

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

DR. JENNY H. CONVISER and ASCEND CONSULTATION IN HEALTH CARE, LLC

v.

DEPAUL UNIVERSITY

2020L004282

No. _____

CIVIL ACTION COVER SHEET - CASE INITIATION

A Civil Action Cover Sheet - Case Initiation shall be filed with the complaint in all civil actions. The information contained herein is for administrative purposes only and cannot be introduced into evidence. Please check the box in front of the appropriate case type which best characterizes your action. Only one (1) case type may be checked with this cover sheet.

Jury Demand Yes No

PERSONAL INJURY/WRONGFUL DEATH

CASE TYPES:

- 027 Motor Vehicle
- 040 Medical Malpractice
- 047 Asbestos
- 048 Dram Shop
- 049 Product Liability
- 051 Construction Injuries
(including Structural Work Act, Road Construction Injuries Act and negligence)
- 052 Railroad/FELA
- 053 Pediatric Lead Exposure
- 061 Other Personal Injury/Wrongful Death
- 063 Intentional Tort
- 064 Miscellaneous Statutory Action
(Please Specify Below**)
- 065 Premises Liability
- 078 Fen-phen/Redux Litigation
- 199 Silicone Implant

TAX & MISCELLANEOUS REMEDIES

CASE TYPES:

- 007 Confessions of Judgment
- 008 Replevin
- 009 Tax
- 015 Condemnation
- 017 Detinue
- 029 Unemployment Compensation
- 031 Foreign Transcript
- 036 Administrative Review Action
- 085 Petition to Register Foreign Judgment
- 099 All Other Extraordinary Remedies

By: ART BRESNAHAN
(Attorney) (Pro Se)

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CIRCUIT CLERK
COOK COUNTY, IL
2020L004282

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COMMERCIAL LITIGATION

CASE TYPES:

- 002 Breach of Contract
- 070 Professional Malpractice
(other than legal or medical)
- 071 Fraud (other than legal or medical)
- 072 Consumer Fraud
- 073 Breach of Warranty
- 074 Statutory Action
(Please specify below.**)
- 075 Other Commercial Litigation
(Please specify below.**)
- 076 Retaliatory Discharge

OTHER ACTIONS

CASE TYPES:

- 062 Property Damage
- 066 Legal Malpractice
- 077 Libel/Slander
- 079 Petition for Qualified Orders
- 084 Petition to Issue Subpoena
- 100 Petition for Discovery

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Pro Se Only: I have read and agree to the terms of the *Clerk's Office Electronic Notice Policy* and choose to opt in to electronic notice form the **Clerk's Office** for this case at this email address: _____

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as it relates to DePaul's softball team, another conflict exists between the Title IX Office and the Athletics Department that further warps its behavior. The softball coach's sister is the Director of DePaul Athletics, and as a result the softball coach acted with impunity and created an abusive cult. There is no other way to explain DePaul's wrongful actions in: (a) covering up the physical abuse of a female coach at the hands of its legendary softball coach, Eugene Lenti ("Lenti"), and (b) retaliating against the whistleblower (as well as punishing the victim of Lenti's assault), after its leading mental health care provider of 13 years, Plaintiff Dr. Jenny Conviser, was involved in properly reporting Lenti's misconduct to DePaul and its Title IX Office.

2. Not only did DePaul improperly and in violation of Federal and Illinois law, wrongfully terminate its relationship with Dr. Conviser, and her company, Ascend, but it also defamed and sullied her professional relationship, and placed her in a false light, causing her further damages. DePaul's unsavory conduct is even more ironic given that it proclaims that it is the "largest Catholic university" in the United States, and one that allegedly follows Catholic and Vincentian ideals as part of its mission to foster "social justice."

3. The facts here are both simple and horrifying. Plaintiff heard from credible sources that Lenti, the brother of DePaul's Athletics Director (Jean Lenti Ponsetto ("Lenti Ponsetto")), was out of control and verbally and physically abusing his female players on a regular basis, including regularly punching them about their bodies, and calling them "f-----g whores." Dr. Conviser dutifully reported what she heard to DePaul Athletics and the Title IX Office, putting her squarely in the cross hairs of the Athletics Director Lenti Ponsetto out to protect her brother. DePaul, compromised by its internal conflicts of interest, and upon information and belief, never conducted an independent investigation of Lenti's bad behavior, nor admonish him. With the benefit of 20/20 hindsight, this event proved to be the beginning of the end for Dr. Conviser's career at DePaul.

4. The final nail in her professional coffin with DePaul occurred sometime thereafter when a patient under Dr. Conviser's team's care reported to her therapist that Lenti had punched his female Associate Head Softball coach (and a former DePaul star softball player) in the face during an argument. Dr. Conviser could not ignore such an abhorrent allegation, and her team properly counseled the patient to report Lenti's physical abuse to DePaul's Title IX Office, which the patient ultimately did. (Had she not done so, Dr. Conviser would have been duty-bound to report it herself).

5. What happened next shocks the conscience. DePaul, knowing that Dr. Conviser's team was involved in the reporting of Lenti's physical attack, turned the tables on Dr. Conviser, as the University went into "cover up" mode in five steps. Step 1: Let Lenti slip out the back door and "retire," likely with his pension, and certainly with his reputation intact. He was then able to resurface and secure a lucrative position at Auburn University, with that institution presumably none the wiser about Lenti's assault on one of his coaching staff. There is no record of DePaul informing Auburn of Lenti's misconduct, nor that DePaul properly reported the incident to the U.S. Center for SafeSport as required. That was left to Dr. Conviser to do, and she did as required by the U.S. Center for SafeSport's Code².

