asking Dr. Ing: "Hon, why don't you sit on my lap?" Dr. Vanaria regularly asked Dr. Ing to lift up her lab coat, seeing what she was wearing underneath. He regularly leered at Dr. Ing's body parts, making comments about her clothing and footwear. Dr. Vanaria waited for Dr. Ing after night clinic ended, stalking her. Dr. Vanaria entered her private office and propositioned her to have "monkey business".

Dr. Ing asked Dr. Peter Arsenault, her direct supervisor, to move Dr. Vanaria from her immediate office area and delete his key swipe access. Dr. Vanaria belonged to another department. Dr. Arsenault refused. On Dr. Vanaria's scheduled workdays Dr. Ing walked around the hospital to avoid Dr. Vanaria. Since oral complaints did not work, Dr. Ing email complained to Dr. Arsenault on June 6, 2017, triggering a Title IX OEO report. OEO officer Alida Bogran-Acosta conducted an inadequate, negligent "investigation".

OEO asked if Dr. Vanaria was staring at Dr. Ing from 3, 6, or 10 feet away, as if that made a difference. OEO claimed that Dr. Vanaria was "cross-eyed" so, he could not have possibly stared at Dr. Ing's breasts and legs, forgetting that Dr. Vanaria performs intricate dentistry and drives.

OEO concealed serial sexual and gender harassment claims, violating 20 U.S.C. § 1681. SSA.1a-5a OEO yelled at Dr. Ing to convince her there were no other faculty/student claims against Dr. Vanaria. Tufts graduates attested to unaddressed sexual harassment. App.37a-44a. OEO accused Dr. Ing of capitalizing on Harvey Weinstein and the #metoo movement.

After OEO reporting, Dr. Arsenault deliberately changed Dr. Ing's long-established clinic assignment, forcing her to work on the same floor, next to Dr. Vanaria. Dr. Arsenault stated that if Dr. Ing did not like it, to figure out her own switch back. Dr. Arsenault perjured, (18 U.S.C. § 1621) falsely claiming he separated Drs. Ing and Vanaria. SSA.6a-9a App.46a-48a (18 U.S.C. § 1001) Dr. Ing was bullied, hated by her co-workers, and continually humiliated. Dr. Ing dreaded going to work. OEO blamed Dr. Ing for creating her own toxic work environment.

Dr. Ing hired an attorney November 2017 to advocate against sexual harassment and retaliation. App.49a. In November 2017 Dr. Ing's physician referred her for emergent sexual harassment therapy. Once the attorney was hired Dr. Arsenault changed Dr. Ing's established schedule a 2nd time, scheduling her with Dr. Vanaria's friends, who asked why she was on their floor.

In December 2017 Tufts asked Dr. Ing to consider a leave of absence.

Dr. Arsenault threatened multiple times to remove Dr. Ing as Tufts' Consortium of Operative Dental Educators (CODE) Region V Dental Conference representative, where she presented annually. CODE is a cariology (study of dental decay) and dental materials conference, both subjects directed by Dr. Ing at Tufts. Dr. Ing was Secretary and Co-chair of CODE Region V, required national leadership positions towards promotion.

Dr. Arsenault was hostile during Dr. Ing's 2018 annual review. He did not believe her reported number of unpaid, extracurricular hours worked. Previously,

he said that she worked too much. Dr. Arsenault disparaged Dr. Ing as a “dramatic”, “great disruption”, and liar. Dr. Arsenault was so hostile that Dr. Ing burst into tears, bewildered. Couple months later, Dr. Vanaria was terminated for reasons unrelated to Dr. Ing.

In 2018 Tufts denied Dr. Ing’s promotion to the rank of full professor.

Dr. Melissa Ing’s national reputation as an extraordinary educator and leader is evidenced by receiving the most prestigious peer-reviewed national dental honor: The 2015 Colgate-Palmolive American Dental Education Association (ADEA) Award for Teaching Excellence, selected from 70 plus dental schools’ faculty members. Dr. Ing won two Kaiser-Permanente University of Connecticut Teaching Excellence Awards. She is national recipient of the Million Women Mentors/STEM Connector Trailblazers Community Award, honoring her STEM education leadership work with children. Dr. Ing has been awarded/nominated 14 times regionally, nationally, and globally for leadership, teaching excellence, scholarship, and service. App.56a-67a, App.88a-92a.

Candidates to promotion are required to demonstrate evidence for: 1 primary and 1 secondary “Area of Excellence”, along with submitting evidence for a 3rd mandatory category: Community service, Citizenship, Professionalism. App.68a-71a, App.143a-150a.

Dr. Ing’s curriculum vitae speaks for itself. App.81a.

“Teaching” was Dr. Ing’s primary Area of Excellence, her secondary category was “Educational Leadership”. She possessed multiple pieces of evidence

towards all categories, superseding the published Promotions Guidelines.

Her long-time chairman, Dr. Chuck Rankin, and Associate Dean Nadeem Karimbux were surprised Dr. Ing was not promoted, Karimbux saying: "I would think that you would have been promoted due to your technology, innovation, and expertise". App.58a, 250a-259a Dr. Arsenault testified that Dr. Ing should have been promoted.

Troubling inconsistencies and deceit swirl around Dr. Ing's evaluation and denied promotion. Dr. Ing was eventually informed she was not promoted because she did not hold national leadership positions, that she was not a Course Director, that she was neither "national/international"-all false.

Committee secretary, Monika Bankowski, testified she recorded and filed minutes for all Committee meetings, (per Tufts Bylaws specifications Page 3) App.151a-153a yet minutes concerning Dr. Ing from March-July 2018 are missing. Tufts claimed that Monika has a "bad memory" and no minutes exist.

A digital voting document bearing no date/time stamp was proffered. App.154a. At litigation Dr. Ing was informed a vote took place March/April 2018. Inconsistent email evidence demonstrates that vote was not ever completed March/April/June/July. A few Committee members convened June, July, August 2018 to draft multiple letters towards Dr. Ing's promotion. App.155a-162a. Their final decision (App.166a-168a) was: "to withhold Dr. Ing's promotion until a later date" and would reconsider promotion if Dr. Ing re-submits, changing to "*Secondary Area of Excellence to Clinical Instruction, Expertise, and Innovation* as

her second goal". Dr. Ing never received this letter because Dean Huw Thomas intervened. SSA.10a-34a, SSA.65a-66a, SSA85a-86a App.163a-171a.

Dean Huw Thomas, himself, was accused twice of sexual harassment at Tufts, knew of Dr. Ing's and another faculty member sexual harassment complaints regarding Dr. Vanaria. SSA.85a-86a. Dean Thomas did not comply with prompt mandatory reporting under Title IX law. SSA.1a-5a.

