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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

BYRON THOMPSON, an individual, Plaintiff, v. UNIVERSITY OF SAN DIEGO, a California nonprofit corporation; KIMYA MASSEY, an individual; and DOES 1-25, inclusive, Defendants.	CASE NO.: **COMPLAINT FOR DAMAGES**

Plaintiff Byron Thomson ("Plaintiff") alleges as follows:

INTRODUCTION

1. Prior to Defendant's illegal conduct, Plaintiff was a highly respected collegiate rowing coach. He is also a devout Catholic and believed he was called to coach and mentor young adults. That calling led him to the head rowing coach position at the University of San Diego, which appeared to present the ideal circumstances from both a religious belief and calling perspective for him to establish a career and provide for his young family. And he quickly excelled in that position, transforming the University of San Diego's dwindling rowing program

into a highly successful, emerging powerhouse. But in 2025 everything changed. The university hired a new Athletic Director, Defendant Kimya Massey, who almost immediately expressed hostility towards Plaintiff's expression of his Catholic faith and his values driven approach to mentoring student athletes. Defendant Kimya Massey's hostility towards Plaintiff and his faith resulted in an orchestrated campaign to oust Plaintiff from his position. Among other things, Defendant Kimya Massey accused Plaintiff of favoring Catholic students over non-Catholic students (a claim that was demonstrably false), of conducting unlawful faith group meets (which were entirely voluntary and indeed a major recruitment tool sought out by a number of the student-athletes when deciding to attend a the university), of creating false medical records (even though Plaintiff is not a medical provider and does not create medical records), and of failing to report a sexual assault (there was no sexual assault for Plaintiff to report). Worse, in addition to carrying out his discrimination and retaliation against Plaintiff, Defendant Kimya Massey simultaneously and repeatedly disclosed this false and confidential employment information to university alumni who questioned and challenged Defendant Kimya Massey's persecution of Plaintiff. Defendant Kimya Massey remained steadfast in his pursuit to rid the Catholic university of its Catholic rowing coach and fired Plaintiff in January 2026. This action follows.

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff was at all relevant times a resident of San Diego County, California.

3. Defendant University of San Diego ("USD") is, and at all relevant times was, a nonprofit corporation organized and existing under the laws of the State of California, with its principal place of business in San Diego, California. At all relevant times, USD was authorized to and did conduct business and maintain offices and/or facilities in the State of California, including in San Diego County. USD is an employer as defined under California law, including, but not limited to, California Labor Code sections 200 *et seq*. and 226.7 *et seq*.

4. Defendant Kimya Massey ("Massey" and collectively with USD, "Defendants") was at all relevant times a resident of San Diego, California. Massey is an "officer" and/or "managing agent" level employee of USD and an employer as defined under California law, including, but not limited to, California Labor Code sections 200 *et seq*. and 226.7 *et seq*.



5. The true names and capacities, whether individual, plural, corporate, partnership, associate, or otherwise, of DOES 1-25 are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. The full extent of the facts linking such fictitiously sued Defendants is currently unknown to Plaintiff. Plaintiff is informed and believes that each such DOE Defendant was, and is, negligent, or in some other actionable manner responsible for the events and happenings referred to herein, and thereby negligently, or in some other actionable manner legally and proximately caused Plaintiff's damages. At all times mentioned herein, each Defendant, including DOES 1-25, was the agent, servant, or employee of the other Defendants and in acting and omitting to act as alleged herein did so within the course and scope of that agency or employment. Plaintiff will seek leave from the Court to amend this Complaint to show each DOE Defendant's true name and capacity after the same has been ascertained.

6. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, §10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." This Court has jurisdiction over all causes of action asserted herein because the alleged acts and omissions giving rise to the allegations set forth herein occurred in San Diego County, and Defendants either live in or conduct business in the State of California and have sufficient minimum contacts in California, are citizens of California, or otherwise purposely availed themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

7. Venue is proper in this Court because one or more of the named Defendants resides, transacts business, or has offices in San Diego County.

8. The amount in controversy exceeds $35,000.

9. Plaintiff exhausted administrative remedies pursuant to California Government Code sections 12960 and 12965(b) by timely filing an administrative complaint with the California Civil Rights Department and receiving a Right to Sue Letter within one year prior to the filing of this lawsuit.

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JOINT LIABILITY

10. Unless otherwise indicated herein, each Defendant herein sued is the agent, co-conspirator, joint venture, general employer, special employer, dual employer, partner, and/or employee of every other Defendant and, as alleged, has been acting within the course and scope of said agency, conspiracy, joint venture, dual employment, joint employment, partnership, and/or employment with the knowledge and/or consent of each Defendant. Moreover, Plaintiff is informed and believes that each Defendant has authorized and/or ratified the wrongful activities of each remaining Defendant.

CORPORATE LIABILITY FOR PUNITIVE DAMAGES

11. Defendants' conduct described herein was malicious, fraudulent, oppressive, mean, vile, despicable, and in conscious disregard of Plaintiff's rights and was undertaken by their officers, directors, and/or managing agents, and/or pursuant to policies and procedures adopted by their officers, directors, and/or managing agents as those terms are used in California Civil Code section 3294 for purposes of establishing corporate liability for punitive damages.