6. Step 2: Fire the rest of Lenti's coaching staff, including, incredibly, the victim of his latest physical attack. Step 3: Terminate Dr. Conviser's professional relationship with the University, repudiate its contract with her company, Ascend, and stop referring any patients to her. Step 4: Defame Dr. Conviser and put her reputation in a false light by falsely telling others in the DePaul community that Dr. Conviser deterred athletes under her care from reporting instances of

² The U.S. Center for SafeSport is recognized by the U.S. Congress and all U.S. Olympic sports (including softball) as having exclusive jurisdiction to protect student-athletes from physical and sexual abuse at the hands of their coaches and colleges and universities. *See SafeSport Code*, p. 1. Under the SafeSport Code, DePaul was required to report Lenti's "physical misconduct" to SafeSport, no ifs, ands or buts. *Id.*, pp. 11, 12 and 19.

abuse, therefore putting athletes in harm's way. In an act of "gaslighting," DePaul also accused Dr. Conviser of getting her "facts wrong," attempting to wrongly portray her as merely a befuddled, unhinged vendor with an ax to grind. And finally, step 5: protect the Athletics Department brand and prioritize "winning" at all costs, including covering up for an out-of-control coaching culture where star coaches abuse their power of trust over student-athletes and inflict harm on them, knowing that they will not be held accountable by the University.

NATURE OF THE ACTION

7. Dr. Conviser is one of the most respected sports and clinical psychologists in the United States. She holds a doctorate in psychology from the Chicago School of Professional Psychology, a Masters in Exercise Science from Northern Illinois University, and a Bachelor of Science in Education from Springfield College.

8. She is a licensed clinical psychologist, certified in Sports Psychology, and an Eating Disorder Specialist.

9. Her long list of professional accomplishments include her positions as an Assistant Professor of Psychiatry and Behavior Sciences at Northwestern University's Feinberg School of Medicine, a member of the United States Olympic and Paralympic Committee's Sport Psychology Registry, and a founder of the Illinois Sport and Performance Institute, an organization dedicated to improving safe training and competition and promoting positive coaching and training effectiveness.

10. Dr. Conviser is trained in the areas of Title IX and required reporting under it. She is also a member of the United States Olympic Sport Psychology Registry where she received her training in "safe sports" protocols. In addition, she provides sport psychology services for

members of the United States Figure Skating team and is trained in proper mandatory reporting requirements and protocols as required by the U.S. Center for SafeSport.

11. From 2005 until she was summarily dismissed, Dr. Conviser was referred to by the University itself as DePaul Athletics' lead mental health provider.

12. From approximately 2005 through 2012, Dr. Conviser provided mental health services to the DePaul community through her company, Insight Behavioral Health, LLC ("Insight"). Starting in 2013, she provided those same services through a successor to Insight, Plaintiff Ascend.

13. Throughout her uninterrupted thirteen-year relationship with the University, Dr. Conviser and her colleagues treated countless student-athletes referred to her by DePaul and provided consultation and triage services for DePaul Athletics coaches, manager, training staff, and athletes with tremendous success.

14. However, Dr. Conviser's long-standing relationship with the University was improperly terminated, and her company's four-year professional services contract cut short, when DePaul retaliated against her for Ascend's involvement in blowing the whistle on Lenti, its long-tenured softball coach and brother of DePaul's long-standing Director of Athletics, Lenti Ponsetto.

15. To say that Lenti was a legend at DePaul, and that Dr. Conviser challenged him (and his sister, the Athletics Director), at great peril to her professional career, is an understatement.

16. Upon information and belief, Lenti was DePaul's all-time winningest head coach, spending almost 40 years at the school. During his time as DePaul's softball head coach, Lenti won 1,327 games. Lenti was inducted into the NFCA Coaches Hall of Fame in 2008.

17. Despite Lenti's Mount Rushmore-like stature at DePaul and having his sister as his boss to back him, Dr. Conviser had no choice, morally, legally and ethically, but to ensure that Lenti was reported to the University's Title IX Office when she learned of his frequent misconduct.

18. DePaul was aware of Lenti's history of abusive conduct not the least because Dr. Conviser had in 2016 raised with the University other inappropriate verbal abuse directed by Lenti toward his team.

19. Dr. Conviser had a heightened concern about these issues because she understands that when coaches exert a manipulative cult of personality and use their power as if they were above reproach it is generally because they believe that they will not be held accountable by the university. This is especially the case here as Lenti was protected by his sister Lenti Ponsetto, and by the conflicts of interest between and among the University's Title IX Office, Office of the General Counsel, and DePaul Athletics. Such a culture, left unchecked, exerts physical and psychological harm on the student-athlete community.

20. It is also commonplace for universities, such as DePaul, with successful and lucrative athletics programs, to put their own self-interest and interest in "brand protection" above the fiduciary duties that administrators owe to the student-athletes placed in their care.

21. Here, DePaul, under the sway of DePaul Athletics, chose to look the other way, ignore Dr. Conviser's prior warnings, and in turn failed to discipline Lenti at all, allowing his reign of terror to continue, culminating with him physically assaulting a female coach on his team.

22. Dr. Conviser's prior report to the University of Lenti's improper conduct and verbal abuse of the student-athletes on his team put the University, at the very least, on notice of its obligation to conduct a thorough investigation into these latest serious allegations.

23. Had DePaul conducted a thorough, independent investigation, they likely would have found that over his career, Lenti had been repeatedly accused of acting inappropriately toward his team and coaching staff. For example, when the independent student newspaper, the *DePaulia*, reported Lenti's out-of-the-blue "retirement" in its digital version, several readers left comments indicating that they had heard that Lenti had physically assaulted players and/or coaches in the past.

24. Instead of responsibly and independently investigating the report of Lenti's physical assault and battery that came through Dr. Conviser's office or noted by the *DePaulia*, DePaul realized that it was in the midst of a scandal and set out to cover it up, a common occurrence among universities trying to protect their athletics' brand at all costs and refusing to find fault inside their own institution.

25. First, DePaul promptly ended Dr. Conviser's relationship with the University, defaming her professional reputation, putting her in a false light, and compromising its student-athletes' care in the process.

26. Second, in perhaps the most telling act of all, DePaul let Lenti "retire" rather than be fired (lest his misconduct become public), which allowed him, reputation intact, to turn up as Auburn University's Assistant Softball Coach just a short year later, where he presently works.