Dean Thomas orchestrated Dr. Melissa Ing's promotion denial:

Dean Thomas altered the Committee's decision, to a full denial (App.169a), after testifying he was not involved with Promotional decisions. SSA.10a-34a, SSA.65a-66a, SSA.85a-86a App.163a-171a. Furthermore, he deleted the Committee's recommendation/opportunity for Dr. Ing to resubmit materials under a different category towards promotion. Dean Thomas neglected notifying the Committee or Dr. Ing of his decision to deny her promotion. Dr. Ing waited 7 months before finding out about her demise. 18 U.S.C. § 1001 Dean Thomas testified he had no idea why Dr. Ing waited months to find out why her promotion was held up, yet he was the reason. SSA.21a, SSA.85a.

Dr. Ing inquired twice; finally was told to meet with Dr. Carole Trotman, who informed her promotion was "unsuccessful" because she was "not a Course Director". Her comparator, Dr. Richard Harold was informed and allowed to reapply immediately, demonstrating discriminate treatment.

Dr. Ing asked Dean Thomas September 20, 2018 why she was not promoted. Dean Thomas replied: "it does not matter if your accomplishments are way up

here" (he gestured above his head) and others' are down here (he gestured at his stomach)". Dr. Ing asked why Tufts bothered publishing guidelines/having benchmarks. Dr. Ing said to Dean Thomas: "I'm being punished." Dean Thomas answered: "You mean because of that, that Guy?!" Dr. Ing answered: "Yes". Dean Thomas finally sent out copies of his denial letters on September 20, 2018.

Dean Thomas refused to allow Dr. Ing reapply with Dr. Rankin, her long-time chairman. Dean Thomas ordered Dr. Ing to wait for Dr. Andrea Zandonà's (Dr. Rankin's replacement) arrival. Dr. Rankin told Dr. Ing that Dean Thomas demoted him to hide Dr. Ing's sexual harassment, shocking and saddening Dr. Ing.

Since Dr. Ing had already waited many months to hear about promotion status, it was cruel to wait another 4-5 months for her new chair to arrive when she had impending brain surgery.

At Dean Thomas' suggestion, Dr. Ing visited Provost Deborah Kochovar. Provost Kochovar said: "The promotions process is new. There are bugs. If we made a mistake, we will fix it for you." SSA.85a When Dr. Ing told her there was sexual harassment at the dental school, the meeting ended abruptly, closing the door on further promotion discussions.

In 2013 Dr. Arsenault designated Dr. Ing "Course Director", "Introduction to Clinical Dental Materials". Dr. Ing was called Course Director for 5 years until she reported sexual harassment and applied for promotion. Dean Thomas fraudulently called Dr. Ing's yearly course a "one time course". After questioning

Dean Thomas on why she was listed online as Tufts Course Director, the listing was spoliated. App.172a.

Dr. Ing annually led teams of 25 faculty, student teaching assistants, IT, and staff for a class size of 235. Dr. Ing drilled hundreds of plastic teeth months in advance, for her interactive, high technology, computerized course. Dr. Ing fabricated more than 28 educational videos to additionally facilitate 24/7 learning outside the classroom. Each video required a minimum of 30 hours fabrication time. Dr. Ing created a syllabus, learning objectives, handouts, quizzes, and examination. Student evaluations garnered:

“Incredible course”, “best workshop so far at Tufts”, “This workshop slammed all of 1st year operative into it.”; “Dr. Ing is amazing”.

Tufts concealed multiple other courses that Dr. Ing designed, delivered, including: Year I Cariology, Year III Cariology lecture and laboratory workshop, Dental Ergonomics, Standardized Case Notes, and Introduction to Fluoride.

Dr. Ing was national Consortium of Operative Dental Educators (CODE) Region V Secretary and Co-Chair.¹⁰ App.81a. She was a national Colgate-Palmolive Faculty Advisory Committee Consultant.

¹⁰ The Consortium of Operative Dental Educators (CODE), founded in 1966, is represented in every American and Canadian dental school. CODE aims to standardize operative dentistry curriculum.

Dr. Ing continues to be a United States dental board examiner (CDCA-WREB-CITA)¹¹.

Dr. Ing was principal investigator/lead in many of her 18 plus research projects. She coached teams to win two elite national research award titles for her celiac/gluten and LED light projects. Dr. Ing was honored with the 2015 Bates-Andrews Faculty Award for promoting research. Her research has been published nationally and internationally. App.130a-138a.

Dr. Ing led multiple scholarly projects, including her signature STEM initiative, "Mini Medical School",¹² encouraging youth to consider health science careers. Mini Medical School was featured nationally and internationally.¹² She was recognized with a national Million Women Mentors/STEM Connector Trailblazer Community Award. Dr. Ing led Team Tufts' "Team Smile," a free dental care program. Dr. Rankin called Dr. Ing a "dynamo", the first to volunteer to help Tufts/ community. App.177a-180a.

Dr. Ing is crushed that her Mini Medical School and research were halted. Sexual harassment and retaliation are public health crises, negatively impacting many groups of people, not just the victim.

After recuperating from brain surgery, Dr. Ing met Dr. Andrea Zandona on December 13, 2018. Dr. Zandona praised Dr. Ing's many accomplishments.

¹¹ CDCA-WREB-CITA serves jurisdictions in the United States, Canada, Jamaica, in the mission of public safety dental licensure examination administration.

¹² The "Mini Medical School" with Dr. Melissa Ing-OASIS Discussions. 2019 <https://oasisdiscussions.ca/2019/10/02/the-mini-medical-school-with-dr-melissa-ing-2/>

Dr. Ing explained how Dr. Vanaria sexually harassed her, how she was retaliated against, then denied promotion. Three weeks later, January 9, 2019, Dr. Zandona changed, stating to Dr. Ing: “I most likely am not going to promote you.”

Contemporaneously, in January 2019, Dr. Zandona endorsed, assisted Dr. Ing’s colleague, Dr. Richard Harold to promotion after just meeting him November 2018. SSA.35a-40a, SSA.43a-61a Yet, Dr. Zandona testified that she was “too busy” to assist Dr. Ing.

At their next meeting on March 21, 2019. Dr. Zandona invaded Dr. Ing’s health privacy, asking how often she attended sexual harassment therapy. Dr. Zandona opined: “You need to go more often”. Dr. Zandona insisted that Dr. Ing attend PUBLIC sexual misconduct class, regardless of Dr. Ing’s anxiety of being filmed, being in the same room as her bullies. Dr. Ing’s physician intervened, requesting alternative training due to Dr. Ing’s harassment trauma.

