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*Attorneys for Rhondie Voorhees*

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**Audrey Davis**, an individual,  
  
Plaintiff,

v.

**Rhondie Voorhees**, personally and as  
Dean of Students at Embry-Riddle Aeronautical  
University; **The Embry-Riddle Aeronautical  
University Board Of Trustees; Embry-  
Riddle Aeronautical University; and Tyler  
Smith**, an individual,  
  
Defendants.

**Rhondie Voorhees**, an individual  
  
Counterclaimant,

v.

**Audrey Davis**, an individual,  
  
Counterdefendant.

NO. 3:21-cv-08249-DLR

**RHONDIE VOORHEES'S  
ANSWER AND  
COUNTERCLAIM**

**DEMAND FOR JURY TRIAL**

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1 Defendant/Counterclaimant Rhondie Voorhees (“Dr. Voorhees”) by and through  
2 undersigned counsel, hereby responds to Plaintiff’s Complaint (Doc. 1 and refiled  
3 without exhibits at Doc. 6), raises her affirmative defenses, and asserts her counterclaims.  
4 Dr. Voorhees denies each and every allegation in the Complaint not specifically admitted  
5 herein. Dr. Voorhees incorporates certain headings used by Plaintiff in the Complaint for  
6 convenience and ease of reference, and hereby denies any allegations, assertions or  
7 inferences associated with any headings used by Plaintiff. With respect to the specific  
8 corresponding paragraphs of the Complaint, Dr. Voorhees responds as follows:  
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11 **ANSWER TO COMPLAINT**

12 **INTRODUCTION**

13  
14 Dr. Voorhees denies all allegations pertaining to her made by Plaintiff in the  
15 Introduction to the Complaint. Dr. Voorhees further avers that Plaintiff’s allegations  
16 pertaining to Dr. Voorhees are frivolous and are being presented for an improper purpose,  
17 have no evidentiary support, are incapable of having evidentiary support in the future,  
18 and were knowingly false when made. Plaintiff is hereby notified that Dr. Voorhees will  
19 be seeking sanctions under Fed. R. Civ. P. 11 and/or A.R.S. § 12-1349 at the appropriate  
20 time in the future.  
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23 **VENUE, JURISDICTION, AND PARTIES**

- 24 1. Dr. Voorhees denies the allegations contained in Paragraph 1 of the  
25 Complaint.  
26  
27 2. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
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the allegations in Paragraph 2 of the Complaint and therefore denies the same.

3. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 3 of the Complaint and therefore denies the same.

4. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 4 of the Complaint and therefore denies the same.

5. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 5 of the Complaint and therefore denies the same.

6. Responding to Paragraph 6 of the Complaint, Dr. Voorhees admits that Embry-Riddle Aeronautical University (“ERAU”) has a campus in Prescott, Arizona, and that Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 et seq. may apply to ERAU under certain circumstances. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the balance of the allegations in Paragraph 6 of the Complaint and therefore denies the same.

7. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 7 of the Complaint and therefore denies the same.

8. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 8 of the Complaint and therefore denies the same.

9. No response to Paragraph 9 of the Complaint is required.

**FACTUAL ALLEGATIONS**

10. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 10 of the Complaint and therefore denies the same. Dr.

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Voorhees further avers that she is not certain whether she was employed by ERAU at the time of this alleged incident or when Plaintiff submitted a grievance with ERAU under Title IX. In any event, Dr. Voorhees further avers that she has no oversight or supervision over any Title IX matters at ERAU.

11. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 11 of the Complaint and therefore denies the same.

12. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 12 of the Complaint and therefore denies the same.

13. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 13 of the Complaint and therefore denies the same.

14. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 14 of the Complaint and therefore denies the same.

15. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 15 of the Complaint and therefore denies the same.

16. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 16 of the Complaint and therefore denies the same.

17. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 17 of the Complaint and therefore denies the same.

18. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 18 of the Complaint and therefore denies the same.

19. Dr. Voorhees lacks sufficient knowledge or information to admit or deny

1 the allegations in Paragraph 19 of the Complaint and therefore denies the same.

2 20. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
3 the allegations in Paragraph 20 of the Complaint and therefore denies the same.

4 21. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
5 the allegations in Paragraph 21 of the Complaint and therefore denies the same.

6 22. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
7 the allegations in Paragraph 22 of the Complaint and therefore denies the same.

8 23. Responding to Paragraph 23 of the Complaint, Dr. Voorhees admits this  
9 allegation to the very limited extent that Plaintiff attempted to escalate her dissatisfaction  
10 to Dr. Voorhees. However, it was explained to Plaintiff multiple times and in many ways  
11 that Dr. Voorhees was not involved in overseeing or supervising Title IX matters at  
12 ERAU, that the reporting lines and structures for Title IX matters at ERAU required Dr.  
13 Voorhees to defer to ERAU's Title IX coordinator and that person's supervisor, the Vice  
14 President and General Counsel for ERAU, and that Plaintiff would need to address the  
15 issue with ERAU's Vice President. Dr. Voorhees denies the balance of the allegations  
16 and implications in Paragraph 23.

17 24. Dr. Voorhees denies the allegations contained in Paragraph 24 of the  
18 Complaint.