FACTUAL ALLEGATIONS

Plaintiff's Employment History And Record Of Performance

12. Plaintiff began his employment with USD in September 2021 as the Head Coach of the Men's Rowing program. Plaintiff did not apply for the position; USD recruited Plaintiff to take over and rebuild USD's sinking Men's Rowing program. USD sought out a coach capable of restoring competitiveness, increasing roster size, strengthening alumni engagement, and elevating the program's standing within the athletic department and broader collegiate rowing community. Plaintiff accepted that opportunity and, over the next four years, succeeded on each objective.

13. In 2021, Plaintiff took over a team facing both roster and budget challenges. Even so, the program was described as being run efficiently, and USD noted early on that Plaintiff had already worked hard to assemble a large incoming recruiting class for the following year. In that same evaluation cycle, Dan Yourg, USD's then Associate Director of Athletics, described Plaintiff as an "excellent communicator and tremendous representative of USD," and a coach



who held "himself to very high standards." That was the start of what would prove over the following several years to be the program's meteoric rise under Plaintiff's leadership.

14. By the 2023-24 review cycle, Mr. Yourg recorded that Plaintiff had helped the Men's Rowing program make "great strides," improved relationships with USD's rowing alumni, and facilitated great progress in fundraising. Importantly, Mr. Yourg noted that Plaintiff "embodies high quality character," and that "[Mr. Yourg] fully trust[s] our student-athletes with him."

15. Plaintiff further met a goal of engaging at least twenty new alumni in the program, and he not only met but surpassed a recruiting goal aimed at bringing in eight exceptional recruits by being on track to bring in fourteen recruits for the fall of 2024.

16. Plaintiff also led the team to a silver medal finish at the prestigious Head of the Charles Regatta (the program's best-ever finish) and three trophies at the Western Intercollegiate Rowing Association championships that the program had never won before, despite attending the regatta as a program for decades. By all objective measure, by just his second year at USD, Plaintiff was already transitioning USD's previously stagnant program into one that was growing in size, depth, and institutional support.

17. By the 2024-25 season, the program's growth had become even more pronounced under Plaintiff's leadership. Plaintiff had formed an alumni council and reported that alumni engagement and utilization were significantly up, as reflected in attendance at events and in donation dollars. Most notably, Plaintiff exceeded a fundraising goal of $90,000 so dramatically that his year-end summary projected the program's fundraising to be in excess of $250,000 for that academic year. This fundraising also included an all-team Name, Image, & Likeness (NIL) deal with Nautica, the first deal of its kind in the entire sport of men's collegiate rowing. Plaintiff did not simply keep the program afloat: he expanded its pipeline, energized its alumni base, and materially increased the available financial resources.

18. The same pattern appeared in the team's competitive results. In the 2024-25 season, the team attended perhaps the two most prestigious regattas in the sport and performed exceptionally at both: first, winning its event at the Head of the Charles Regatta in Boston (the



team's third year in a row with a best-ever finish), and then beating Oxford Brookes University (the best university program in the United Kingdom and one of the best in the world) at the Henley Royal Regatta in England in USD's first-ever trip to this prestigious regatta. The team also beat conference rival Santa Clara University in a duel for the first time since 2018, and UCLA multiple times for the first time in Coach Thompson's tenure. Additionally, in the middle of the school year, USD's Athletic Department asked Plaintiff to double his usual recruiting number of 10-12 recruits to grow the team's roster and help support the University's broader enrollment goals. Despite this short notice, Plaintiff recruited 23 student athletes, the largest class in program history.

19. The 2025-26 season began with similar success, and summer 2025 was perhaps the best in program history across every meaningful metric, including race results, recruiting, and fundraising. Additionally, Plaintiff led USD to victory over its local rival UCSD at the San Diego Fall Classic, the first time in seven years that any program had beaten UCSD at that regatta. Consistent with that level of success, Plaintiff received a raise slightly above ten percent, which he and his wife reasonably relied upon in deciding to purchase a home in San Diego and put down roots locally.

20. Plaintiff's success was not confined to internal metrics. In the Fall of 2025, the University Magazine featured "Rowing Through Life's Storms," which publicly highlighted Plaintiff's leadership philosophy, his emphasis on weekly team values discussions, his close-knit culture, and his extraordinary personal care for athletes during medical emergencies. In substance, the article presented Plaintiff and USD's Men's Rowing program as embodying the very kind of holistic, mission-centered student development that USD publicly claims to value. That public-facing recognition further underscores that Plaintiff had raised not only the program's competitive standing and fundraising capacity, but also its profile and credibility within the broader University and rowing community.

21. Needless to say, Plaintiff simultaneously rebuilt and elevated USD's Men's Rowing program across multiple dimensions. He stabilized a roster previously comprised of many students who were failing to represent USD well academically or interpersonally, he



expanded recruiting nationally and internationally to bring in higher-level recruits, he brought the program to roster-capacity expectations, he reengaged alumni, he drove fundraising far beyond stated targets, and he produced high-level competitive results that enhanced USD's and the program's visibility. And in addition to all that, the team's academic performance improved substantially under Plaintiff's leadership, with the average team GPA rising from approximately 2.9 in the year prior to his arrival to nearly 3.4 by the 2024-25 academic year. Far from documenting a struggling or mismanaged program, USD's own records document a coach who was succeeding in exactly the areas that matter most to a collegiate athletic program. Only after that sustained success did new senior athletic leadership begin raising concerns about Plaintiff's religious identity and expression.