Dr. Zandona requested Dr. Ing wait until July 18, 2019, 5-months later for the next promotions meeting. Dr. Zandona asked: “Why are you here? The rules for promotion have changed. You need to be international.” Dr. Ing replied: “But I already AM international.” Dr. Zandona falsely claimed: “You are not international ENOUGH!” Drs. Arsenault and Harold were never international at all at the time of promotion and still are not. Dr. Ing asked Dr. Zandona to compare her dossier and CV to the men that were promoted but Dr. Zandona refused.

Tufts Promotions Guidelines document that full professor candidates require receipt of 5 positive “External Reviewer Letters”, utilizing a process where-

by letters could only be solicited by Monika Bankowski. Dr. Ing received 8 very positive complimentary external reviewer letters, each endorsing Dr. Ing to promotion of full professor.

Dr. Ing's 8 external reviewers, wrote positive letters, recommending promotion. They are: Drs. Jonathan C. Meiers, Howard Strassler, Chandra Iyer, Edmund Peters, Michael T. Goupil, Frank Nichols, (Colonel) Paul Longo, Colin Kong. App.181a-215a.

Tufts manipulated Dr. Ing's emails, fraudulently passed off two of Dr. Ing's colleagues, Drs. Mark Wolff and Maria Blanco, as Dr. Ing's external letter reviewers, obfuscating the lower courts.

The lower courts believed Tufts, overlooking Dr. Blanco's positive January 6, 2019 email: "...I believe that you are going for Leadership and Teaching, both of which you vastly fulfill." App.216a.

Dr. Zandona emailed Dr. Ing October 8, 2019:

"only 'formal' letters and review that are allowed in the process are the ones that are requested by Monika's office. If you want to send your dossier for colleagues to informally give you their input you can... their input can provide you guidance but will have no bearing on the FAPTC decision." App.280a.

Ironically, Dr. Zandona emailed Dr. Ing rule reminders. Dr. Ing adhered to rules, as opposed to Dr. Zandona, who submitted simulated October 29, 2019, letter, falsified dates, activities; simulated external letter reviewer materials to make Dr. Ing appear unworthy. (18 U.S.C. § 1001). App.218a-224a.

Candidates place “peer letters”/letters of support from colleagues, students, graduates, and foundations in dossier. App.225a-240a. Only the external review letters are weighted and Dr. Ing had the requisite 5 plus 3 more.

Ironically, Dr. Mark Wolff was one of Dr. Arsenault’s external letter reviewers, his letter recommending Dr. Arsenault NOT be promoted to full professor. Dr. Arsenault perjured during deposition, saying he never received an external letter from Dr. Wolff. SSA.41a-42a Comparator Harold had a missing letter. SSA.35a-40a, SSA.43a-61a. Arsenault and Harold had negative/missing external reviewer letters, but both were promoted. Tufts simulated 2 external letter reviewers for Dr. Ing, when Tufts was in receipt of 8 authentic external review letters. Tufts concealed the truth, created deception to make Dr. Ing appear unworthy to the lower courts.

Associate Dean Mary Jane Hanlon announced at a July 2019 Risk Management Meeting, that for 18 months she was unable to control excessive bacterial contamination from Tufts tap water and dental waterlines. Safe drinking water allows a maximum limit of 500 colony forming units (CFU) of heterotrophic bacteria per milliliter (500 CFU/ml)¹³. Tufts’ dental waterlines contained 12,000 CFU/ml, 26 times over the EPA acceptable limit. Dirty water potentially puts young/elderly patients at risk for Legionnaires

¹³ US Environmental Protection Agency, *Water National Primary Drinking Water Regulations*. https://www.epa.gov/sites/default/files/2016-06/documents/npwdr_complete_table.pdf September 2022.

disease or mycobacterium abscesses.¹⁴ Dr. Hanlon (then Massachusetts Dental Society President) and Dean Nadeem Karimbux (Huw Thomas' replacement) ordered the 20 room members to unethically conceal the water contamination information from faculty, students, staff, and patients. App.241a-249a. 29 U.S.C. § 651-678 MGL Ch.149 § 187 Dean Hanlon bullied Dr. Ing publicly since reporting sexual harassment. Dr. Ing kept quiet to avoid her wrath. Tufts temporarily used distilled water while Dean Hanlon claimed to find a solution. On August 20 2019 Dr. Ing's right eye was forcefully sprayed with contaminated water and acidic tablet due to defective handpiece drills. Dean Hanlon stopped using distilled water because she deemed it "too expensive", locking up supplies. Dr. Ing could not flush her eye due to contaminated tap water. Dr. Ing ran to the Poland Spring dispenser but it was empty. Dr. Ganda, Tufts' MD, requested Dr. Ing report to the ER. Dr. Ing was subjected to a painful exam, tetanus shot, antibiotics, plus ophthalmologist follow-up. Dr. Ing requested the Tufts deans resolve the dirty water problem, making her a double whistleblower. During COVID, the contaminated water issue remained unresolved.

Dr. Zandona told Dr. Ing she required a "focus" and that it should be celiac disease. Prior to Dr. Zandona's arrival, Dr. Ing already had a concentration of celiac research, presentations, publications for years. She was invited to present nationally, internationally at live, webinar, podcast venues and has published international articles on gluten and celiac. App.103a-

¹⁴ Mirna Alsharif, *CDC warns of bacteria in dental waterlines after children are infected*. NBC NEWS. 2022.

109a, App.250a-259a. Dr. Ing's research team won 2nd place nationally out of more than 200 ADEA entries. App.81a, App.88a-90a, App.120a. In New York City Dr. Zandona listened to Dr. Ing's celiac lecture. Afterwards, Dr. Zandona said Dr. Ing is "very passionate and knowledgeable" and was "tired just by reading all that you have been doing".

Dr. Ing's celiac concentration was so prolific, Dr. Zandona unfairly asked Dr. Ing to switch to a STEM education focus. Yet, Dr. Ing already presented and published STEM at national and international levels.

When Dr. Ing asked why comparators, such as Arsenault were promoted without a "focus", Dr. Zandona replied that she didn't know why, yet insisted it become a new promotional topic and that Dr. Ing was not worthy.

When Dr. Ing lectured about caries prevention and cancer at national Academy of General Dentistry meeting, Dr. Zandona's asked: "How did you get asked to do that?" When Dr. Ing was nominated for the White House Presidential Award for Excellence in Science, Mathematics, and Engineering Mentoring and a National Science Board Award, Dr. Zandona said: "those are just nominations."

Dr. Zandona asked Dr. Ing to design and deliver an inaugural fluoride course for Tufts and run autumn cariology labs. Dr. Ing asked if she could be Course Director.