19 25. Dr. Voorhees denies the allegations contained in Paragraph 25 of the  
20 Complaint.

21 26. Dr. Voorhees denies the allegations contained in Paragraph 26 of the  
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1 Complaint.

2 27. The allegations contained in Paragraph 27 of the Complaint were  
3 knowingly false when made by Plaintiff and are sanctionable. Nowhere in the articles  
4 cited by Plaintiff in the defamatory petition she published on Change.org was there any  
5 allegation that Dr. Voorhees was run out of her prior position at the University of  
6 Montana because of her hostility toward a sexual assault victim there. In fact, one of the  
7 articles cited by Plaintiff noted how Dr. Voorhees was praised for her work by a victim.  
8 Moreover, Plaintiff has since learned that Dr. Voorhees’s departure from the University  
9 of Montana stemmed from her efforts to bring to light concerns about Title IX violations  
10 and student and campus safety, especially for female students and faculty, as well as her  
11 own safety. Dr. Voorhees denies the allegations contained in Paragraph 27 of the  
12 Complaint.  
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14 28. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
15 the allegations in Paragraph 28 of the Complaint and therefore denies the same.  
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17 29. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
18 the allegations in Paragraph 29 of the Complaint and therefore denies the same.  
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20 30. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
21 the allegations in Paragraph 30 of the Complaint and therefore denies the same.  
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23 31. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
24 the allegations in Paragraph 31 of the Complaint and therefore denies the same.  
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26 32. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
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1 the allegations in Paragraph 32 of the Complaint and therefore denies the same.

2 33. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
3 the allegations in Paragraph 33 of the Complaint and therefore denies the same.

4 34. Responding to Paragraph 34 of the Complaint, Dr. Voorhees admits that, on  
5 or about February 15, 2021, Plaintiff published the petition attached as Exhibit 1 to the  
6 Complaint on Change.org (the "Petition"). Dr. Voorhees denies the balance of the  
7 allegations and implications in Paragraph 34. Dr. Voorhees further avers that Plaintiff  
8 knowingly published false and defamatory statements on Change.org to maliciously harm  
9 her reputation and career.

10 35. Dr. Voorhees denies the allegations contained in Paragraph 35 of the  
11 Complaint.

12 36. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
13 the allegations in Paragraph 36 of the Complaint and therefore denies the same.

14 37. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
15 the allegations in Paragraph 37 of the Complaint and therefore denies the same.

16 38. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
17 the allegations in Paragraph 38 of the Complaint and therefore denies the same.

18 39. Dr. Voorhees denies the allegations contained in Paragraph 39 of the  
19 Complaint.

20 40. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
21 the allegations in Paragraph 40 of the Complaint and therefore denies the same.

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41. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 41 of the Complaint and therefore denies the same.

42. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 42 of the Complaint and therefore denies the same.

43. Dr. Voorhees denies the allegations contained in Paragraph 43 of the Complaint. Dr. Voorhees further avers that she does not handle Title IX matters and therefore cannot “mishandle” them. Moreover, Plaintiff was informed of this many times, and Plaintiff acknowledged that she understood; yet, after acknowledging her understanding, Plaintiff maliciously published the false and defamatory Petition directly targeted at Dr. Voorhees.

44. Dr. Voorhees denies the allegations contained in Paragraph 44 of the Complaint.

45. Dr. Voorhees denies the allegations contained in Paragraph 45 of the Complaint.

46. Responding to Paragraph 46 of the Complaint, Dr. Voorhees admits that she hired counsel to help facilitate a resolution between her and Plaintiff. Dr. Voorhees denies the balance of the allegations and implications in Paragraph 46.

47. Dr. Voorhees denies the allegations contained in Paragraph 47 of the Complaint.

48. Dr. Voorhees denies the allegations contained in Paragraph 48 of the Complaint.



1           49. Responding to Paragraph 49 of the Complaint, Dr. Voorhees admits that  
2 she sued Plaintiff for defamation in Yavapai County Superior Court (the “Defamation  
3 Lawsuit”). Dr. Voorhees denies the balance of the allegations and implications in  
4 Paragraph 49.

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6           50. Dr. Voorhees denies the allegations contained in Paragraph 50 of the  
7 Complaint. Dr. Voorhees further avers that (1) Plaintiff participates in the Army ROTC  
8 program; (2) the Army’s own website states that ROTC participants are not enlisted in  
9 the Army and will not be sent to boot camp;<sup>1</sup> (3) Plaintiff was personally served with the  
10 Defamation Lawsuit at her mother’s home in North Carolina on June 7, 2021; (4)  
11 Plaintiff was married to her current husband on June 19, 2021; (5) Plaintiff did not start  
12 participating in any ROTC training exercises until July 7, 2021; and (6) Plaintiff  
13 strategically waited to file anything in the Defamation Lawsuit until after Dr. Voorhees  
14 filed a request for entry of default and while Plaintiff was participating in the ROTC  
15 training exercises.

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19           51. Dr. Voorhees denies the allegations contained in Paragraph 51 of the  
20 Complaint. Dr. Voorhees further avers that Plaintiff’s father never stated that Plaintiff  
21 would be on “active duty” in his email to Dr. Voorhees’s counsel. Moreover, his email to  
22 counsel was riddled with blatant misstatements and falsehoods. Consequently, in addition  
23 to similar instances in the past, his statements were not credible.