Plaintiff's Faith And USD's Prior Knowledge

22. From the outset of his candidacy for the coaching position, Plaintiff was transparent about the central role his Catholic faith played in his life and professional identity. He did not conceal that Eucharistic identity, minimize it, or present it as something separate from his approach to mentoring young men and women. To the contrary, he made clear during the hiring process that one of the reasons he was drawn to USD was its Catholic identity and stated values, which he understood to reflect an institutional commitment to moral formation, spiritual development, and holistic student care.

23. USD not only received that information, but it affirmatively engaged with it. During the interview process, USD arranged for Plaintiff to meet with senior mission leadership, including the Vice President for Mission Integration. In that setting, Plaintiff discussed his faith background and his desire, if hired, to be a source of spiritual encouragement and support for student-athletes who desired it. USD raised no objection, and in fact suggested that Plaintiff's faith was a positive point in his candidacy. USD did not suggest that such faith-oriented mentorship would be inappropriate, inconsistent with USD policy, or incompatible with Plaintiff's role as a head coach. To the contrary, the circumstances of the hiring process conveyed that USD regarded this dimension of Plaintiff's candidacy as aligned with the character and mission of a Catholic institution.



24. After joining USD, Plaintiff conducted himself consistently with the same values he had openly described during the hiring process. He occasionally facilitated voluntary faith-based gatherings for athletes who independently expressed interest in that kind of community. These gatherings were not mandatory, were not tied to participation on the team, and were not used to confer any athletic, leadership, or recruiting advantage. They were simply one aspect of the broader mentorship and support Plaintiff sought to offer student-athletes within an environment that publicly identifies itself as Catholic and mission-driven.

25. Plaintiff was equally clear during the recruiting process. During campus visits, including at moments when tours passed through overtly religious spaces on campus, such as the Immaculata Church, he was open about the personal importance of faith in his own life. At the same time, he made equally clear that any faith-related discussion or involvement were entirely voluntary and would have no bearing whatsoever on an athlete's place within the program. He did not pressure recruits to share his beliefs, attend any gathering, or participate in any religious activity. Rather, he presented himself honestly, described the kind of support he hoped to provide for those who wanted it, and made clear that athletic opportunities would remain wholly separate from matters of religion.

26. That distinction remained consistent throughout his tenure. Plaintiff did not condition mentorship, access, support, or leadership opportunities on an athlete's religious beliefs or practices. Nor did he attempt to impose faith-based participation on those who were uninterested. His approach was inclusive in the truest sense: he was open about his own beliefs, available to athletes who desired spiritual support, and respectful of those who did not. That approach was entirely consistent with the environment USD held itself out as fostering.

27. Against that backdrop, USD's later treatment of Plaintiff's faith is especially troubling. What changed was not Plaintiff's conduct, but the attitude of senior leadership toward it. At the same time USD began to soften its mission-forward messaging, Defendants also began to question whether Plaintiff was too open about his faith, whether his voluntary faith-based leadership was appropriate, and whether he was more likely to support athletes who shared his religious beliefs. Those suspicions (and at times blatant accusations) were not grounded in facts.



To the contrary, Plaintiff's record shows that he cared deeply for all athletes, regardless of religion, and that leadership opportunities (and all other opportunities, for that matter) were solely merit-based, devoid of any influence based on a student's faith. Yet rather than accept that reality, Defendants increasingly treated Plaintiff's religious identity as a problem in need of explanation.

28. And it was only then, after benefiting for years from Plaintiff's successful leadership, that Defendants set out to build a case for removing Plaintiff. The allegations that followed were then used as post hoc justification. They were shifting, selective, exaggerated, and unfounded. Matters that had never previously resulted in discipline, concerns that had never been presented to Plaintiff as serious violations, and accusations that were disputed or unsupported were gathered together and treated as though they established cause for termination. Simply, the asserted reasons for Plaintiff's ultimate discharge were not the true reason for the decision, but the mechanism by which Defendants attempted to legitimize a decision already driven by animus toward Plaintiff's religious convictions.

Emerging Hostility Toward Plaintiff's Religious Expression

29. Once USD's leadership trained its sights on Plaintiff's conviction, the subsequent investigation took on the character of a pretext exercise rather than a legitimate fact-finding process.

30. Defendants' hostility toward Plaintiff's conviction did not initially present itself in the form of an explicit prohibition or direct disciplinary action. Rather, it emerged gradually, through remarks, insinuations, and shifting criticisms that revealed senior leadership's growing discomfort with Plaintiff's Eucharistic identity and religious expression. The progression matters because it shows that Defendants first identified Plaintiff's deeply held beliefs as a perceived problem and only afterward began constructing purportedly neutral reasons to justify his removal.

31. That shift became visible in the summer of 2025, when Plaintiff received end-of-year performance feedback relayed through his new supervisor, Associate Athletic Director for Compliance, Jacob Heuett. Although Plaintiff had just completed perhaps the strongest year in



program history, he was told that Massey, USD's new Athletic Director, had "gotten the sense" that Plaintiff was more likely to "go the extra mile" for athletes who shared Plaintiff's faith. When Plaintiff sought a concrete example, Mr. Heuett expressed concern that Plaintiff would be more likely to show up at the hospital for a religious athlete than for another athlete. The accusation was not only false, but readily disproven. Plaintiff had repeatedly gone to the hospital with athletes late into the night and, in some cases, through the early morning hours, and those athletes were not, to his knowledge, churchgoers. In fact, every time one of his athletes needed to go to the hospital for a rowing injury, Plaintiff went with them. Every single time. Likewise, the captains and leadership council members Plaintiff had selected throughout his time at USD were not chosen because of their faith, but solely on merit, and reflected myriad backgrounds. When Plaintiff requested to speak with Massey directly about these troubling, false accusations, Mr. Heuett dissuaded Plaintiff from doing so, explaining that the last USD Athletics employee who tried to contradict Massey's accusations "is no longer here." The clear implication Mr. Heuett conveyed to Plaintiff: stay quiet or get fired.