27. Third, DePaul, for good measure, fired the rest of Lenti's coaching staff, including, upon information and belief, the most recent victim of Lenti's assault.

28. Finally, even after Dr. Conviser reached out through her undersigned counsel to put DePaul on notice once again of the scandal that had happened on the University's watch and ask them to investigate and resolve the issue, DePaul: (a) casually denied that any of what Dr. Conviser reported had actually happened, (b) attacked Dr. Conviser and her professionalism for a second

time, (c) refused to investigate Lenti (and his sister), and (d) continued firmly to place their collective heads in the sand.

29. DePaul prioritized its reputation, and the reputation of its abusive softball coach, over the well-being of its student-athletes by intentionally failing to face the truth and then deliberately silencing and destroying the very professional --Dr. Conviser-- it had entrusted with its student-athletes' coaches' and trainers' mental health for the last thirteen years.

30. Accordingly, this action seeks to hold DePaul accountable for these illegal acts at the expense of Dr. Conviser and Ascend.

THE PARTIES

31. Dr. Conviser is an Illinois resident.

32. Ascend is an Illinois limited liability company with its principal place of business in Chicago.

33. Upon information and belief, at all relevant times, DePaul, founded in 1898, was and is an Illinois not-for-profit corporation with its principal place of business located at 1 E. Jackson Blvd., Chicago, Cook County, Illinois 60611. It is an educational "program" as defined under Title IX, 20 U.S.C. § 1687(2)(A). It proclaims itself the largest Catholic university in the United States, and the 13th largest not for profit university in the country.

JURISDICTION AND VENUE

34. This Court has personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 because this cause of action arises out of conduct occurring in the State of Illinois, all parties are Illinois residents and Defendant breached the parties' Professional Services Agreement and defamed Conviser and put her in a false light, within Illinois.

35. This Court has subject matter jurisdiction over this dispute because the acts giving rise to the Complaint occurred in Cook County, Illinois. The Court also has concurrent subject-matter jurisdiction over the Title IX claim in Count I of this Complaint.

36. Venue in this Court is proper pursuant to 735 ILCS §§ 5/2-101 and 5/2-102 because this cause of action arose in Cook County, Illinois and all of the parties reside in Cook County.

FACTS

Background

37. Plaintiff Dr. Conviser, PsyD, CED-S and CMPC, is one of the most respected sports and clinical psychologists in the United States. Her decades of experience working with athletes and coaches coupled with her personal experience as a former Division I athlete and head coach, make Dr. Conviser widely sought-after and a leading authority in the field of sports psychology.

38. Dr. Conviser has been an Assistant Professor of Psychiatry and Behavior Sciences at Northwestern University's Feinberg School of Medicine for the last 23 years. She is also a member of the United States Olympics' and Paralympic Committee's Sport Psychology Registry.

39. In 2013, she founded the Illinois Sport and Performance Institute, an organization dedicated to improving safe training and competition and promoting positive coaching and training effectiveness.

40. Also in 2013, Dr. Conviser founded her company, Plaintiff Ascend, which focuses on providing professional services specializing in the evaluation and treatment of mental illnesses, and nutritional therapy.

41. Dr. Conviser is regularly consulted by esteemed hospitals and universities to provide senior medical staff training, supervision, program development and intensive case for the most critically ill, including those patients with life threatening illnesses, trauma, co-occurring

additions, mood, anxiety and eating disorders. Her patients also include members of the United States Figure Skating organization.

42. Dr. Conviser has built a tremendously successful and meaningful career over decades and is a highly-regarded professional in the field of sports psychology and nutritional therapy for athletes and coaches.

DePaul Hires Dr. Conviser

43. Starting in 2005, Dr. Conviser, and later through her companies, Insight and then Ascend, became a valuable part of the DePaul community, providing sports psychology services, sport performance consultation, mental health evaluation, emergency mental health triage, psychiatric referral and collaborative care, psychotherapy, coach and athletic trainer consultation, and nutrition/eating disorder assessment and treatment services, among other critical services to the University.

44. Demonstrating how integral she was to the DePaul community concerning mental health issues, Dr. Conviser was regularly contacted by DePaul Athletics' staff requesting recommendations for treatment and/or referral information, including by Sue Walsh ("Walsh"), DePaul's Director of Sports Medicine, and by Lenti Ponsetto, DePaul's Director of Athletics, and various assistant athletics directors, coaches and athletic trainers.

45. The University also provided Dr. Conviser with an on-campus office for individual athlete consultations, conference rooms for staff meetings and trainings, and permitted student-athletes to be seen off campus in Ascend's private office located equidistant between DePaul's Lincoln Park and Downtown campuses.

46. From 2005 through 2018, countless members of DePaul's sports community, including coaches, managers and student-athletes, were treated by Dr. Conviser and her colleagues, and their mental health and nutrition needs were successfully met.

The First Title IX Incident Involving Lenti

47. In the fall of 2016, Dr. Conviser obtained credible and actionable information from her patients and others that Lenti was "out-of-control," frequently abusive and aggressive to his staff and players, and fostered a culture of intimidation, fear and retaliation over the softball team.

48. Upon hearing this information, Dr. Conviser immediately informed both Walsh and the then-Associate Athletics Director, Kathryn Statz, of the allegations against Lenti. Ironically, Statz recently became the University's Director of Gender Equity/Title IX Coordinator.

49. In response, Walsh and Statz took no steps to independently investigate Lenti or his conduct toward his players, but instead directed Dr. Conviser to meet with Lenti and his staff to address the issues. Upon information and belief, DePaul's Athletics Director (who was also Lenti's sister) knew of Dr. Conviser's charges against Lenti.

50. As a result, and only due to Dr. Conviser's leadership, a series of meetings ensued during the Fall of 2016 between Dr. Conviser, Lenti and his coaching staff, focusing on proper communication with athletes consistent with Title IX to avoid abusive conduct, and addressing how to cultivate a collaborative and healthy environment of respect between staff and student-athletes.