Dr. Zandona told Dr. Ing that she did not need to be Course Director to be promoted, which confused Dr. Ing.

Dr. Zandona concealed Dr. Ing's national leadership roles from the lower courts, despite witnessing Dr. Ing conduct CODE meeting as Secretary and Co-Chair. Dr. Zandona falsely accused Dr. Ing of "doing everything" as Tufts Co-chair ad-hoc Calibration Committee. Dr. Zandona condescended Dr. Ing's 14-year track record of effective, multiple, award-winning administrative leadership as University of Connecticut's Team Leader and Clinic Director. App.56a-60a, App.81a-88a.

Ten months later, October 3, 2019, Dr. Zandona confirmed she would not be endorsing Dr. Ing for promotion.

Dr. Zandona requested a second meeting with Dr. Ing on November 13, 2019, starting off with: "You need a lot of improvement". She belittled Dr. Ing's national accolades, leadership positions, international presentations, webinars, publications, research. Dr. Zandona asked Dr. Ing to conduct more research, publish more, seek more grants, demands not asked of anyone else.

Dr. Ing was excited about her celiac collaboration with Harvard but Dr. Zandona said: "You don't know how to do that type of research", dismissive of Dr. Ing's latest celiac project winning a national prize. Dr. Ing replied: "If I could walk on water, you would tell me that I can't. You're NEVER going to endorse me for promotion, are you?" SSA.85a-86a. Dr. Zandona did not answer.

Dr. Ing attempted to meet with newly installed Dean Nadeem Karimbux multiple times about Dr. Zandona's meanness, but he kept making excuses to avoid her. SSA.67a-80a App.268a-272a.

Dr. Karimbux used to be Dr. Ing's favorite Tufts person. She enjoyed their 7-year working relationship. She lost all respect when Dean Karimbux concealed Tufts' contaminated water issues, thereby putting patients, students, and staff at risk. When Dean Karimbux worked with Dr. Zandona to sabotage Dr. Ing's promotion and career he betrayed definitions of leadership, truth, and integrity. SSA.81a-84a, SSA.67a-80a, SSA.87a-89a.

On November 22, 2019 Dr. Vanaria called Dr. Ing, as she entered her home at night. Brookline, MA Police assisted.

In January 2020 Dr. Ing was diagnosed with major depression and PTSD from sexual harassment, bullying, and toxic work environment.

On April 27, 2020 Dr. Vanaria called Dr. Ing. Brookline, MA Police intervened, asking Dr. Vanaria never to contact Dr. Ing again.



REASONS FOR GRANTING THE PETITION

I. SUMMARY OF ARGUMENT

The Supreme Court should grant writ of certiorari because Petitioner's case presents issues of national importance.

Tufts University concealed serial sexual harassment, retaliation, and discrimination using perjury, misrepresentation, falsified documents, fabricated dates, spoliation, and padded affidavit information. Tufts violated 20 U.S.C. § 1681-1688 Title IX, 42 U.S.C. § 2000e Title VII, MGL 151 Chapter B, MGL

Chapter 149 § 187, 18 U.S.C. § 1001 laws. Therefore, the lower courts' erroneous decision to dismiss Petitioner's, Dr. Melissa Ing, case will prevent countless women and men from speaking up against unlawful sexual harassment, patient safety issues, and workplace abuse.

Victims fear not being supported, not being believed. They are terrified to come forward, knowing that outcomes could be far worse.

Secrecy is essential to institutional cover up and fraud, imposed by silencing protective orders and NDAs. Whistleblowers are blacklisted to preserve institutional reputation and federal funding through prejudged, negligent Title IX OEO investigations. Title IX law prohibits sexual harassment, retaliation, and discrimination at federally funded institutions. Yet, schools dismiss or cover up claims, to retain government monies, thereby committing fraud. Billions of dollars are allocated to education. The courts must protect whistleblowers when they risk everything to expose insider information.

Universities expel students for cheating. This case ironically demonstrates how the highest echelons of education: dental deans, chairwomen, and professors, cheated the judicial system by perjuring, misrepresenting, spoliating, falsifying documents and dates. (18 U.S.C. § 1001, 18 U.S.C. § 1621) SSA.1a-89a. App.44a-48a, App.151a-152a, App.169a, App.170a, App.172a, App.218a-222a. Judges base decisions on sworn testimony and critical, signed documents. Since the lower courts relied on demonstrably false information and ignored critical evidence a major university got away with concealing academic abuse and unlawful activity.

Equity and merit must be recognized together as guiding workplace principles towards a fair and inclusive nation. Dr. Melissa Ing's case demonstrated that equity and meritocracy mean nothing once a courageous faculty member speaks against criminal sexual harassment behavior and unethical patient safety practices to protect peers, patients, students, and herself.

According to the 2023 Global Gender Gap Report the world-wide gender pay gap will take at least 131 years to close,¹⁵ which will only occur when obscure sexual and gender issues are addressed.

Dr. Melissa Ing's case is referendum for: 1) Equality and equity. Equal work must mean equal pay. Equal work must mean equal promotion. 2) Academia ranks as the 2nd highest (after the military) sexually harassed work sector¹⁶. Vulnerable youth and their teachers require safer study/work environments. 3) Sexually harassing healthcare providers need to be cited for premeditated malpractice. 4) Federal dollars must be rescinded for unlawful practices. 5) Bullying, hatred, and ostracism must be eradicated.

There are thousands of mismanaged Title IX cases nationwide.^{17,18} The government continues to grapple

¹⁵ World Economic Forum 2023. <https://www.weforum.org/publications/global-gender-gap-report-2023/>

¹⁶ Ilies et al., *Reported Incidence Rates of Work-related Sexual Harassment in the United States: Using Meta-Analysis to explain Reported Rate Disparities*, PERSONAL PSYCHOLOGY. Vol. 56. Issue 3. Pg. 607-631. 2003

¹⁷ LeCoz and Jacoby. CSU, nation's largest university system, mishandled sexual misconduct, bullying claims. USA TODAY. 2023

with best ways to handle national compliance laws and create more compliance jobs. Yet, there shouldn't be reasons to create more compliance occupations. Speaking up about wrongdoing needs to be normalized. Dr. Melissa Ing did the right thing for the right reasons. Tufts decided to teach her a lesson because she spoke up for herself and others, even though sexual abuse is a crime. Dr. Melissa Ing was more than qualified to be promoted to full professor but was rejected due to systemic retaliation and discrimination.

With evidence as follows, demonstrating Tufts falsified documentation, spoliated, perjured, misrepresented, retaliated, and discriminated, Dr. Ing respectfully asks that the lower court's decisions be reversed.