32. That episode is significant for several reasons:

a. **First**, it shows that Plaintiff's faith had already become a topic of concern within senior leadership even before the administrative leave process began. Several instances prove the point. Massey previously had put an end to having opening prayers at the start of all Athletic Department meetings (which had occurred, if not at every meeting, at nearly every meeting prior to Massey assuming the Athletic Director position). When selecting an updated department mission statement, after receiving Plaintiff's recommendation for one of the three options that had an express reference to Catholicism, Massey selected the only option without a reference to Catholicism. And, when talking to alumni, Massey spoke negatively of Plaintiff's faith-forward approach to coaching, stating words to the effect of, "Plaintiff has a prayer group, for goodness' sake," and "he wears his religion on his sleeve." Clearly, coinciding with USD's efforts to dilute its faith-forward messaging, Defendants determined that Plaintiff's faith-forward approach to coaching was problematic.



b. **Second**, it shows that the concern was framed in explicitly religious terms, not in terms of any actual misconduct.

c. **Third**, it shows that the suspicion persisted despite readily available facts refuting it. An employer acting in good faith would have investigated the matter, examined the facts, and moved on once the accusation proved baseless. Instead, the "concern" remained embedded in Defendants' perception of Plaintiff, and their crusade to fabricate "cause" to justify their faith-based discrimination persisted.

33. By late 2025, that discomfort towards Plaintiff's faith had become more overt. And by the fall of 2025, USD's hostility had reached a crescendo when it placed Plaintiff on an administrative leave while the university investigated several of Massey's fabricated concerns. During the leave and investigation process initiated in November 2025, Defendants told Plaintiff that some (unnamed) athletes purportedly did not like that Plaintiff was open about his faith. Shortly thereafter, in discussions with alumni regarding Plaintiff's leave, Massey specifically raised the fact that Plaintiff led a faith group within the team and questioned whether that was appropriate or even permissible. That concern is striking for at least two reasons. First, the faith group was voluntary, just as Plaintiff had always described it. Second, USD had been on notice from the time of hiring that Plaintiff viewed spiritual mentorship, where welcomed by athletes, as part of his broader approach to coaching at a Catholic institution. What had previously been known, accepted, and apparently mission-consistent, was now being recast as something suspect and improper.

34. The timing of this criticism is particularly revealing. USD did not raise concern about Plaintiff's faith-based mentorship when recruiting him, hiring him, evaluating him positively, awarding him raises, or publicly featuring him and his program as an example of mission-centered leadership. Only after Plaintiff had transformed the program into one of USD's clearest success stories, and only after senior leadership began expressing private discomfort with his faith, did Defendants start treating that same conduct as problematic.

35. Defendants' handling of these concerns also reflects consciousness of their discriminatory motives. Notably, when Human Resources became more directly involved in the



process, the explicit criticisms of Plaintiff's faith, which had been prominently mentioned in earlier conversations, were no longer overtly mentioned, even as the investigation continued to move toward termination. In other words, once Defendants' scrutiny entered a more formal stage, the religious concern did not disappear; it simply became less openly stated, while other allegations were elevated and used as the asserted basis for action. That is consistent with pretext. Employers motivated by unlawful bias often do not persist in stating the biased reason openly once the process becomes formalized; instead, they shift to a bundle of supposedly neutral justifications that can be cited as cover. That is what happened here.

36. Once Plaintiff's faith became a point of concern for senior leadership, Defendants began collecting and repackaging a range of allegations—many minor, some disputed, some exaggerated, and some unsupported—as grounds for removal. The pattern was not one of a genuine fact-finding process aimed at determining whether misconduct had occurred. It was one of selective accumulation. Matters that had not previously warranted discipline were suddenly treated as grave concerns. Explanations were disregarded. Facts were ignored. Context was minimized or expressly rejected. Allegations were repeated in their most damaging form even where facts undermined them. At the same time, the one theme that tied the process together from its earliest stages—leadership's discomfort with Plaintiff's religious expression—remained the background force animating the investigation.

37. In this way, Defendants' hostility toward Plaintiff's faith did not remain confined to stray comments or isolated criticism. It evolved into the lens through which his conduct was interpreted, his motives were questioned, and his employment was ultimately judged. Once that lens took hold, the outcome appears to have been effectively predetermined. The so-called investigation that followed did not uncover a legitimate reason to terminate Plaintiff; it functioned instead as a vehicle for manufacturing one.

Pretextual Investigation And Fabricated Justifications For Termination

38. Once Plaintiff's faith became a point of concern for USD leadership, the following process ceased to resemble a fair or objective investigation. Instead, it took on the character of a pretext exercise designed to justify a decision that had effectively already been made. Rather

than identifying a clear policy violation, gathering reliable evidence, and consistently applying established standards, Defendants assembled a shifting collection of complaints, characterizations, and accusations that were treated cumulatively as grounds for removal, even though many were minor, disputed, context-dependent, or unsupported. To be sure, student feedback from the Defendants' student interview process included that it felt like Massey—who never should have been conducting the interviews in the first place—had specific answers he was trying to get out of the students.