51. The facilitation of these meetings was not Dr. Conviser's responsibility, rather, it was the responsibility of DePaul's Title IX Coordinator and arguably, the General Counsel's Office and Board of Trustees. But since, upon information and belief, they abdicated responsibility, Dr. Conviser took the lead.

52. During one of these meetings with Lenti and his staff, Dr. Conviser provided Lenti with his own personal highlighted copy of Title IX. This was the first time in Dr. Conviser's professional career in higher education that she had felt the need to provide a coach with his own copy of the rules.

53. Dr. Conviser reported the events of these meetings to Walsh and Statz, but, curiously, neither of them followed up with Dr. Conviser, nor, upon information and belief, investigated Lenti's behavior in order to determine whether Lenti was a serial abuser of student-athletes as Dr. Conviser had reported. This failure to act by the University is a violation of its duties under Title IX and U.S. SafeSport protocols.

54. Further, neither DePaul's Title IX Coordinator, General Counsel's Office, nor the Board of Trustees followed up with Dr. Conviser at all regarding any of the reports she made.

55. Upon information and belief, DePaul never conducted an investigation into Lenti's behavior likely because of his familial relationship with his sister. If such an investigation had occurred, Dr. Conviser necessarily would have been interviewed about what she had heard, seen, and reported about Lenti, and she was not.

56. Had DePaul properly discharged their responsibilities, instead of turning a blind eye to Lenti's abusive behavior, Lenti would not have been in a position to physically abuse his next known DePaul victim.

57. Despite being on Lenti Ponsetto's radar, the greater DePaul community admired Dr. Conviser and her contributions and her company was signed to a new four (4) year contract in 2017 (the "Agreement"). Pursuant to the Agreement, DePaul agreed "to refer student-athletes that it believes are in need of clinical psychological assessment to Ascend." In exchange, Ascend agreed "to conduct a preliminary evaluation of illnesses of a psychological or nutritional nature of

the student-athletes referred to it by DePaul” and provide a recommended treatment plan, and if desired, carry out the treatment plan.

Dr. Conviser Continues to Sound the Alarm Regarding Improper Conduct at DePaul

58. Showing her resilience and passion for the DePaul Athletics community, and sensing that a deeper issue with Lenti and his cult of abuse over the softball team existed, Dr. Conviser pushed forward and reached out to Walsh and Statz again in June 2017 following her attendance of the NCAA Mental Health Summit at Georgetown University. The purpose of the meeting was to discuss how DePaul could increase student-body awareness, particularly among student-athletes, of available mental health resources on campus.

59. Unfortunately, but in hindsight not surprisingly, Dr. Conviser’s overtures to DePaul leadership fell on deaf ears, and there was no substantive response from the University.

60. Still not discouraged by the lack of responsiveness from DePaul on such critical mental health issues, Dr. Conviser called for a meeting in December 2017, this time to include Lenti Ponsetto. The purpose of this meeting was to discuss the status of student mental health resources and services at DePaul. Also in attendance at the meeting were Walsh and Dr. Jill Hollembeak (“Hollembeak”) (the current Senior Associate Athletics Director for Varsity Sports, and demonstrating an inherent conflict of interest, also DePaul’s Deputy Title IX Coordinator).

61. At this meeting, Dr. Conviser discussed generalized mental health issues fostered by any university setting involving student-athletes. However, Dr. Conviser also focused the meeting on specific instances that had been reported to her of emotional abuse at the hands of Lenti, including student-athletes being ignored, excluded, teased, yelled at, addressed with profanity, criticized and/or called derogatory names.

62. Dr. Conviser, in front of Lenti Ponsetto, pointed out that part of Lenti's abusive behavior centered on his recruiting the most vulnerable student-athletes from single-parent households, impoverished homes, and some of whom exhibited low self-esteem, depression and/or suffered from abusive childhoods.

63. Dr. Conviser's words and thoughts were first met with silence, and then denial by all in attendance. Hollembeak (a former star college gymnast herself) scoffed at the suggestion by Dr. Conviser that bad things could happen at DePaul and said that improper conduct, including of a sexual nature, "doesn't happen here" because, in her words, the school is located in a "big city with lots of other entertainment and diversions."

64. Dr. Conviser was left gobsmacked that her DePaul colleagues could express, verbally and non-verbally, the ignorant attitude that DePaul was somehow exempt from any improprieties by its coaching staff.

65. From that point forward, Dr. Conviser's efforts to provide a proper mental health counseling environment for the DePaul community were met with stony silence from DePaul's administration.

66. DePaul subsequently blacklisted Dr. Conviser, and when she did her duty to report misconduct on campus, DePaul retaliated against her. For example, Dr. Conviser and her staff properly counseled a patient to report a sexual assault to the University (this time unrelated to Lenti and the softball team). Ultimately, the patient made the report and Dr. Conviser subsequently spoke to Walsh about it as well.

67. Thereafter, Dr. Conviser was contacted by then-Title IX Coordinator, Karen Tamburro, who aggressively interrogated her about whether DePaul provided a "safe environment

for athletes” and appallingly accusing Dr. Conviser of doing the opposite of what she was trained to do—detering students from reporting improper conduct.

68. Dr. Conviser was left breathless and heartbroken at Ms. Tamburro’s clear agenda to blindly protect DePaul’s image over protecting its own students, and that she would attack Dr. Conviser’s professional ethics.

69. Even more troubling, the exchange shed light on the lack of independence between DePaul’s Title IX Office and DePaul Athletics, including having personnel who hold simultaneous senior leadership roles in both, or who revolved between the two departments, proving that DePaul has a broader problem as it related to the protection of its student-athlete population.

70. The close connection between the Title IX Office and DePaul Athletics and the resulting enmeshed conflict of interest, and improper “revolving door” was and continues to be deep-rooted. As noted above, Statz is the University’s Title IX Coordinator, but immediately prior to that she had been Lenti Ponsetto’s Senior Associate Athletics Director from 2010 to 2017.