II. THE LOWER COURT FAILED TO UTILIZE CRITICAL EVIDENCE AND RELIED ON DEMONSTRABLY FALSE INFORMATION TO REJECT DR. MELISSA ING'S CLAIMS

Dr. Melissa Ing sought rehearing by the First Circuit but was denied on September 19, 2023. The lower court relied on Tufts' falsehoods. Lying, misrepresentation, perjury are violations of 18 U.S.C. § 1001 and 18 U.S.C. § 1621.

In *Melissa Ing v. Tufts* No. 23-1030, pages 10-13, the First Circuit erroneously stated, overlooking critical evidence and relying on demonstrably false information:

"The SDM (School of Dental Medicine) Faculty Handbook specifically details what

18 Dartmouth Reaches \$14 Million Settlement in Sexual Abuse Lawsuit <https://www.nytimes.com/2019/08/06/us/dartmouth-sexual-abuse-settlement.html>

evidence will suffice to show accomplishment in the Educational Leadership area. This evidence may include serving as a dean, department chair, or division head; chairing a standing or management committee; serving as a course director; and/or actively participating in organizations related to education... here the record evidence shows that none of these requirements were met."

"Ing relies on her own conclusory allegations that she was qualified for promotion to full professor".

...the evidence in the record before us reveals that, at that time, the FAPTC (Promotions Tenure Committee) did not keep meeting minutes for any meetings."

"Ing also points to a smattering of other alleged irregularities such as an FAPTC member being asked to review her application after the vote had already been taken, the letter denying her application undergoing five drafts, and the five-month time gap..."

A. Qualification Statement

It is natural for Dr. Ing to be biased that she was qualified for promotion. Absent of that, her career accomplishments are unambiguous. Details of Dr. Ing's vocation, including Educational Leadership details are found in her CV. App.81a-150a.

Until Dr. Ing reported sexual harassment and applied for full professor promotion Dr. Ing was called "Course Director" at Tufts Dental since 2013. She became Co-chair of the Calibration ad hoc Com-

mittee, was very active in national ADEA. She held national leadership positions as CODE Region V Secretary and Co-Chair. She was Colgate-Palmolive Faculty Advisory Board Consultant; national licensing board examiner CDCA-WREB-CITA. Dr. Ing was very involved with STEM education initiatives.

Drs. Rankin endorsed Dr. Ing for promotion. Dr. Arsenault, her direct supervisor, testified that Dr. Ing should have been promoted. Dean Karimbux told Dr. Ing that he was shocked that she was not promoted. Dr. Ing's 8 requisite "External Reviewers" endorsed her to full professor. App.181a-215a.

External reviewer letters are mandatory for promotion. Reviewers could only be solicited by Committee Secretary, Monika Bankowski. Tufts was in receipt of Dr. Ing's 8 stellar external reviewer letters (Drs. Strassler, Peters, Meiers, Kong, Longo, Iyer, Nichols, Goupil), each recommending her to full professor promotion. See App.181a-215a.

Tufts concealed Dr. Ing's 8 authenticated external letter reviewers and content of the exemplary, positive letters.

Tufts utilized Dr. Ing's emails to concoct 2 external letter reviewers with negative comments (leaving out the positive comments), Drs. Mark Wolff and Maria Blanco, to mislead the lower court. Drs. Wolff and Blanco were never Dr. Ing's external letter reviewers.

Dr. Ing placed peer/graduate/foundation/staff letters in her dossier. As mentioned in appeal, contrary to Tufts lies, Dean Blanco emailed Dr. Ing January 6, 2019: "I believe you are going for Teaching and Educational Leadership, both of which you vastly

fulfill.” SSA.85a-86a App.216a. Furthermore, Tufts cut off Dr. Wolff’s email which says Dr. Ing qualifies if Tufts requires 2 categories for candidates.

Dr. Zandona, acknowledged that Dr. Ing met publicized requirements in her October 8, 2019 email but never outlined what else she expected next of Dr. Ing. App.278a-287a, SSA.85a. Promotion process with Dr. Zandona was a shell game. Once Dr. Ing met a benchmark, Dr. Zandona schemed to add more hurdles for Dr. Ing, but no other candidate. SSA.85a-86a.

Secretary/HR Monika Bankowski testified she recorded and filed Dr. Ing’s promotion meeting minutes. When these were requested, Tufts claimed Ms. Bankowski had a “bad memory”, that no minutes exist for Dr. Ing.

Contrary to lower court belief, minutes accompany all other meetings, as per Tufts Faculty Bylaws Page 3 specifications. SSA.35a-40a App.151a-152a.

III. LOWER COURT RELIED ON DEMONSTRABLY FALSE COURSE DIRECTOR INFORMATION AND CRITICAL EVIDENCE

The lower court relied on Tufts’ lies instead of evidence. Since the lower court felt Dr. Ing relied “on her own conclusory allegations” here is evidence:

- 1) Since 2013 Dr. Arsenault, Dr. Ing’s immediate supervisor, gave her title and course responsibilities of: “Course Director, Introduction to Clinical Dental Materials”. App.172a, 262a-267a. After reporting sexual harassment 5 years later Tufts stripped her of Course Director title, WHILE in her midst of pro-

motion, making her supposedly ineligible for Educational Leadership.

- 2) The lower court relied on Tufts' demonstrable falsehood that Dr. Ing ran a "one time/two-time course". In reality, hers was an annual course running 6 years until she left Tufts. See Dr. Ing's CV. App.81a-150a. As Dr. Ing is a nationally and internationally seasoned presenter she is cognizant of what comprises a singular lecturer versus a Course Director.
- 3) Dr. Trotman asked if Dr. Ing's course supplied: a syllabus, learning objectives, handouts, quizzes, exam, student evaluations. Dr. Ing replied "yes", plus utilized high technology, and interactive laboratory for 235 students. Dr. Ing spent hundreds of hours designing the course, then annually spent months updating syllabus, learning objectives, handouts, quizzes, exam, editing/fabricating her self-made 28 instructional video library, and drilling hundreds of plastic teeth. Dr. Ing uploaded her videos allowing faculty and students to learn 24/7 outside of her classroom. Dr. Ing was nominated for Tufts Teaching with Technology for this course. App.58a.
- 4) Tufts online announcement, that Drs. Melissa Ing is Course Director, was spoliated after Dr. Ing questioned Dean Thomas why she is on the internet as "Course Director". App.172a.
- 5) Deans, professors, and students acknowledged Dr. Ing as Course Director, and nominated

her for national Colgate-Palmolive ADEA Teaching Leadership award, which she won. App.262a-267a and App.63a.