39. The timeline itself is revealing: during his summer 2025 evaluation, immediately after arguably the best year in program history, Plaintiff was told that Massey had formed the view that Plaintiff was more likely to "go the extra mile" for athletes who shared Plaintiff's faith; by November 24, 2025, Plaintiff had been abruptly placed on paid administrative leave; and by January 6, 2026, Defendants was asserting that they had enough to terminate Plaintiff for cause.

40. A hallmark of pretext is the use of vague and elastic concepts that can be expanded to fit whatever outcome the employer desires. That is precisely what occurred here.

41. Beginning no later than December 1, 2025, Plaintiff was criticized for "boundaries," for "oversharing," for caring too much in a fatherly or mentoring way, for talking too long, for being too verbal, and for being too open about his faith. By the December 5, 2025 meeting, these concerns had grown to include allegations that some athletes felt uncomfortable with his leadership style and with his voluntary faith group, and by January 6, 2026, Defendants were still relying on generalized statements such as "a lot of boundaries crossed." Many of these criticisms were not allegations of misconduct at all. They were, at most, criticisms of style, personality, or approach. Several were in fact the other side of the same qualities USD had previously praised in Plaintiff, namely his deep investment in athletes, his willingness to mentor them as whole persons, and his effort to build a close-knit and values-driven team culture. Conduct that had long been tolerated, praised, or publicly celebrated was suddenly reframed as evidence of concern only after USD leadership began viewing Plaintiff's faith as a problem.

42. The same pattern appears in Defendants' treatment of isolated incidents over the course of the investigation from December 1, 2025, through January 6, 2026. Rather than



evaluate them fairly, leadership repeatedly stripped away context and repackaged them in the most damaging terms possible.

43. On December 5, when one of the principal accusations involved a single alleged use of inappropriate language, Plaintiff attempted to explain the context, only to be told that Massey was "not interested in the context," and that the incident alone was enough for a for-cause termination. In light of Mr. Huette's earlier warning, Plaintiff took extra care to remain calm, professional, and measured throughout this meeting to avoid appearing "confrontational" to Massey. Nevertheless, Massey still later told others that Plaintiff was "being defiant." Defiance, in this context, means providing factual evidence refuting Massey's fabricated pretext

44. By December 15, similar issues were being re-presented in increasingly severe terms, and by January 6 they were bundled into a narrative of broad disqualification. The process was not aimed at understanding what happened. It was aimed at preserving the accusation in a form useful to termination. That is not good-faith fact-finding; it is advocacy for a predetermined result.

45. Defendants also relied heavily on allegations that had never previously resulted in discipline, had never been communicated to Plaintiff as serious violations, and in some instances had never been raised with him at all until he was already on leave and under investigation beginning November 24, 2025. If these matters truly reflected grave concerns warranting termination for cause, one would expect contemporaneous intervention, corrective guidance, progressive discipline, or at minimum, timely notice. Instead, Defendants permitted Plaintiff to continue coaching through the 2024-25 season, praised his performance in summer 2025, rewarded him financially with a raise, and publicly highlighted his leadership in fall 2025, only to later gather these stale or previously unaddressed issues into a retrospective case for discharge between December 2025 and January 2026. That sequencing shows that the allegations were not the genuine basis for concern when they supposedly occurred, but were later simply repurposed to support a desired outcome.

46. Equally telling is the way the asserted reasons for termination shifted and expanded over time. The concerns raised with Plaintiff evolved as the process continued. What



began as generalized athlete feedback and discomfort with Plaintiff's openness about faith broadened into an assortment of alleged athlete-welfare concerns, alleged medical concerns, alleged Title IX concerns, alleged improprieties in language, and alleged issues of professionalism and boundaries. This incremental expansion is consistent with a search for justifications rather than the discovery of truth. When the initial rationale is insufficient, pretextual investigations often widen the field, pulling in any issue that can be cast in a negative light, whether or not it genuinely supports termination.

47. Defendants' handling of the Title IX-related allegation is illustrative. Rather than treating the matter as a good-faith difference of judgment about a complicated reporting issue, Defendants elevated it into evidence of serious misconduct. Yet the underlying circumstance did not involve misconduct by a USD employee or student, did not concern an incident occurring within the University's program. It concerned a story of perseverance from an incoming student's childhood many years earlier that had been relayed in the context of a family's effort to seek an academic scholarship. In fact, this purported concern is a fine example of the absurdity Defendants' efforts to justify their wrongful conduct. A student and her parent asked Plaintiff to review a personal statement in support of sought-after scholarships. In that statement, the student discussed overcoming a childhood sexual assault, which occurred in a different state, many years before the student was associated with USD. With that, Defendants claimed that Plaintiff failed to report a sexual assault in violation of Title IX. Title IX clearly does not apply to that situation, and proving the point, on information and belief, once Defendants received that student's personal statement, they did not start a Title IX investigation.

48. Even assuming Defendants would have preferred a different reporting step, a good-faith employer would address that as a training or policy issue. Here, by contrast, the matter was used as part of a broader case to portray Plaintiff as unfit to remain in his role. That kind of escalation is indicative of pretext, particularly where the employer is already seeking grounds to terminate.