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26           52. Dr. Voorhees denies the allegations contained in Paragraph 52 of the  
27 Complaint. Dr. Voorhees further avers that the request for entry of default was made in

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<sup>1</sup> See ROTC FAQ, attached as **Exhibit 1** hereto.

1 the Defamation Lawsuit on July 8, 2021 before receiving any notice that Plaintiff was  
2 claiming to be on “active duty.” In the Defamation Lawsuit, on July 19, 2021, Plaintiff  
3 filed a Motion to Continue under 50 U.S.C.A. § 3932. This was the first time Dr.  
4 Voorhees received notice that Plaintiff was claiming to be on “active duty.” Moreover,  
5 given that Plaintiff was not enlisted in the Army (according to the Army’s own website)  
6 and merely participating in an ROTC training exercise, Plaintiff’s claim to be on “active  
7 duty” was highly suspect. Moreover, Plaintiff failed to meet the very basic requirements  
8 needed to obtain a continuance under 50 U.S.C.A. § 3932. And even after retaining  
9 counsel, and filing an abundance of improper motions and documents in the Defamation  
10 Lawsuit,<sup>2</sup> Plaintiff never complied with the most basic requirement of § 3932 – “A letter  
11 or other communication from the servicemember's commanding officer stating that the  
12 servicemember's current military duty prevents appearance and that military leave is not  
13 authorized for the servicemember at the time of the letter.” 50 U.S.C.A. § 3932(b).

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18 53. Dr. Voorhees denies the allegations contained in Paragraph 53 of the  
19 Complaint.

20 54. Dr. Voorhees denies the allegations contained in Paragraph 54 of the  
21 Complaint.  
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23 55. Dr. Voorhees denies the allegations contained in Paragraph 55 of the  
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25 <sup>2</sup> Upon information and belief, Plaintiff was aware that filing a motion to dismiss in the  
26 Defamation Lawsuit was improper given the pending Motion to Continue and entry of  
27 default, but that Plaintiff filed the motion to dismiss, along with other documents riddled  
28 with incendiary statements, for the purpose of feeding misinformation to the media, as  
well as artificially and improperly inflating Plaintiff’s attorneys’ fees. Plaintiff  
purposefully made a spectacle out of the Defamation Lawsuit, and Plaintiff now seeks to  
continue with her defamatory media spectacle in this lawsuit.

1 Complaint. Dr. Voorhees further avers that it was Plaintiff’s own conduct that caused her  
2 any purported damages. Had Plaintiff elected to appropriately deal with the Defamation  
3 Lawsuit, rather than wrongfully seek to take advantage of the Servicemembers Civil  
4 Relief Act (“SCRA”), along with needlessly filing improper motions to rack up  
5 attorneys’ fees, Plaintiff would have no damages and the dispute between Dr. Voorhees  
6 and Plaintiff would have been resolved long ago. However, it is apparent that Plaintiff is  
7 attempting to use Dr. Voorhees as an instrument to obtain settlement monies from  
8 ERAU.  
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11 **COUNT I**

12 **BATTERY / SEXUAL BATTERY by DEFENDANT TYLER SMITH**

13  
14 56. Responding to Paragraph 56 of the Complaint, Dr. Voorhees hereby  
15 incorporates by reference all of her responses in the paragraphs above and below as  
16 though fully set out herein.  
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18 57. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
19 the allegations in Paragraph 57 of the Complaint and therefore denies the same.

20 58. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
21 the allegations in Paragraph 58 of the Complaint and therefore denies the same.  
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23 59. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
24 the allegations in Paragraph 59 of the Complaint and therefore denies the same.  
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26 60. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
27 the allegations in Paragraph 60 of the Complaint and therefore denies the same.  
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the allegations in Paragraph 69 of the Complaint and therefore denies the same.

70. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 70 of the Complaint and therefore denies the same.

71. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 71 of the Complaint and therefore denies the same.

72. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 72 of the Complaint and therefore denies the same.

73. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 73 of the Complaint and therefore denies the same.

74. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 74 of the Complaint and therefore denies the same.

75. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 75 of the Complaint and therefore denies the same.

76. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 76 of the Complaint and therefore denies the same.

77. Dr. Voorhees lacks sufficient knowledge or information to admit or deny the allegations in Paragraph 77 of the Complaint and therefore denies the same.

**COUNT III**

**RETALIATION BY ERAU DEFENDANTS**

78. Responding to Paragraph 78 of the Complaint, Dr. Voorhees hereby incorporates by reference all of her responses in the paragraphs above and below as

1 though fully set out herein.

2 79. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
3 the allegations in Paragraph 79 of the Complaint and therefore denies the same.

4 80. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
5 the allegations in Paragraph 80 of the Complaint and therefore denies the same.

6 81. Dr. Voorhees denies the allegations contained in Paragraph 81 of the  
7 Complaint.  
8

9 82. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
10 the allegations in Paragraph 82 of the Complaint and therefore denies the same.

11 83. Dr. Voorhees denies the allegations contained in Paragraph 83 of the  
12 Complaint.  
13

14 84. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
15 the allegations in Paragraph 84 of the Complaint and therefore denies the same.