71. As another example of improper “dual-hatted” personnel that undermine the independence of the Title IX Office, Hollembeak, currently holds positions as both Senior Associate Athletics Director for Varsity Sports and Deputy Title IX Coordinator.

72. While the coordinators and deputy coordinators have changed over the years, it appears that the practices have not. The overlapping relationship between the Title IX Office and DePaul Athletics demonstrates a conflict of interest that renders the office incapable of providing independent, objective, confidential investigations and compliance advice when it comes to charges of impropriety lodged against DePaul Athletics and its personnel, including Lenti’s sister.

73. The overall distrust in and lack of transparency of DePaul's Title IX office is felt by DePaul's student population. In an article dated April 22, 2019, the independent student newspaper, the *DePaulia*, reported that the "efficacy of DePaul's Title IX department" is in question. As an example, the article reported about a female DePaul student brave enough to come forward after she experienced an assault by another student on DePaul's campus and speak with the Title IX Office. That student stated that despite the fact that she had an eyewitness to the assault, the Title IX representative "simply would not listen." The student continued "...there was no discussion of any other steps I could take through DePaul, and there were no consequences for the other student involved." The *DePaulia* further reported that the Title IX Office did not inform the student "of her legal rights under Title IX, and she sought out counseling from a therapist not affiliated with DePaul." That student could have worked with Dr. Conviser had DePaul not been more concerned with its reputation than the care of its students.

The Second Title IX Incident Involving Lenti

74. In late 2018, Dr. Conviser's team once again received credible information about misconduct by Lenti. This time, a student-athlete patient who was on Lenti's softball team reported to one of Dr. Conviser's therapists that during a dispute, Lenti had punched in the face his female Associate Head Coach.

75. Dr. Conviser's colleagues counseled the patient to report the incident to the Title IX Office (whose leadership included a senior leader of DePaul Athletics), which the patient did. Upon information and belief, the Title IX Office and DePaul Athletics knew that Dr. Conviser was involved in the student's report of Lenti's misconduct.

76. Thereafter, DePaul's Title IX Office opened a purported "independent and confidential investigation" into Lenti's conduct.

77. Soon thereafter, the student-athlete patient who reported the incident to Dr. Conviser's colleagues reported back that during the course of the investigation, DePaul's Title IX investigator had improperly disclosed her identity to the rest of her softball teammates -- a shocking breach of ethics and NCAA and Title IX rules -- resulting in the patient suffering retribution and retaliation from teammates who blamed her for getting Lenti "in trouble."

78. The University continued to cover up the Lenti scandal into late 2018, when it fired the Associate Head Coach that Lenti had assaulted and battered along with the rest of his coaching staff, but granted Lenti a dignified early retirement.


79. Lenti "unretired" one year later, only to accept a coveted position as Auburn University's Assistant Softball Coach, where he continues to be employed.

80. The possibility that Lenti's purported "retirement" was not voluntary and resulted from his misconduct was not lost on DePaul's student and alumni population and the community-at-large. In fact, the *DePaulia* reported Lenti's sudden departure this way:




This article prompted one perceptive reader to comment:

- on June 14th, 2018 10:32 pm

 If a man hit/punched/assaulted a woman he normally goes to jail, if he is a famous coach he gets to retire. Shame on this school and AD for covering up what this man has done.

Other readers similarly commented on Lenti’s penchant for abuse against his players and coaches and that his sister was his “boss”:

- ██████████ on June 14th, 2018 10:43 am




██████████ – the DePaulia isn’t sensationalizing anything. What they are doing is reporting the facts, and the facts are odd. You don’t retire and fire the entire staff right after. And then keep it quiet for days. Yes, if the head coach of golf left, I can see that as being quiet. However, this is the second or third best coach in the history of the school, and this is the AD’s brother. And nothing?

Something happened. Just another cover-up at DePaul.

81. Still others cast doubt on the reason DePaul let Lenti “retire.”

- ██████████ on June 14th, 2018 10:23 am



POST THE TRUTH !!! He is retiring because of the way he mistreated his players, a formal complaint was filed and now he has no choice but to retire.

82. Either these readers are all psychic, or they had obtained credible information that Lenti had punched one of his female coaches. In either event, DePaul knew or should have known about the allegations against Lenti, and yet it did nothing to protect the University’s vulnerable student-athlete population, a violation of one of its prime directives as an institution of higher education.

DePaul Breaches the Professional Services Agreement and Defames Conviser

83. Just a week after Dr. Conviser’s staff’s patient reported Lenti, the University, knowing of Dr. Conviser’s involvement, illegally retaliated against Dr. Conviser and Ascend by terminating the parties’ contract three years early.

84. Showing a complete lack of interest for student-athlete mental health needs, DePaul also went so far as to “rescind care” in the middle of treatment for a DePaul student-athlete and direct Dr. Conviser to refer the student back to the University for treatment. This was the first time in Dr. Conviser’s long relationship with DePaul that a patient’s treatment plan was ever “rescinded.”

85. From that point forward, the University stopped referring student-athletes altogether to Dr. Conviser and Ascend citing its sudden desire to utilize its internal counseling services.

86. Upon information and belief, DePaul stopped referring Conviser and Ascend patients in retaliation against her and out of spite, and not because it was utilizing any “in-house counseling or health centers” as it falsely claimed. DePaul’s misconduct once again left their students to bear the consequences for its selfish motives.

87. Since Dr. Conviser’s initial report regarding Lenti’s reprehensible behavior in 2016, DePaul slowly stopped referring student-athlete patients to Dr. Conviser and Ascend, turning off the spigot completely later after the Lenti assault became public.

COUNT I
(Retaliation, Title IX, 20 U.S.C. §§ 1681 *et seq.*)

88. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 87 above as if the same were fully alleged herein.

89. Dr. Conviser has engaged in the protected activity of providing assistance with Title IX investigations that have occurred at DePaul, as well encouraging multiple student-athletes with whom she has provided care to report their allegations misconduct to DePaul’s Title IX Office as required by applicable law and her professional ethics.