49. So too with other allegations that were treated as though they reflected grave misconduct when, at most, they implicated judgment calls, disputed recollections, or correctable



issues. Instead of distinguishing between matters that might warrant coaching and those that might justify discipline, Defendants blurred all distinctions and presented everything as part of a single narrative of disqualification. By doing so, Defendants created the appearance of overwhelming concern while obscuring the weakness of any individual allegation. This "pile on" method is common in pretext cases: when no single allegation is sufficiently serious or well-supported, the employer bundles many complaints together and relies on volume rather than substance.

50. Defendants' conduct toward Plaintiff during the final phase of the process further underscores the predetermined nature of the outcome. Even while asserting that there was purportedly "enough" to terminate Plaintiff for cause, Defendants simultaneously urged him to resign and accept a separation agreement releasing his claims. But if Defendants truly had uncovered clear and disqualifying misconduct, one would expect them to proceed confidently on that basis. Instead, they sought to pressure Plaintiff into an exit that would protect the institution from legal exposure and reduce scrutiny of the real (unlawful) reasons behind Defendants' actions. Such conduct is consistent with an employer that lacks confidence in the legitimacy of its asserted rationale and is attempting to secure a cleaner paper trail after the fact.

51. The contrast between Defendants' treatment of Plaintiff before and after faith became an issue is perhaps the strongest evidence of pretext. Before that point, Plaintiff was a successful, trusted, and rewarded coach who had rebuilt the program and brought it unprecedented competitive, financial, and reputational success. After faith became a concern for leadership, the very same coach was suddenly portrayed as a danger to athlete welfare and a candidate for termination for cause. The abruptness and severity of that reversal cannot be explained by performance history. It is far better explained by discriminatory motive followed by a search for supporting allegations.

52. In short, the investigation that led to Plaintiff's termination was not a neutral process that uncovered legitimate grounds for discharge. It was a selective, one-sided, outcome-driven effort to transform senior leadership's discomfort with Plaintiff's religion into a legally defensible-looking record. Defendants' asserted justifications were not the true reason for



Plaintiff's termination; they were the means by which Defendants attempted to conceal their true unlawful motive.

Defendants Add Insult To Injury And Defames Plaintiff Along The Way

53. Unfortunately, religious discrimination, retaliation, and wrongful, pretext-driven termination were not enough for Defendants. They determined through Massey to disclose Plaintiff's confidential employment information, false as it was, to numerous alumni who questioned Defendants' treatment of and demonstrated hostility towards Plaintiff.

54. During the investigatory period, Defendants (through Massey) communicated serious accusations to third parties, including alumni, suggesting that Plaintiff had engaged in misconduct such as altering a medical record, committing HIPAA-related wrongdoing, and failing to report sexual assault in violation of Title IX. Those allegations were facially damaging to a collegiate coach's professional reputation and carried the clear implication that Plaintiff had acted dishonestly, unlawfully, or in a manner endangering student welfare.

55. And the defamation did not end with Plaintiff's termination. In the face of alumni backlash, Defendants—through Massey—continued to publish and repeat false and misleading statements and disclose confidential personnel information to justify their decision.

Defendants' Complete And Utter Decimation Of Plaintiff's Career

56. The cumulative result of Defendants' wrongful conduct discussed above is the complete destruction of Plaintiff's coaching career.

57. Collegiate rowing is a comparatively small and interconnected community. The number of head coaching opportunities is limited. Athletic directors and search committees routinely speak to one another, consult informal networks, and assess not only win-loss records and fundraising ability, but perceived institutional risk. A coach separated under the cloud USD created around Plaintiff, including through their false public statements, does not simply move on without consequence. The stigma follows Plaintiff. To be sure, Massey conceded the point during a pre-termination communication with Plaintiff, stating words to the effect of, "I'm not officially advising you, but I would advise you to resign, because if you want to coach again termination really doesn't look good to other athletic departments."



58. Said otherwise, Defendants' conduct has substantially—and likely permanently—foreclosed Plaintiff's ability to continue the very career he believed was his calling.

59. The personal harm flowing from that is profound. Plaintiff did not lose only salary and benefits. He lost the opportunity to continue developing in the profession to which he had committed himself. He lost the standing he had built in a specialized field. He lost the chance to continue the work he believed he was meant to do. He also suffered the emotional consequences of having his vocation taken from him under a false and damaging narrative, after years of sacrifice and success.

60. For an individual who viewed collegiate coaching as both career and higher calling, the damage is not adequately described as ordinary job loss. It is the loss of professional identity, future trajectory, and meaningful life work. Defendants' conduct disrupted not only Plaintiff's present employment, but the entire arc of the future he had been building.

FIRST CAUSE OF ACTION

Discrimination/Disparate Treatment—Cal. Gov. Code § 12940(a)

Against Defendant University of San Diego and DOES 1-25

61. Plaintiff incorporates all preceding allegations as though fully set forth herein.

62. It is illegal for an employer to, among other things, bar or to discharge a person from employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment, based on that person's membership in a protected class, including religious creed. (Cal. Gov. Code, §12940(a).)

63. Plaintiff was an employee of USD and DOES 1-25. During that employment, USD and DOES 1-25 singled out and discriminated against Plaintiff based on Plaintiff's religious beliefs and expression, including by subjecting Plaintiff to disciplinary action and termination.