16 85. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
17 the allegations in Paragraph 85 of the Complaint and therefore denies the same.

18 86. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
19 the allegations in Paragraph 86 of the Complaint and therefore denies the same.

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23 **COUNT IV**

24 **VIOLATION OF THE SCRA BY DEAN RHONDIE VOORHEES**

25 87. Responding to Paragraph 87 of the Complaint, Dr. Voorhees hereby  
26 incorporates by reference all of her responses in the paragraphs above and below as  
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1 though fully set out herein.

2 88. Responding to Paragraph 88 of the Complaint, no response is required.

3 89. Responding to Paragraph 89 of the Complaint, no response is required.

4 90. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
5  
6 the allegations in Paragraph 90 of the Complaint and therefore denies the same.

7 91. Responding to Paragraph 91 of the Complaint, Dr. Voorhees admits that  
8  
9 her counsel filed the declaration required under Ariz. R. Civ. P. 55, and that the  
10 declaration was true and correct when filed. Dr. Voorhees further avers that (1) Plaintiff  
11 participates in the Army ROTC program; (2) the Army's own website states that ROTC  
12 participants are not enlisted in the Army and will not be sent to boot camp;<sup>3</sup> (3) Plaintiff  
13 was personally served with the Defamation Lawsuit at her mother's home in North  
14 Carolina on June 7, 2021; (4) Plaintiff was married to her current husband on June 19,  
15 2021; (5) Plaintiff did not start participating in any ROTC training exercises until July 7,  
16 2021; (6) the request for entry of default was made in the Defamation Lawsuit on July 8,  
17 2021; (7) on July 19, 2021, Plaintiff filed a Motion to Continue under 50 U.S.C.A. § 3932, and this  
18 2021 before receiving any notice that Plaintiff was claiming to be on "active duty; (7) on  
19 July 19, 2021, Plaintiff filed a Motion to Continue under 50 U.S.C.A. § 3932, and this  
20 was the first time Dr. Voorhees received notice that Plaintiff was claiming to be on  
21 "active duty"; (8) no *default judgment* was ever entered against Plaintiff in the  
22 Defamation Lawsuit; and (9) Dr. Voorhees voluntarily dismissed the Defamation Lawsuit  
23 without prejudice, rendering the *entry* of default null and void. Dr. Voorhees denies the  
24 balance of the allegations and implications in Paragraph 91.

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<sup>3</sup> See ROTC FAQ, attached as Exhibit 1 hereto.

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1           92. Dr. Voorhees denies the allegations contained in Paragraph 92 of the  
2 Complaint.

3           93. Dr. Voorhees denies the allegations contained in Paragraph 93 of the  
4 Complaint.

5           94. Dr. Voorhees denies the allegations contained in Paragraph 94 of the  
6 Complaint. Plaintiff was not handicapped in her ability to defend. Instead, she chose to  
7 ignore the Defamation Lawsuit for almost an entire month, and then sought to take  
8 advantage of the SCRA as soon as she started her ROTC training.  
9

10           95. Dr. Voorhees denies the allegations contained in Paragraph 95 of the  
11 Complaint.  
12

13           96. Responding to Paragraph 96 of the Complaint, no response is required.  
14

15           97. Responding to Paragraph 97 of the Complaint, no response is required.  
16

17           98. Dr. Voorhees denies the allegations contained in Paragraph 98 of the  
18 Complaint.

19           99. Dr. Voorhees denies the allegations contained in Paragraph 99 of the  
20 Complaint.  
21

22           100. Dr. Voorhees denies the allegations contained in Paragraph 100 of the  
23 Complaint.  
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25           101. Dr. Voorhees denies the allegations contained in Paragraph 101 of the  
26 Complaint. Dr. Voorhees further avers that it was Plaintiff’s own conduct that caused her  
27 any purported damages. Had Plaintiff elected to appropriately deal with the Defamation  
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1 Lawsuit, rather than seeking to take advantage of the SCRA, along with needlessly filing  
2 improper motions to rack up attorneys' fees, Plaintiff would have no damages and the  
3 dispute between Dr. Voorhees and Plaintiff would have been resolved long ago.

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5 **COUNT V**

6 **RESPONDEAT SUPERIOR - SCRA**

7 102. Responding to Paragraph 102 of the Complaint, Dr. Voorhees hereby  
8 incorporates by reference all of her responses in the paragraphs above and below as  
9 though fully set out herein.

10  
11 103. Dr. Voorhees denies the allegations contained in Paragraph 103 of the  
12 Complaint.

13  
14 104. Dr. Voorhees denies Plaintiff is entitled to any relief, including the relief  
15 referenced in Paragraph 104 of the Complaint. Dr. Voorhees further avers that Plaintiff's  
16 allegations pertaining to Dr. Voorhees are frivolous and are being presented for an  
17 improper purpose, have no evidentiary support, are incapable of having evidentiary  
18 support in the future, and were knowingly false when made. Plaintiff is again hereby  
19 notified that Dr. Voorhees will be seeking sanctions under Fed. R. Civ. P. 11 and/or  
20 A.R.S. § 12-1349 at the appropriate time in the future.

