

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHN DOE,)
Plaintiff,)
)
v.) C.A. No. 16-cv-30184-MAP
)
WILLIAMS COLLEGE,)
Defendant.)

MEMORANDUM AND ORDER REGARDING
DEFENDANT'S MOTION TO DISMISS
(Dkt. No. 31)

April 28, 2017

PONSOR, U.S.D.J.

A Hearing Panel at Williams College found that Plaintiff committed sexual misconduct and, based on this finding, expelled him. Plaintiff has filed this complaint pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-88, contending that his case was contaminated with anti-male bias. He has also alleged that Defendant breached its contract with him and committed various other violations of Massachusetts common law.

Defendant filed a Motion to Dismiss (Dkt. No. 31), attacking Plaintiff's complaint both as to form and as to substance.

With regard to form, the motion cites Fed. R. Civ. P. 8 and contends that the complaint is neither "short and plain" nor "concise." Rule 8(a) & (d). This argument is certainly true. The 90-page amended pleading (Dkt. No. 53) is bloated with extraneous material -- part press release, part closing argument, and part legal memorandum, but scarcely a proper complaint. It would be grossly unfair to require Defendant to file an answer to such an ungainly pleading. On this basis alone, the court will allow Defendant's Motion to Dismiss, but with leave, one final time, for Plaintiff to file a proper amended complaint, the third so far in this litigation.

With regard to the substantive arguments, the court will deny the Motion to Dismiss, finding that the complaint, even in its current inflated form, contains sufficient allegations to overcome the relatively low hurdle set forth by Fed. R. Civ. P. 12(b)(6) and its underlying authorities.

The court does this with some reluctance. The evidence of gender-based discrimination offered in the complaint is thin. The unusual feature of this case, however, is that Plaintiff alleges that he was himself a victim of

harassment, and even a physical assault, by the party he was alleged to have victimized. His allegations include claims that his own complaints of harassment were treated with less seriousness than the alleged victim's complaints and that responsible administrators were more solicitous of her because of her gender than of him. At this stage, these allegations are sufficient to boost the complaint over the Rule 12 threshold.

Similarly, the breach of contract claim has enough substance to survive a motion to dismiss. It appears, for example, that Defendant's hearing panel may have initially used an incorrect standard in concluding that Plaintiff's expulsion was an appropriate sanction, among other claimed violations of Plaintiff's procedural rights.

The associated common law claims rise or fall more or less in tandem with the claims under Title IX and for breach of contract. At the summary judgment stage, the court will take a much closer look at the sufficiency of the evidence to support these satellite claims, as well as the central claims for Title IX violations and a breach of contract. At this stage, it is clear that, while the allegations may not

be overwhelming, they are sufficient to satisfy the Rule 12 standard.

For the foregoing reasons, Defendant's Motion to Dismiss (Dkt. No. 31) is hereby ALLOWED, based on the violations of Fed. R. Civ. P. 8. It is otherwise DENIED. Plaintiff will file a new amended complaint on or before May 12, 2017. Defendant's rights are saved with regard to all its substantive arguments in support of dismissal applicable to this new complaint. The court has allowed Defendant's Motion to Strike (Dkt. No. 68). The precipitously filed third amended complaint (Dkt. No. 67) may be disregarded. The new amended complaint to be filed by May 12, 2017 will be entitled the "Third Amended Complaint" and will be the operative pleading.

This case is hereby referred to Magistrate Judge Katherine A. Robertson to conduct a scheduling conference pursuant to Fed. R. Civ. P. 16.

It is So Ordered.

/s/ Michael A. Ponsor

MICHAEL A. PONSOR

U.S. District Court