64. Plaintiff's religious belief and expression was a substantial motivating reason for USD and DOES 1-25's decision to discipline and terminate Plaintiff.

65. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including

embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

66. USD and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.

SECOND CAUSE OF ACTION

Failure to Prevent Discrimination—Cal. Gov. Code §12940(k)

Against Defendant University of San Diego and DOES 1-25

67. Plaintiff incorporates all preceding allegations as though fully set forth herein.

68. As Plaintiff's employer, USD and DOES 1-25 owed Plaintiff a duty of care to take reasonable steps to prevent discrimination against Plaintiff while acting within the course and scope of his employment. (Cal. Gov. Code, §12940(k).)

69. USD and DOES 1-25 breached that duty when they: (a) failed to implement adequate policies, procedures, and training to prevent discrimination by its senior leadership; (b) permitted Defendant Kimya Massey to discriminate against Plaintiff until Plaintiff was ultimately terminated; and (c) ratifying Defendant Kimya Massey's discrimination against Plaintiff by supporting Plaintiff's termination and not taking any corrective action against Defendant Kimya Massey with regard to his discrimination of Plaintiff.

70. USD and DOES 1-25 had numerous opportunities to take reasonable steps to avoid such discrimination, yet it instead opted to do nothing to protect Plaintiff from harm.

71. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

72. USD and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.



THIRD CAUSE OF ACTION

Retaliation—Cal. Gov. Code §12940(h)

Against Defendant University of San Diego and DOES 1-25

73. Plaintiff incorporates all preceding allegations as though fully set forth herein.

74. It is unlawful for any employer to discriminate or retaliate against any employee who complains of forbidden practices or otherwise engages in protected activity. (Cal. Gov. Code, §12940(h).)

75. Plaintiff engaged in protected activity with his employer by, among other things, complaining to USD and DOES 1-25 that Massey was engaging in discriminatory treatment of Plaintiff by challenging his religious expression and making discriminatory assumptions about Plaintiff related to same, which together subjected Plaintiff to escalating adverse actions.

76. By objecting to conduct challenging his religious expression and discriminatory assumptions related to same, Plaintiff placed USD and DOES 1-25 on notice that religion and religious expression had become an improper basis for scrutiny of Plaintiff.

77. Rather than take Plaintiff's complaints seriously and investigate and correct the misconduct, USD and DOES 1-25 retaliated against Plaintiff by, among other things: (a) fabricating negative reviews of Plaintiff's performance; (b) escalating disciplinary actions against Plaintiff; and (c) ultimately terminating Plaintiff's employment.

78. Plaintiff's protected activity was a substantial motivating reason for USD and DOES 1-25's retaliatory conduct.

79. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

80. USD and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.

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FOURTH CAUSE OF ACTION

Retaliation—Cal. Lab. Code §1102.5

Against Defendant University of San Diego and DOES 1-25

81. Plaintiff incorporates all preceding allegations as though fully set forth herein.

82. It is unlawful for any employer to discriminate or retaliate against any employee who complains of forbidden practices. (Cal. Lab. Code, §1102.5.)

83. Plaintiff engaged in protected activity with his employer by, among other things, complaining to USD and DOES 1-25 that Massey was engaging in discriminatory treatment of Plaintiff by challenging his religious expression and making discriminatory assumptions about Plaintiff related to same, which together subjected Plaintiff to escalating adverse actions.

84. By objecting to conduct challenging his religious expression and discriminatory assumptions related to same, Plaintiff placed USD and DOES 1-25 on notice that religion and religious expression had become an improper basis for scrutiny of Plaintiff.

85. Rather than take Plaintiff's complaints seriously and investigate and correct the misconduct, USD and DOES 1-25 retaliated against Plaintiff by, among other things: (a) fabricating negative reviews of Plaintiff's performance; (b) escalating disciplinary actions against Plaintiff; and (c) ultimately terminating Plaintiff's employment.

86. Plaintiff's protected activity was a substantial motivating reason for USD and DOES 1-25's retaliatory conduct.

87. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

88. USD and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.

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FIFTH CAUSE OF ACTION

Retaliation—Cal. Lab. Code §98.6

Against Defendant University of San Diego and DOES 1-25

89. Plaintiff incorporates all preceding allegations as though fully set forth herein.

90. It is unlawful for any employer to discriminate or retaliate against any employee who complains of forbidden practices. (Cal. Lab. Code, §98.6.)

91. Plaintiff engaged in protected activity with his employer by, among other things, complaining to USD and DOES 1-25 that Massey was engaging in discriminatory treatment and by challenging the religiously charged assumptions being made about Plaintiff, which were subjecting Plaintiff to escalating adverse actions.

92. By objecting to the suggestion that Plaintiff favored religious athletes, by explaining that the accusation was false, and by defending the legitimacy of his voluntary faith-based mentorship, Plaintiff placed USD and DOES 1-25 on notice that religion had become an improper basis for scrutiny of Plaintiff.

93. Rather than take Plaintiff's complaints seriously and investigate and correct the misconduct, USD and DOES 1-25 retaliated against Plaintiff by, among other things: (a) fabricating negative reviews of Plaintiff's performance; (b) escalating disciplinary actions against Plaintiff; and (c) ultimately terminating Plaintiff's employment.