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23 **COUNT VI**

24 **RESPONDEAT SUPERIOR**

25  
26 105. Responding to Paragraph 105 of the Complaint, Dr. Voorhees hereby  
27 incorporates by reference all of her responses in the paragraphs above and below as  
28

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1 though fully set out herein.

2 106. Dr. Voorhees lacks sufficient knowledge or information to admit or deny  
3 the allegations in Paragraph 106 of the Complaint and therefore denies the same.

4 107. Dr. Voorhees denies Plaintiff is entitled to any relief, including the relief  
5 referenced in Paragraph 107 of the Complaint.

6 108. Dr. Voorhees denies each and every allegation not specifically admitted  
7 herein.  
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9 109. Dr. Voorhees further avers that Plaintiff's allegations pertaining to Dr.  
10 Voorhees are frivolous and are being presented for an improper purpose, have no  
11 evidentiary support, are incapable of having evidentiary support in the future, and were  
12 knowingly false when made. Plaintiff is again hereby notified that Dr. Voorhees will be  
13 seeking sanctions under Fed. R. Civ. P. 11 and/or A.R.S. § 12-1349 at the appropriate  
14 time in the future.  
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17 **AFFIRMATIVE DEFENSES**

18 Without admitting the truth of any allegation set forth in the Complaint, Dr.  
19 Voorhees asserts the following affirmative defenses to the claims purportedly stated  
20 therein:  
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22 1. The Complaint, and each and every claim alleged therein, fails to allege  
23 facts sufficient to state a claim upon which relief may be granted.  
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25 2. Plaintiff's alleged damages, if any, are the direct and proximate result of  
26 intervening and superseding acts of third parties not affiliated with Dr. Voorhees and/or  
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1 not under Dr. Voorhees’s domain or control.

2 3. Plaintiff is estopped, in whole or in part, from asserting the claims alleged  
3 in the Complaint by virtue of the Plaintiff’s own acts and omissions.

4 4. Plaintiff is barred from recovery by virtue of her own unlawful and/or  
5 inequitable conduct, which constitutes unclean hands/*in pari delicto*.

6 5. Plaintiff is barred from recovery by virtue of her failure to mitigate  
7 damages and her failure and refusal to take such actions as reasonably necessary to  
8 minimize any loss which may have been sustained.

9 6. Any damages or loss sustained by each Plaintiff was proximately caused  
10 and/or contributed to by Plaintiff’s own conduct, or the acts and/or omissions of  
11 Plaintiff’s agents, thereby precluding Plaintiff’s claims entirely, reducing Plaintiff’s  
12 recoverable damages, and/or entitling Dr. Voorhees to a proportional set-off.

13 7. Plaintiff is barred from recovery by the doctrine of contributory negligence  
14 or comparative fault because any damages allegedly sustained by Plaintiff were caused  
15 by Plaintiff, others, and/or non-parties at fault.

16 8. Dr. Voorhees asserts all additional affirmative defenses in Rules 8 and 12  
17 of the Federal Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff’s  
18 recovery. Dr. Voorhees alleges that she cannot fully anticipate all affirmative defenses  
19 that may be applicable to this action. Accordingly, the right to assert additional  
20 affirmative defenses, if and to the extent that such affirmative defenses are applicable, is  
21 hereby reserved.  
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1 WHEREFORE, having fully answered Plaintiff’s Complaint, Dr. Voorhees  
2 respectfully requests the Court to enter judgment as follows:

- 3 A. Plaintiff’s Complaint be dismissed with prejudice and that Plaintiff take  
4 nothing thereby;
- 5 B. Dr. Voorhees be granted judgment in her favor;
- 6 C. A finding, under A.R.S. § 12-1349, that Plaintiff brought her claims  
7 without substantial justification, Plaintiff brought her claims to harass Dr.  
8 Voorhees and/or unreasonably expanded the proceeding.
- 9 D. A finding, under Fed. R. Civ. P. 11, Plaintiff’s allegations pertaining to Dr.  
10 Voorhees are frivolous and are being presented for an improper purpose,  
11 have no evidentiary support, are incapable of having evidentiary support in  
12 the future, and were knowingly false when made.
- 13 E. Dr. Voorhees be awarded her reasonable attorneys’ fees and costs, as well  
14 as sanctions pursuant to Fed. R. Civ. P. 11, A.R.S. §§ 12-341 and 12-1349;  
15 and  
16
- 17 F. For such other and further relief as the Court deems just and proper.  
18  
19  
20  
21

22 **COUNTERCLAIM**

23 Defendant/Counterclaimant Rhondie Voorhees (“Dr. Voorhees”) alleges as  
24 follows for her counterclaim against Plaintiff (“Davis”):  
25

26 **PARTIES, JURISDICTION AND VENUE**

- 27 1. Dr. Voorhees resides in Yavapai County, Arizona.

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2. Davis, at all relevant times hereto, was a resident of Yavapai County, Arizona.

3. Although Davis is currently married, all tortious conduct alleged herein was performed by Davis before her marriage on June 19, 2021.

4. This Court has supplemental jurisdiction over the Counterclaim pursuant to 28 U.S.C. § 1367 because the claims are so related to Plaintiff’s claims in the action that they form part of the same case or controversy under Article III of the United States Constitution.