90. Plaintiffs provided assistance with Title IX investigations into Lenti by encouraging a patient of Dr. Conviser's practice to report that she had heard that a female Associate Head Coach of the softball team had been physically assaulted and battered by Lenti.

91. Dr. Conviser's and Ascend's activity in participating in the Title IX investigations as mandated by law and professional ethics, is "protected activity" under Title IX.

92. Just a week after Dr. Conviser's patient reported Lenti to DePaul, the University, knowing of Dr. Conviser's involvement in the reporting, illegally retaliated against her and Ascend by terminating the parties' Agreement three years early.

93. In addition, as described above, DePaul went further in their retaliation against Dr. Conviser, recently by labeling her a malcontent who is easily confused and doesn't get "her facts straight" leaving the impression that Dr. Conviser cannot be trusted as a mental health and nutrition professional by the DePaul community.

94. As a result, not one new DePaul-connected patient has contacted Dr. Conviser for care and treatment after the Lenti incident, despite her body of successful work with DePaul and sterling reputation stretching back 13 years.

95. Title IX, 20 U.S.C. § 1681(a) states in relevant part that "[n]o 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 education program or activity receiving Federal financial assistance."

96. Retaliation for complaining about, and assisting with investigations of violations under Title IX, is an intentional act considered to be discrimination prohibited by the statute.

97. Defendant has violated Section 1681(a) of Title IX by retaliating against Plaintiffs by terminating the parties' Agreement three years early due to Dr. Conviser's assistance in Title

IX investigations, including the specific allegations against Lenti reported to DePaul University on multiple occasions, and by defaming her, and placing her under a false light, and most recently preventing others in the DePaul community from using her needed mental health and nutrition therapy services.

98. Plaintiffs have suffered actual and ascertainable damages as a direct result of Defendant's retaliation.

WHEREFORE, Plaintiffs Dr. Conviser and Ascend pray that this Court enter judgment in their favor and against Defendant on Count I for violations of Title IX, 20 U.S.C. §1681(a) in an amount to be determined at trial, plus prejudgment interest, post-judgment interest, reasonable attorneys' fees and costs, and any other relief that this Court deems just and proper.

COUNT II
(Breach of Contract/Implied Covenant of Good Faith and Fair Dealing)

99. Plaintiff Ascend incorporates by reference the allegations contained in paragraphs 1-6, 11-14, 30, 43-46, 57, 66 and 83-87 above as if the same were fully alleged herein.

100. DePaul and Ascend executed a professional services agreement with a four-year term commencing July 1, 2017 and terminating on June 30, 2021.

101. This Agreement is a valid and binding contract.

102. Pursuant to the Agreement, DePaul agreed "to refer student-athletes that it believes are in need of clinical psychological assessment to Ascend."

103. In exchange, Ascend agreed "to conduct a preliminary evaluation of illnesses of a psychological or nutritional nature of the student-athletes referred to it by DePaul" and recommend and provide treatment as necessary.

104. Just a week after Dr. Conviser's patient reported Lenti to DePaul for Title IV violations and other abusive conduct, the University breached the Agreement by terminating it three years early, and then later stopped the flow of payments to her.

105. Additionally, DePaul breached the implied covenant of good faith and fair dealing, implied in all contracts under Illinois law, by refusing to send any new referrals to Dr. Conviser in retaliation for her properly and lawfully reporting Lenti's misconduct.

106. Upon information and belief, DePaul did this out of spite, and retaliation, and not because it was utilizing its in-house health facilities leaving its students to suffer the most.

107. By failing to fulfill its obligations under the Agreement by referring student-athletes to Dr. Conviser and Ascend, DePaul anticipatorily breached the Agreement even before it ever notified Dr. Conviser that it had "terminated" the Agreement.

108. DePaul's material breaches of its obligation of good faith and fair dealing and anticipatory repudiation, also constitute constructive termination of the Agreement.

109. Ascend has complied with all contractual conditions and fully performed its obligations under the Agreement.

110. Ascend has suffered actual and ascertainable damages as a direct result of Defendant's breach of the contract, as well as a breach of the implied covenant of good faith and fair dealing.

111. The parties' contract also contains in Section 9 an "attorneys' fees and costs" provision.

WHEREFORE, Plaintiff Ascend prays that this Court enter judgment in its favor and against Defendant on Count II for breach of contract and the breach of the implied covenant of good faith and fair dealing in an amount to be determined at trial, plus prejudgment interest, post-

judgment interest, attorneys' fees and costs, and any other relief that this Court deems just and proper.

COUNT III
(Indemnification)

112. Plaintiff Ascend incorporates by reference the allegations contained in paragraphs 1-6, 11-14, 30, 43-46, 57, 66 and 83-87 above as if the same were fully alleged herein.

113. DePaul and Ascend executed a professional services agreement with a four-year term commencing July 1, 2017 and terminating on June 30, 2021.

114. This Agreement is a valid and binding contract.

115. The parties' agreement contains an expressed Indemnification provision. Section 9 of the Agreement states in pertinent part: "[t]o the fullest extent permitted by law, each Party ("the Indemnifying Party") shall defend, indemnify, and hold harmless the other party ("the Indemnified Party"), its agents, employees, affiliates, trustees, directors, officers, faculty members, past or present, from and against any and all claims, damages, losses, and expenses including, but not limited to, reasonable attorneys' fees, arising out of or relating to any actual or alleged (i) misrepresentation, breach of warranty, breach of promise, or breach of covenant by the Indemnifying Party of any representation, warranty, promise, or covenant in this Agreement..." (Emphasis added).

116. Just a week after Dr. Conviser's patient reported Lenti to DePaul for Title IV violations and other abusive conduct, the University knowing that Dr. Conviser was involved, breached the Agreement by terminating it three years early, and by, in bad faith, refusing to send new patients to Plaintiffs in retaliation for Dr. Conviser's role in the Lenti investigation which continues through the filing of the suit.