- 6) Tufts utilized her dental materials acumen to fulfill accreditation requirements.
- 7) Dr. Ing gladly designed and delivered multiple courses for Tufts, never asking for a title. Almost overnight Dr. Ing's efforts were not recognized after reporting sexual harassment.
- 8) It was Tufts' obligation to provide a glossary for promotion preparation if the university deviates from terminology/titles including "Course Director".
- 9) After so much commotion, Dr. Zandona told Dr. Ing August 2019 that she doesn't need to be a Course Director to be promoted, confusing Dr Ing. SSA.85a-86a.

IV. THE LOWER COURT RELIED ON DEMONSTRABLY FALSE INFORMATION

Teletron v. Overhead Door Corp., 116 F.R.D. 107 (S.D. Fla. 1987) proffers sanctions from discovery documentation destruction and falsified information.

In *Melissa Ing v. Tufts* Page 6, the lower court claimed Dr. Zandona provided a "letter detailing seven specific ways in which Ing could improve her dossier".

- 1) The lower court failed to recognize that Dr. Zandona's December 9, 2019 formal letter came almost exactly one year after meeting Dr. Ing, which is cruel, unfair, and misleading. Interim, Dr. Ing received confusing, inconsis-

tent instructions. Dr. Zandona testified she was “too busy” to help Dr. Ing. The lower court failed to consider how Dr. Zandona showed favoritism towards Dr. Richard Harold, endorsing him upon her arrival to Tufts, while telling Dr. Ing “I most likely am not going to promote you”. SSA.85a-86a.

Dr. Ing already achieved the “seven specific ways”, working with her former chairman, Dr. Rankin. Dr. Rankin was used as a scapegoat by Dr. Zandona and Dean Thomas, saying “he gave bad advice”.

- 2) The lower court relied on Dr. Zandona’s deceitfully simulated October 29, 2019 letter, containing 5 non-existing dates, activities, and wildly exaggerated synopsis of their May 21, 2019 meeting. Dr. Andrea Zandona submitted signed, simulated letter with falsified dates, fabricated activities to Lower Courts. This demonstratively false information led the court to believe Dr. Zandona met with Dr. Ing “at least 8 times” to discuss promotion. (18 U.S.C. § 1001) App.218a-224a.
- 3) The lower court failed to recognize that if Promotions Committee wrote letter requesting Dr. Ing resubmit under a different category, with letter draft to that effect, it is Tufts’ obligation to inform promptly. SSA.85a-86a.

The Promotion Committee decided to delay (not deny) Dr. Ing’s promotion, requesting Dr. Ing change her 2nd submission category “Clinical Teaching, Innovation, Technology and Expertise” and would be reconsidered for promotion. However, this letter was

concealed, the opportunity to reapply under another category deprived from Dr. Ing. App.166a.

Melissa Ing v. Tufts, 21-10032, page 17 states: "Tufts submits unrefuted evidence that no member of the FAPTC knew of Dr. Ing's 2017 sexual harassment complaint" but Dean Huw Thomas knew. Dean Thomas overrode the Committee's decision. He changed the promotion decision to a complete denial, then neglected to inform the Committee or Dr. Ing. App.166a, App.169a, SSA.2a, SSA.16a, SSA.17a, SSA.21a-34a.

Dean Thomas, accused twice of sexual harassment at Tufts Dental, knew of Dr. Ing's and Dr. Tenzer's sexual harassment claims of Dr. Roland Vanaria. SSA.1a-5a, SSA.10a-14a, SSA.21a-34a, SSA.65a-66a, SSA.85a-86a.

Dean Thomas perjured during deposition, claiming no involvement with Promotions committee decisions. Dean Thomas concealed that he and his accomplice Monika Bankowski changed the final decision to a full denial, and not advising Dr. Ing to resubmit under another category. App.163a-165a, 169a, 170a-171a, SSA.10a-12a, SSA.14a-17a, SSA.21a-34a, SSA.65a-66a. Dean Thomas testified he did not know why Dr. Ing was not informed of denial for 7 months but he was the reason.

- 4) Dr. Zandona informed Dr. Ing that she could not reapply under Clinical Teaching, opposite advice from the Promotions Committee letter.
- 5) Dr. Palmer, Committee Chair, failed documenting in her affidavit that Dean Thomas overturned her committee's final decision. There is no discussion about the Committee's "withhold" signed letter or that Dr. Ing

should resubmit her dossier under another category for promotion reconsideration. Participation in Dean Thomas' retaliation scheme makes her an accomplice. App.155a-171a.

Dr. Palmer misrepresented herself in affidavit saying Dr. Ing has no expertise. Ironically, Dr. Palmer sought Dr. Ing's celiac advice twice in 2017. App.273a-276a.

Dr. Palmer claimed she personally does not know Dr. Roland Vanaria and was unaware of Dr. Ing's sexual harassment claims at the time of promotion. Facebook social platform designates Dr. Carole Palmer and Dr. Roland Vanaria as "friends", App. 277a. making her sworn statements suspicious for validity. Dr. Palmer was a Faculty Advisory Committee member, where it was discussed that Dean Thomas terminated Dr. Vanaria, making it doubtful that Dr. Palmer was unaware of Dr. Ing's sexual harassment claims at the time of her promotion.

- 6) Tufts perjured that Dr. Ing is not national or international, when she is more so than her comparators. Dr. Ing's CV speaks for itself. App.81a-150a.
- 7) Even when Dr. Arsenault and Dr. Harold received a negative or were missing a requisite external reviewer letter they were promoted, showing disparate treatment. Dr. Arsenault lied about not receiving negative letter from Dr. Mark Wolff, who truly was his external letter reviewer. Tufts perjured, when they simulated that Dr. Mark Wolff was Dr. Ing's external reviewer. SSA.35a, SSA.41a Tufts concealed that Dr. Ing had 8

verified external letter reviewers, each submitted exemplary letters supporting Dr. Ing's promotion to full professor. App.181a-215a.

Sealing Title IX conceals crime from the public. (20 U.S.C. § 1681).

Tufts placed Dr. Ing under protective order February 2022, falsely claiming their documents contain HIPAA and FERPA information.

In *Jane LM Doe v. Dr. Larry Nassar et al*, 18-cv-1117, MSU was sued for concealing 6000 case-related documents from the public, finally agreeing in 2024 to release them.¹⁹ Protective orders, NDAs, sealing are public relations tools, perpetuating sexual abuse.

In *Veikos v. the Trustees of University of Pennsylvania*, 2:20-cv-04408-JDW (2021) UPenn's request to seal documents from public view was denied. The District Court quoted:

“The Judicial Branch belongs to the American People... Americans cannot keep a watchful eye if they are wearing blindfolds.”