5. Upon information and belief, jurisdiction and venue are proper in this Court.

**FACTS**

6. All of the allegations contained within the paragraphs above and below are hereby incorporated by reference as if fully set out herein.

7. Dr. Voorhees is the Dean of Students at Embry-Riddle Aeronautical University in Prescott, Arizona (“ERAU”).

8. Davis is currently a student at ERAU.

9. Upon information and belief, in 2019, Davis filed a complaint with ERAU under Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. §1681 et seq.

10. Davis was displeased with how ERAU investigated the Title IX complaint and/or its findings.

1           11. In September of 2020, Davis met with Dr. Voorhees regarding Davis's  
2 concerns. Two members of Davis's Army ROTC cadre leadership were also present at  
3 that meeting (Major Jackson and SFC J. DiCenzo).

4  
5           12. While Dr. Voorhees attempted to be empathetic to Davis's concerns, Dr.  
6 Voorhees made it very clear to Davis during the meeting that Dr. Voorhees is not, and  
7 has never been, involved with overseeing or supervising any Title IX issues at ERAU.

8  
9           13. Dr. Voorhees made it clear to Davis that Dr. Voorhees did not oversee or  
10 supervise Title IX matters at ERAU, and if Davis had concerns about a Title IX matter,  
11 then she should address it to the Title IX Coordinator's supervisor, who is the Vice  
12 President and General Counsel for the University.

13  
14           14. Dr. Voorhees drew a diagram for Davis on a whiteboard depicting the  
15 supervision structure of Title IX management on campus.

16  
17           15. More specifically, Dr. Voorhees drew a chart showing how Dr. Voorhees  
18 supervises another administrator on a half-time basis in her role as Associate Dean of  
19 Students only, and how this administrator reports to ERAU's legal counsel for her other  
20 half-time role as Title IX Coordinator.<sup>4</sup>

21  
22           16. Dr. Voorhees made it very clear to Davis that Dr. Voorhees had never read  
23 Davis's entire case file and was unaware of all details concerning Davis's case.

24  
25           17. During the meeting, Davis acknowledged her understanding that Dr.  
26 Voorhees has nothing to do with any Title IX matters.

27  
28 <sup>4</sup>The supervision of the Title IX Coordinator has since changed; she is no longer the  
Associate Dean of Students on a half-time basis and is now the fulltime Title IX  
Coordinator.

1 18. Surprisingly, however, on or about February 15, 2021, Davis published  
2 several false and defamatory statements on Change.org (the “Petition”). See Petition,  
3 attached as **Exhibit 2** hereto.  
4

5 19. Davis knowingly made the false factual implication that Dr. Voorhees was  
6 not only responsible for Davis’s investigation taking over 150 days, but that Dr.  
7 Voorhees was also responsible for how things were handled post-investigation, even  
8 though Davis was well aware that this was false.  
9

10 20. Davis also falsely published that “Dean of Students Rhondie Voorhees was  
11 asked to leave her last position at University of Montana for the culture she, and other  
12 staff members perpetuated regarding how the college system of justice handles rape.”  
13

14 21. As stated at least one of the articles cited by Davis in the Petition, the  
15 University of Montana stated that they elected not to renew Dr. Voorhees’s contract  
16 because the Dean of Students position was eliminated. The University of Montana has  
17 stated this publicly, along with the fact that Dr. Voorhees remained an employee in good  
18 standing throughout and was paid fully for the duration of her contract period.  
19

20 22. The online article that Davis cited in the Petition, presumably because of  
21 the headline (“Dean of Students asked to leave,” Missoulian, August 20, 2018), refers at  
22 least five times to “reorganization,” “restructure,” and “redefined” or “changing” roles  
23 by the university in relation to the elimination of the Dean of Students position. The  
24 article also includes a reference to Dr. Voorhees being an “employee in good standing.”  
25  
26

27 23. Davis also falsely published that, “[i]n the total of 80 rapes over the span of  
28

1 three years Dr. Voorhees oversaw, only one was convicted.”

2 24. However, while at UM, Dr. Voorhees was never responsible for  
3 "overseeing" Title IX matters; throughout her time at UM as Dean of Students, there was  
4 a Title IX Coordinator with those responsibilities.  
5

6 25. Dr. Voorhees did not oversee 80 rape cases during any three-year period  
7 while at the University of Montana (“UM”); in 2012 and 2013, long before her departure  
8 from UM, she reviewed a high-profile Title IX case involving an athlete, wherein over  
9 Dr. Voorhees’ objection, she was instructed to apply a higher burden of proof when  
10 reviewing the findings.  
11

12 26. Additionally, there was not “80 rapes” in “three years” at the University of  
13 Montana at any time while Dr. Voorhees was Dean of Students.  
14

15 27. In the Petition, Davis also falsely states that, “Dean Rhondie made Trans  
16 student drop out, after coming out. Stating they violated the student conduct after an  
17 incident that occurred 6mo prior.”  
18

19 28. Dr. Voorhees vehemently rejects the characterization that she is anti-  
20 LGBTQ as Davis falsely implied. Moreover, the facts of that case, as described in the  
21 news article the Davis linked to in her own petition, indicate that the fact the student was  
22 transgender had nothing to do with any student conduct action.  
23

24 29. The false and defamatory statements contained in the Petition and  
25 referenced above will hereinafter collectively be referred to as the “False Statements.”  
26

27 30. In addition to publishing the Petition, on February 15, 2021, Davis emailed  
28

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1 at least 74 students and faculty at ERAU and directed them to “check out this petition and  
2 share.” See Email, attached as **Exhibit 3** hereto.