117. By failing to fulfill its obligations under the Agreement by referring student-athletes to Dr. Conviser and Ascend, DePaul anticipatorily breached the Agreement even before it ever notified Dr. Conviser that it had “terminated” the Agreement.

118. DePaul’s material breaches of its obligation of good faith and fair dealing and anticipatory repudiation also constitute constructive termination of the Agreement.

119. Ascend has complied with all contractual conditions and fully performed its obligations under the Agreement.

120. Accordingly, Ascend is entitled to indemnification for its reasonable costs and fees, including attorneys’ fees, related to seeking redress for their damages caused by DePaul’s breaches of the Agreement.

WHEREFORE, Plaintiff Ascend prays that this Court enter judgment in its favor and against Defendant on Count III for its attorneys’ fees and costs, plus prejudgment interest, post-judgment interest, and any other relief that this Court deems just and proper.

COUNT IV
(Defamation *Per Se*)

121. Plaintiff Dr. Conviser incorporates by reference the allegations contained in paragraphs 1-6, 7-11, 24-25, 28-30, 37-42, 46, 58-68 and 86 above as if the same were fully alleged herein.

122. In addition to improperly terminating the parties’ Agreement, DePaul has defamed Dr. Conviser on more than one occasion. DePaul cast aspersions on Dr. Conviser’s professional acumen and thereby discouraged its student-athletes from seeking services from Dr. Conviser and Ascend.

123. As an example, in DePaul’s most recent correspondence about the serious issues raised by Dr. Conviser outlined above, DePaul libeled Dr. Conviser by revealing that it has told

third parties that Dr. Conviser is incompetent and “frequently gets her facts wrong” and thus cannot be trusted in a professional capacity.

124. Upon information and belief, such defamatory and knowingly false statements were made to student-athletes, managers, trainers, coaches and other third parties in the DePaul community. As a result, these individuals stopped seeking out Dr. Conviser for therapy and other treatment, causing her damage.

125. These statements were false and DePaul knew at the time they made these statements about Dr. Conviser and her business Ascend that they were false.

126. The falsity of the statements made by DePaul about Dr. Conviser making her *persona non grata* are manifest in the fact that even during the worst public health crisis in the modern era, which also led to the cancellation of all sports worldwide including the 2020 Olympics, not a single student athlete, manager, trainer or coach affiliated with DePaul contacted Dr. Conviser for help. This despite the tremendous psychic and emotional toll suffered by these sports-affiliated individuals since March, and Dr. Conviser’s stellar reputation with the DePaul student-athlete community before she was defamed by DePaul.

127. On February 23, 2020, counsel on behalf of Dr. Conviser and Ascend, wrote to DePaul University President, Dr. A. Gabriel Esteban, alerting DePaul of the grave injustice carried out in the wake of the Lenti scandal, and requesting a meeting to privately discuss a resolution of these serious matters.

128. In response, DePaul’s General Counsel’s office responded by flatly denying all allegations against DePaul or any of its officers, administrators, coaches or staff, and painting Dr. Conviser as a mere befuddled and disgruntled vendor crassly using DePaul’s patients’ well-being as an excuse to extort money. Not surprisingly, other than a personal and defamatory attack on

Dr. Conviser, DePaul did not refute one of the charges made against it by Dr. Conviser related to the Lenti affair.

129. Defendant's statements to third parties concerning Dr. Conviser's alleged inability to do her job constitute defamation *per se* as they are alleged statements of fact that relate to the Plaintiff's professional standing and impact her ability to conduct her business.

130. Defendant's statement that Dr. Conviser "simply did not get her facts right" constitutes defamation *per se* as it falsely implies that Dr. Conviser either is unable to perform, lacks integrity in performing her job, lacks the ability to perform her job or otherwise prejudices Dr. Conviser in her profession and as Ascend's CEO.

131. Defendant's statements concerning Dr. Conviser were false, disparaging and intended to damage Dr. Conviser and her professional reputation and published its defamatory statements to third parties.

132. Defendant made the false statements concerning Dr. Conviser with knowledge that they were false or with a reckless indifference as to their truth.

133. Defendant made the false statements concerning Dr. Conviser with actual malice in an effort, among other things, to exact revenge against Mr. Conviser for assisting and persisting in reporting violations of Title IX that occurred at DePaul.

134. As damages are presumed for the publication of *per se* defamatory statements, Plaintiff Dr. Conviser is presumed to have suffered damages as a result of Defendant's publication of its defamatory statements.

WHEREFORE, Plaintiff Dr. Conviser prays that this Court enter judgment in her favor and against Defendant on Count IV for defamation *per se* in an amount to be determined at trial,

plus prejudgment interest, post-judgment interest, attorneys' fees and costs, an award of punitive damages, and any other relief that this Court deems just and proper.

COUNT V
(Defamation Per Quod)

135. Plaintiff Dr. Conviser incorporates by reference the allegations contained in paragraphs 1, 2, 6, 7-11, 24-25, 28-30, 37-42, 46, 58-68 and 86 above as if the same were fully alleged herein.

136. In addition to improperly terminating the parties' Agreement, DePaul has defamed Dr. Conviser and Ascend on more than one occasion. DePaul cast aspersions on Dr. Conviser's professional acumen and thereby discouraged its student-athletes from seeking services from Dr. Conviser and Ascend.

137. In fact, in its most recent correspondence about this serious issues raised by Dr. Conviser outlined above, DePaul libeled Dr. Conviser by revealing that it has told third parties that Dr. Conviser is incompetent and "frequently gets her facts wrong" and thus cannot be trusted in a professional capacity.

138. Upon information and belief, such defamatory and knowingly false statements were made to student-athletes, managers, trainers, coaches and other third parties in the DePaul community, and as a result these individuals stopped seeking out Dr. Conviser for therapy and other treatment.

139. These statements were alleged statements of fact that constitute defamation *per quod* of the Plaintiffs.

140. These statements concerning Dr. Conviser and Ascend, were alleged with knowledge that they were false or with a reckless indifference as to their truth.