V. THE LOWER COURT OVERLOOKED CRITICAL SERIAL SEXUAL HARASSMENT AND HOSTILE ENVIRONMENT EVIDENCE

In *Melissa Ing v. Tufts*, Page 3, the First Circuit erroneously states:

“Ing's failure to persuade the OEO investigator that Vanaria had done anything

¹⁹ <https://www.cbsnews.com/detroit/news/larry-nassar-survivors-michigan-state-university-lawsuit-withdraw/>

improper... (Tufts) adjusted the schedule to ensure that Vanaria was not working on the same floor as Ing. Tufts removed Vanaria's swipe access to the entire office suite where Ing's office was located."

Dr. Ing bravely addressed Tufts' systemic Title IX infractions. Dr. Ing's job as a teacher was to speak against serial sexual harassment, to protect peers, students, and herself, not to "persuade" anyone of the truth. App.35a-45a. SSA.1a-6a, SSA.21a-34a, SSA.85a-86a. The lower court failed recognizing that Tufts OEO did not do their job. Tufts concealed sexual misconduct, neglected thorough, prompt investigation, falsified Title IX reports, and created hostile environment, violating 20 U.S.C. 1681-1688 and 18 U.S.C. § 1001.

Aslin v. Univ. of Rochester, 6:17-cv-06847 (2019);

Czerwienski, Kilburn, Mandava v. Harvard University and the President and Fellows of Harvard College, 1:22-cv-10202 (2022); and

Kristina Rapuano et al. v. Trustees of Dartmouth College, 18-cv-1070-LM demonstrate the prevalence of serial sexual harassment at institutions. Universities ignore professorial predators unless courageous students, graduates, and faculty decide enough is enough.

When systems ignore institutional sexual abuse, the consequences are devastating. In *Jane LM Doe v. Dr. Larry Nassar et al.*, 18-cv-1117, a professor sexually assaulted hundreds of young girls. Complicit networks of deans and administrators turned a blind eye, allowing atrocities.

To stop these crimes the judicial system must support whistleblowers like Dr. Melissa Ing.

Dean Thomas was accused of sexual harassment twice. He was aware that both Dr. H. Tenzer and Dr. Melissa Ing complained of sexual harassment by Dr. Vanaria. OEO tried to conceal student complaints from Dr. Ing. Mandatory timely reporting was ignored and concealed. (20 U.S.C. § 1681). SSA.1a-6a and App.37a-55a.

OEO and Dr. Arsenault were the first to punish Dr. Ing for reporting sexual harassment.

Dr. Arsenault, Dr. Ing's supervisor, deliberately changed her established clinical schedule, forcing Dr. Ing to work with Dr. Vanaria. Dr. Arsenault told Dr. Ing if she did not like the schedule change to figure out her own switch back. Dr. Arsenault lied, claiming to have separated Drs. Ing and Vanaria. Dr. Arsenault changed Dr. Ing's established clinic schedule a second time, making her work with Vanaria's friends, who bullied her. OEO yelled at Dr. Ing. Dr. Ing was subjected to salacious gossip, hatred and ostracism. OEO blamed Dr. Ing for creating her own toxic work environment. SSA.1a-6a, SSA.62a, SSA.85a, SSA.87a and App.46a, App.47a, App.49a. Dr. Ing complained for many months before Dr. Vanaria's key swipe was taken away. Dr. Ing hired an attorney for advocacy.

In *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986):

“the Solicitor General’s position is untenable. A supervisor’s responsibilities do not begin and end with the power to hire, fire, and discipline employees, or with the power to recommend such actions. Rather, a supervisor

is charged with the day-to-day supervision of the work environment and with ensuring a safe productive workplace.”

Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986) held that sexual harassment resulting in hostile environment, is a violation of 42 U.S.C. § 2000e; same as Dr. Ing’s case.

At her 2018 annual review Dr. Arsenault accused Dr. Ing of lying about reported number of unpaid extracurricular work hours. He threatened again to remove her from CODE, when she held national leadership positions. Dr. Arsenault was so hostile that Dr. Ing burst into tears. Dr. Arsenault promptly reported Dr. Ing’s crying and “shaking” to Dean Huw Thomas, Monika Bankowski, and Tufts Police. In doing so, Dr. Arsenault disparaged Dr. Ing’s physical disability.

Dr. Ing has a serious, incurable stroke disorder called Moya Moya Disease,²⁰ with symptomatic involuntary head shaking movements. Dr. Ing had brain surgery in 2008. The 2017 sexual harassment trauma attributed to disease progression. Dr. Ing informed both Drs. Arsenault and Rankin February 2018 that she required more brain surgery, booked for October 2018 at Massachusetts General Hospital.

That Dr. Arsenault, would accuse Dr. Ing of lying, bully her to the point of sobbing, then report her physical shaking disability to the police was so viciously cruel it reverberates trauma.

²⁰ *Moya Moya Disease*, National Institute of Neurological Disorders and Stroke 2023. <https://www.ninds.nih.gov/health-information/disorders/moyamoya-disease>

Same evening, Dr. Ing's colleague left clinic early, asking her to complete a diabetic patient's care. At session's end the patient felt slightly light-headed with low blood glucose. Dr. Ing decided it was best to monitor the patient before dismissal. Dr. Ing accompanied the patient and student doctor to the cafeteria, got a Coke (patient's preferred sugary drink), and sat with the patient. Dr. Arsenault reported Dr. Ing to Dr. Kanchan Ganda, Tufts Dental physician, for perceived improper protocol, (working overtime), even though Dr. Ing stayed late to bail out Dr. Arsenault's faculty. Dr. Ganda deemed Dr. Ing's handling of patient care correct. Having handled medical emergencies for 14 years as University of Connecticut's former Team Leader and Director of Predoctoral Clinics, Dr. Ing is extremely competent and caring. After reporting sexual harassment Dr. Arsenault painted Dr. Ing as an incapable, "dramatic" liar.

VI. LOWER COURT FAILED TO UTILIZE CRITICAL RETALIATION/SEX DISCRIMINATION EVIDENCE

Lindsey v. Citigroup Global Markets, Inc., 1:23-cv-10166 (2023) plaintiff faced similar sexual and gender harassment, discriminant mistreatment that derailed her career.

Dr. Ing tried to protect students and colleagues. In *Jackson v. Birmingham Board of Education*, 544 U.S. 167 (2005) the Supreme Court held that retaliation against a whistleblower of sex discrimination is a form of intentional sex discrimination encompassed by Title IX.

At least 8 men were promoted to full professor between 2018 and 2021, even if comparators did not

meet published criteria for advancement. Two of the comparators, Drs. Harold, and Arsenault worked in the same department. Dr. Ing was held to different criteria.