3 31. Davis also posted on Facebook.com the false and defamatory implication  
4 that Dr. Voorhees was directly connected to the alleged mismanagement of Davis’s Title  
5 IX case at ERAU.

6  
7 32. Upon information and belief, after publishing the Petition, Davis also  
8 created and disseminated at least four memes of Dr. Voorhees, each containing a False  
9 Statement or variation thereof, designed and intended to impeach Dr. Voorhees’s ability  
10 to adequately perform her duties as the Dean of Students at ERAU.

11  
12 33. Davis’s conduct was clearly intended to cause harm to Dr. Voorhees’s  
13 reputation and interfere with her employment with ERAU.

14  
15 34. After Dr. Voorhees confronted Davis about why and how the False  
16 Statements were not true, Davis took several days to remove the Petition, as well as the  
17 Facebook comment, after receiving several demands from Dr. Voorhees.

18  
19 35. On February 16, 2021, Davis was also informed by a Title IX investigator  
20 at ERAU that Dr. Voorhees “has nothing to do with Title IX here at ERAU or any of its  
21 processes.” The investigator reiterated to Davis that the Title IX Coordinator reports to  
22 the Vice President and General Counsel for the University. He reiterated that, “Rhondie  
23 does not work within Title IX,” and “she does not report to and is not a part of the same  
24 Title IX supervision and process like Liz and I are.” Davis told the investigator on that  
25 day that she understood all of this and had no questions regarding it.  
26  
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1 36. However, even after learning from an actual Title IX investigator at ERAU  
2 that the Petition contained several false and defamatory statements, Davis failed to act  
3 promptly to remove the Petition.

4  
5 37. After receiving several demands from Dr. Voorhees to delete the Petition,  
6 Davis finally did so on February 21, 2021.

7 38. At this point, however, the False Statements began to spread well beyond  
8 ERAU, and individuals who were not affiliated with ERAU began to share the Petition  
9 on social media and make new negative comments about Dr. Voorhees.

10  
11 39. It was explained to Davis the damage she caused and that she would  
12 continue to cause if she did not promptly issue a retraction.

13  
14 40. For several months after publishing the False Statements, Davis continued  
15 to act with reckless indifference to the harm she continues to cause by refusing to issue  
16 any retraction.

17  
18 41. While Dr. Voorhees has been extremely empathetic to Davis under the  
19 circumstances, Dr. Voorhees cannot and will not allow Davis to destroy Dr. Voorhees’s  
20 reputation, which has taken decades and countless sacrifices to build.

21  
22 **COUNT I—DEFAMATION AND DEFAMATION PER SE**

23 42. All of the allegations contained within the paragraphs above and below are  
24 hereby incorporated by reference as if fully set out herein.

25  
26 43. The False Statements made by Davis are about and concerning Dr.  
27 Voorhees.

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44. Without privilege, Davis communicated the False Statements to various third parties via the Internet and/or intentionally made such statements on the Internet, which were accessible to third parties without password protection.

45. Various third parties have viewed and commented on the False Statements published on the Internet.

46. Davis also emailed the Petition to at least 74 people, including students, faculty and staff through the campus email, and several people discussed the email with Dr. Voorhees.

47. Given the manner in which the False Statements were published, it is evident that the False Statements have been published to third parties with malice, spite, or ill will and with the intent of causing harm to the reputation, employment and economic interests of Dr. Voorhees.

48. The False Statements published by Davis impeach the honesty, integrity, or reputation of Dr. Voorhees.

49. The False Statements bring Dr. Voorhees into disrepute, contempt, or ridicule.

50. The False Statements made by Davis constitute defamation per se and general damages are presumed as a matter of law.

51. In making and publishing the False Statements, Davis had knowledge of or acted in reckless disregard as to the falsity of the False Statements.

52. Davis published the False Statements knowing that they would be widely

1 disseminated and result in pecuniary loss, as well as irreparable harm.

2 53. As a direct and proximate result of Davis posting the False Statements, Dr.  
3 Voorhees has sustained, and will continue to sustain, immediate and irreparable harm and  
4 injury including, but not limited to, damage to reputation, losses in business  
5 opportunities, loss of earnings, loss of earning capacity, and a loss of business relations  
6 with existing and future business prospects, including potentially ERAU and other  
7 academic institutions.  
8  
9

10 54. As a direct and proximate cause of the conduct by Davis, Dr. Voorhees has  
11 suffered, and will continue to suffer, humiliation, extreme emotional distress, anxiety,  
12 depression, stomach aches, headaches, lack of sleep, lack of a desire to eat, emotional  
13 pain and suffering, and anguish.  
14

15 55. Upon information and belief, Dr. Voorhees has suffered a direct pecuniary  
16 loss as the result of the publication of the False Statements.  
17

18 56. Dr. Voorhees has suffered general and special damages in an amount to be  
19 proven at trial.