141. The falsity of the statements made by DePaul about Dr. Conviser making her *persona non grata* are manifest in the fact that even during the worst public health crisis in the modern era, which also lead to the cancellation of all sports worldwide including the 2020 Olympics, not a single student athlete, manager, trainer or coach affiliated with DePaul contacted Dr. Conviser for help. This is despite the tremendous psychic and emotional toll suffered by these sports-affiliated individuals since March ,as well as Dr. Conviser's well-known and beloved name throughout the DePaul student-athlete community.

142. On February 23, 2020, undersigned counsel for Dr. Conviser and Ascend wrote to DePaul University President, Dr. A. Gabriel Esteban, alerting DePaul of the grave injustice carried out in the wake of the Lenti scandal, and requesting a meeting to privately discuss a resolution of these serious matters.

143. In response, DePaul's General Counsel's office responded in writing by attacking Dr. Conviser and her professional reputation, including painting Dr. Conviser as a mere befuddled and disgruntled vendor crassly using DePaul's patients well-being as an excuse to extort money.

144. Defendant made the false statements concerning Dr. Conviser with actual malice in an effort, among other things, to exact revenge against Mr. Conviser for assisting and persisting in reporting violations of Title IX that occurred at DePaul.

145. Defendant's statements to third parties concerning Dr. Conviser were false, disparaging and intended to damage plaintiffs and their reputations.

146. Defendant published its defamatory statements to student-athletes, managers, trainers, coaches and other third parties in the DePaul community, and as a result, these individuals stopped seeking out Dr. Conviser for therapy and other treatment.

147. As a result of Defendant's publication of its false and defamatory statements, Plaintiff Dr. Conviser has suffered damages, including damage to their reputations.

WHEREFORE, Plaintiff Dr. Conviser prays that this Court enter judgment in her favor and against the Defendant on Count V for defamation *per quod* in an amount to be determined at trial, plus prejudgment interest, post judgment interest, attorneys' fees and costs, punitive damages, and any other relief that this Court deems just and proper.

COUNT VI
(False Light)

148. Plaintiff Dr. Conviser incorporates by reference the allegations contained in paragraphs 1, 2, 6, 7-11, 24-25, 28-30, 37-42, 46, 58-68 and 86 above as if the same were fully alleged herein.

149. DePaul has violated Dr. Conviser's right to privacy by casting her in a false light on more than one occasion. DePaul cast aspersions on Dr. Conviser's professional acumen and thereby discouraged its student-athletes from seeking services from Dr. Conviser and Ascend.

150. In fact, in its most recent correspondence about these serious issues raised by Dr. Conviser outlined above, DePaul libeled Dr. Conviser by revealing that it has told individuals that Dr. Conviser is incompetent and "frequently gets her facts wrong" and thus cannot be trusted in a professional capacity.

151. Upon information and belief, such defamatory and knowingly false statements were made to student-athletes, managers, trainers, coaches and other third parties in the DePaul community, and as a result these individuals stopped seeking out Dr. Conviser for therapy and treatment.

152. These statements were false and DePaul knew at the time they made these statements about Dr. Conviser and her business Ascend that they were false.

153. The false light created by DePaul would be highly offensive to a reasonable person in Dr. Conviser’s position given her esteemed world-renowned reputation and high stature in the field of sports psychology and nutrition.

154. DePaul made these false statements concerning Dr. Conviser with knowledge that they were false or acted with reckless disregard as to their truth.

155. As a result, Dr. Conviser has suffered damages, including damage to her reputation.

WHEREFORE, Plaintiff Dr. Conviser prays that this Court enter judgment in her favor and against Defendant on Count VI for false light in an amount to be determined at trial, punitive damages, plus prejudgment interest, post-judgment interest, attorneys’ fees and costs, and any other relief that this Court deems just and proper.

JURY DEMAND

Plaintiffs Dr. Jenny Conviser and Ascend Consultation in Health Care, LLC demand a jury trial on all counts so triable.

By: _____

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Ascend Consultation in Health Care, LLC

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Dated: April 15, 2020

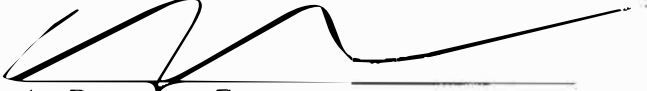
IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

DR. JENNY H. CONVISER and)
ASCEND CONSULTATION IN)
HEALTH CARE, LLC,)
)
Plaintiffs,)
)
v.)
)
DEPAUL UNIVERSITY,)
)
Defendant.)

Case No. 2020L004282

RULE 222(b) AFFIDAVIT

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the total of money damages sought herein exceed \$30,000.



Art Bresnahan, Esq.
ZUMPARO PATRICIOS & BRESNAHAN, LLC
Attorneys for Plaintiffs Dr. Jenny Conviser and
Ascend Consultation in Health Care, LLC

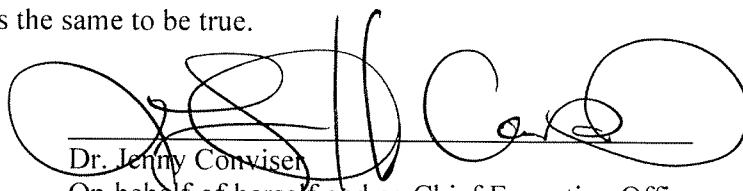
Executed on April 15, 2020

FILED DATE: 4/15/2020 4:26 PM 2020L004282

VERIFICATION BY CERTIFICATION

Pursuant to Section 2-605 of the Illinois Code of Civil Procedure and under the penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this Verified Complaint are true and correct, except as to matters therein stated to be on information and belief and as to such matters she certifies as aforesaid and verily believes the same to be true.

Dated: April 15, 2020


Dr. Jenny Conviser
On behalf of herself and as Chief Executive Officer
of Ascend Consultation in Health Care, LLC