According to emails, Ing's promotion vote may have occurred later than March/April 2018. Emails dated June, July, and August 2018 show Committee members drafting different letters. The Promotion Committee drafted a final letter to withhold (not deny) Dr. Ing's promotion, requesting her to resubmit dossier materials under another category of "Clinical Teaching, Innovation, Technology, and Expertise" for promotion reconsideration. App.166a. Dr. Carole Palmer, Committee Chair, submitted an affidavit, neglecting to mention of the Committee's final decision. Her letter (App.166a) was not sent to Dr. Ing. App.273a.

Tufts concealed that Dean Thomas, accused twice of sexual harassment, intervened, changing the Promotions Committee decision to a full denial. Dean Thomas perjured during testimony that he played no roles with Promotions Committees or decisions. SSA. 10a-12a, SSA.21a-34a, App.166a-171a.

Dr. Ing found out 7 months after applying on September 19, 2018, she was denied promotion. Dean Thomas was responsible for the denial but he lied, claiming the Committee turned her down. Dr. Ing asked repeatedly until January 2019 for denial reasons in writing. App.174a-175a.

Dean Thomas refused to allow Dr. Ing to reapply with Dr. Chuck Rankin. Dr. Rankin told Dr. Ing Dean Thomas demoted him due to Dr. Ing's sexual harassment claims. Dean Thomas ordered Dr. Ing to

wait for Dr. Zandona's arrival, which would be at least a few more months. Dr. Ing had already waited 7 months to find out she was denied. She was scheduled for brain surgery in 2 more months with recovery time.

To wait 11 months to reapply with a new chairwoman was cruel, ruthless, and discriminatory. Dr. Ing was familiar with Dr. Rankin for so many years. Dr. Ing's comparators were allowed to reapply immediately.

Dean Thomas, Dr. Trotman, Dr. Zandona, and Monika Bankowski asked for Dr. Ing's dossier back before they could write a letter with denial reasons, demonstrating the Committee was unfamiliar with her portfolio. Tufts retained her dossier for 7 months. Dr. Ing declined returning it to them.

Dean Thomas ordered the same faculty, (who withheld, not denied and requested that she resubmit dossier under another category) to write the fraudulent letter for him. SSA.65a-66a These faculty concealed how their other letter suggested Dr. Ing should resubmit under the alternate category of "Clinical Teaching". Participating in Dean Thomas' retaliatory scheme to deny Dr. Ing make these faculty complicit. App.166a-169a.

Dr. Ing initially met Dr. Andrea Zandona on December 13, 2018, after brain surgery recuperation. Dr. Zandona was cordial, praised Dr. Ing for her many accomplishments. Dr. Ing explained how she was sexually harassed, bullied, retaliated against, and denied promotion to full professor. Three weeks later, on January 9th, 2019, Dr. Zandona said to Dr. Ing: "I most likely am not going to promote you." Contempo-

raneously, Dr. Zandona endorsed colleague, Dr. Richard Harold, although she arrived to Tufts 1.5 months ago, knowing neither Drs. Ing nor Harold.

Dr. Zandona testified that she was “too busy” to help Dr. Ing with promotion. At their March meeting she told Dr. Ing that she would need to table their next meeting until July 2019.

Dr. Zandona attended meeting to assist Dr. Harold January 2019. Dr. Zandona never offered to attend a meeting to help Dr. Ing. Dr. Harold was allowed to reapply immediately.

Dr. Zandona disparaged Dr. Ing’s 2015 national Colgate Teaching Award “old”, but did not disparage Dr. Harold’s 1990s accomplishments. App.100a-138a and SSA.56a-57a.

Dr. Ing asked that the 8 male comparators’ documents be compared to hers. Dr. Zandona refused. After Dr. Ing waited 22 months, given a multitude of ever-change excuses, criteria, and tasks, Dr. Zandona refused to endorse Dr. Ing. SSA.62a, SSA.85a, SSA.35a.

VII. THE LOWER COURT IMPROPERLY APPLIED TITLE VII, TITLE IX, AND M.G.L. CHAPTER 151B LAWS

Promotion was not equal or merit-based at Tufts. It was reliant on bias and nepotism. Dr. Ing was a victim of glass ceiling discrimination, which occurs easily when whistleblowing about unlawfulness.

Disparate treatment is discrimination, thereby violating 42 U.S.C. § 2000e, 20 U.S.C. § 1681, MGL 151B laws. The court must ensure that institutions are following Title IX and VII laws. The following cases give perspective on proper law application.

In *Jackson v. Birmingham Board of Education*, 544 US 167, 174 (2005) the Supreme Court held that discriminating against employees who complain about sex discrimination is a form of intentional sex discrimination encompassed by Title IX. The lower court failed to apply the same law in *Melissa Ing v Tufts University*.

Chen-Oster et al v. Goldman, Sachs, 1:10-cv-06950 (2022) class action gender discrimination case in violation of Title VII of the Civil Rights Act. Women were passed over for promotions and raises, even as high company performers.

Cannon v. University of Chicago, 441 U.S. 677 (1979) gender discrimination case, reminds Title IX institutions that they are prohibited from sexual abuse, retaliation and discrimination. Federal dollars can be revoked/rescinded for violating Title IX.

20 U.S.C. § 1681 and 42 U.S.C. § 2000e prohibit retaliation and discrimination. In *EEOC v. Bon Secours-DePaul Medical Center, Inc.*, 2:02-cv-00728, a healthcare worker was retaliated against for reporting sexual abuse, similar situation to Dr. Ing's.

Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).

Dr. Melissa Ing earned promotion to full professor, fair and square. Dr. Ing is extremely knowledgeable, talented, creative, completely dedicated to whole-body health education and patient wellness.

Dr. Ing is a leader, defined by strength of character. She is fearless, honorable, and accountable. She risked her illustrious 30-year academic career, including aspirations to become Dean, refusing to be a hypocrite, while human rights, federal and state laws, and patient safety issues were violated at Tufts University. Dr. Ing is devastated that her alma mater would betray her livelihood and destroy her beloved career.

Tufts perjured, misrepresented, and simulated documents to falsely claim that *prima facie* was not established.

This petition's raft of evidence shows that the lower courts relied on demonstrably false information while failing to use critical evidence to dismiss Dr. Melissa Ing's claims of retaliation and discrimination.

Dr. Ing is acutely aware she is not alone. Too many are afraid to speak up. Tufts leads by intimidation. She will not ever be made whole again. However, Dr. Ing hopes that her voice pushes for safer institutional actions and averts wrongdoing for thousands of men and women nationwide.



CONCLUSION

For the forgoing reasons the petition for the writ of certiorari should be granted.

Respectfully submitted,

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