20 57. In making and publishing the False Statements, Davis acted maliciously,  
21 willfully, wantonly, and unlawfully.  
22

23 58. For such willful and malicious acts, Dr. Voorhees hereby seeks punitive  
24 damages in addition to actual damages.  
25

26 59. Davis's acts, omissions, conduct and transactions alleged herein were  
27 aggravated, outrageous, and guided by evil motives wherein Davis intended to harm Dr.  
28

1 Voorhees and/or consciously pursued a course of conduct knowing that it created a  
2 substantial risk of significant harm to Dr. Voorhees.

3 60. To dissuade Davis from pursuing a similar course of conduct in the future  
4 and to discourage other persons from similar conduct in the future, an award of punitive  
5 damages should be awarded against Daviss in the sum of sufficient magnitude to punish  
6 Davis and to deter similar conduct by others.  
7

8 **COUNT II—FALSE LIGHT INVASION OF PRIVACY**  
9

10 61. All of the allegations contained within the paragraphs above and below are  
11 hereby incorporated by reference as if fully set out herein.

12 62. In making and publishing the False Statements, Davis caused Dr. Voorhees  
13 to be portrayed out of context and in false light.  
14

15 63. The False Statements are about and concerning Dr. Voorhees.

16 64. Davis communicated the False Statements to third parties via the Internet  
17 and email and/or intentionally made such statements on the Internet accessible to third  
18 parties without password protection.  
19

20 65. Davis’s False Statements are and would be highly offensive to a reasonable  
21 person and have been published to third parties with the apparent intent of causing harm  
22 to Dr. Voorhees.  
23

24 66. In making and publishing the False Statements, Davis knew the False  
25 Statements were false or acted in reckless disregard as to the falsity of the False  
26 Statements.  
27  
28

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1           67. As a direct and proximate cause of the conduct by Davis, Dr. Voorhees has  
2 suffered, and will continue to suffer, humiliation, extreme emotional distress, anxiety,  
3 depression, stomach aches, headaches, lack of sleep, lack of a desire to eat, emotional  
4 pain and suffering, and anguish.

6           68. In making and publishing the False Statements, Davis acted maliciously,  
7 willfully, wantonly, and unlawfully.

9           69. For such willful and malicious acts, Dr. Voorhees hereby seeks punitive  
10 damages in addition to actual damages.

11           70. Davis’s acts, omissions, conduct and transactions alleged herein were  
12 aggravated, outrageous, and guided by evil motives wherein Davis intended to harm Dr.  
13 Voorhees and/or consciously pursued a course of conduct knowing that it created a  
14 substantial risk of significant harm to Dr. Voorhees.

16           71. To dissuade Davis from pursuing a similar course of conduct in the future  
17 and to discourage other persons from similar conduct in the future, an award of punitive  
18 damages should be awarded against Daviss in the sum of sufficient magnitude to punish  
19 Davis and to deter similar conduct by others.

21           72. There is a substantial risk that unless Davis’s wrongful acts described  
22 herein are permanently enjoined, Davis will continue to irreparably injure Dr. Voorhees  
23 by publishing the False Statement and/or publishing additional false and defamatory  
24 statements.  
25  
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27           73. Dr. Voorhees has no adequate remedy at law; therefore, Dr. Voorhees is  
28

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1 entitled to injunctive relief, including, but not limited to, an order requiring Davis remove  
2 the False Statements (if any remain online) and prohibiting Davis from publishing and/or  
3 publicly communicating any false and defamatory statements.  
4

5 **WHEREFORE**, Dr. Voorhees demands judgment against Davis as follows:

- 6 A. For a permanent injunction compelling Davis to remove from the Internet
- 7 all false and defamatory material pertaining to Dr. Voorhees;
- 8
- 9 B. For a permanent injunction compelling Davis to remove from the Internet
- 10 all False Statements pertaining to Dr. Voorhees;
- 11
- 12 C. For a permanent injunction enjoining Davis from publishing the False
- 13 Statements and/or any other defamatory material to any third party;
- 14
- 15 D. For general damages in an amount to be proven at trial;
- 16
- 17 E. For special damages in an amount to be proven at trial;
- 18
- 19 F. For punitive damages in an amount to be proven at trial;
- 20
- 21 G. For Dr. Voorhees’s costs herein incurred;
- 22
- 23 H. For Dr. Voorhees’s reasonable attorneys’ fees incurred herein;
- 24
- 25 I. For interest on the foregoing attorneys’ fees and court costs at the statutory
- 26 rate from the date of judgment until paid;
- 27
- 28 J. For prejudgment and post-judgment interest on all damages at the highest
- rate allowed by law from the date of injury until paid in full; and
- K. For such other and further relief as the Court deems just and proper.

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**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Dr. Voorhees demands a jury trial on all the issues so triable.

RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of December, 2021.

**RM WARNER, PLC**

By: /s/ Daniel R. Warner, Esq  
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**CERTIFICATE OF SERVICE**

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I HEREBY CERTIFY that, on the submission date referenced above, I caused the foregoing document to be electronically filed with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document being served via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Daniel R. Warner  
\_\_\_\_\_  
Daniel R. Warner

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