94. Plaintiff's protected activity was a substantial motivating reason for USD and DOES 1-25's retaliatory conduct.

95. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

96. USD and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.

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SIXTH CAUSE OF ACTION

Wrongful Termination in Violation of Public Policy

Against Defendant University of San Diego and DOES 1-25

97. Plaintiff incorporates all preceding allegations as though fully set forth herein.

98. California law prohibits termination or other adverse employment actions against employees for reasons that violate public policy. (*Tameny v. Atlantic Richfield Co.* (1980) 27 Cal.3d 167.) USD and DOES 1-25 terminated Plaintiff's employment for reasons that violate the public policy of the State of California.

99. USD and DOES 1-25's termination of Plaintiff's employment violated California statutes and common law that inure to the benefit of the public at large and embody fundamental public policy of the State of California, including but not limited to the Fair Employment and Housing Act, California Government Code sections 12940 *et seq.*, and related statutes and common law.

100. USD and DOES 1-25 terminated Plaintiff's employment because of Plaintiff's religious beliefs and expression.

101. Plaintiff's termination was wrongful, tortious, illegal, and violated public policy.

102. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

103. USD and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.

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SEVENTH CAUSE OF ACTION

Defamation

Against All Defendants

104. Plaintiff incorporates all preceding allegations as though fully set forth herein.

105. USD, Massey, and DOES 1-25 made false statements about Plaintiff to third-parties, including members of the USD alumni community. Those statements included that Plaintiff was engaging in preferential treatment of Catholic students, had endangered student safety, falsified medical records, committed HIPAA violations, and committed Title IX violations, among other things.

106. Those third-parties reasonably understood that the false statements were about Plaintiff. To be sure, Massey expressly told them so.

107. USD, Massey, and DOES 1-25 not only failed to use reasonable care to determine the truth or falsity of those statements, they knew the statements were false at the time they were made.

108. Those third-parties reasonably understood the false statements to mean that Plaintiff was engaging in preferential treatment of Catholic students, had endangered student safety, falsified medical records, committed HIPAA violations, and committed Title IX violations, among other things.

109. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, lost wages and benefits, as well as damage to his reputation and profession, all in amounts subject to proof at trial.

110. In additional to being false, those third-parties had no right to hear any of the conveyed information, false or otherwise, because they pertained to Plaintiff's confidential employee information. This further evidences USD, Massey, and DOES 1-25's malicious intent in making those statements, which in turn further supports that their conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.



EIGHTH CAUSE OF ACTION

Negligent Infliction Of Emotional Distress

Against All Defendants

111. Plaintiff incorporates all preceding allegations as though fully set forth herein.

112. USD, Massey, and DOES 1-25 owed Plaintiff a duty to act reasonably during their interactions with and about Plaintiff.

113. USD, Massey, and DOES 1-25 breached that duty when they made false accusation to Plaintiff, and about Plaintiff to third-parties, including that Plaintiff was engaging in preferential treatment of Catholic students, had endangered student safety, falsified medical records, committed HIPAA violations, and committed Title IX violations, among other things.

114. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

115. USD, Massey, and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.

NINTH CAUSE OF ACTION

Intentional Infliction Of Emotional Distress

Against All Defendants

116. Plaintiff incorporates all preceding allegations as though fully set forth herein.

117. USD, Massey, and DOES 1-25 acted intentionally and outrageously to harm Plaintiff, including by falsely accusing to Plaintiff, and repeating those false accusations to thid-parties, including that Plaintiff was engaging in preferential treatment of Catholic students, had endangered student safety, falsified medical records, committed HIPAA violations, and committed Title IX violations, among other things.

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118. In so acting, USD, Massey, and DOES 1-25 intended to cause Plaintiff emotional distress and harm, or acted with reckless disregard of the probability that Plaintiff would suffer emotional distress and harm.

119. As a direct and proximate result of USD and DOES 1-25's conduct, Plaintiff was harmed and has suffered, and continues to suffer, mental and emotional anguish, including embarrassment, humiliation, anxiety, stress, and fear, as well as lost wages and benefits, all in amounts subject to proof at trial.

120. USD, Massey, and DOES 1-25's conduct was egregious and carried out with sufficient oppression, fraud, or malice to warrant the imposition of punitive damages pursuant to California Civil Code section 3294.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff Byron Thomson prays for judgment against Defendants University of San Diego, Kimya Massey, and DOES 1-25, inclusive, and each of them, as follows to the full extent allowed by law:

1. For general damages, according to proof;

2. For special damages, according to proof;

3. For punitive and exemplary damages in an amount appropriate to punish Defendants and deter others from engaging in similar conduct;

4. For costs of suit incurred herein;

5. For attorneys' fees pursuant to California Labor Code section 1102.5, California Government Code section 12965, California Code of Civil Procedure section 1021.5, and other applicable law;

6. For pre-judgment and post-judgment interest as provided by law; and

7. For such other and further relief as the Court deems just and proper.

DATE: October 15, 2026 ACS LAW PC

By: _____

AMIR H. AZIMZADEH
ERIC M. CARRINO
JACCOB T. SPAID
Attorneys for Plaintiff BYRON THOMPSON

DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully demands a trial by jury.

DATE: October 15, 2026

ACS LAW PC



By: _____

AMIR H. AZIMZADEH
ERIC M. CARRINO
JACOB T. SPAID
Attorneys for Plaintiff BYRON THOMPSON