

[REDACTED]

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

ADAM BULLOCK
Plaintiff/Defendant by Counterclaim

and

[REDACTED]
Defendant/Plaintiff by Counterclaim

STATEMENT OF DEFENCE AND COUNTERCLAIM

1. Except as expressly admitted below, the Defendant/Plaintiff by Counterclaim, [REDACTED] denies each and every allegation in the Statement of Claim and puts the Plaintiff/Defendant by Counterclaim, Adam Bullock (“**Adam**”), to the strict proof thereof.
2. [REDACTED] specifically denies that Adam is entitled to the relief claimed in paragraph 1 of the Statement of Claim.

The Parties

3. [REDACTED]

4. Adam is an individual residing in the city of Kawartha Lakes, in the province of Ontario.

Adam's Introduction to [REDACTED]

5. Adam met [REDACTED] while they were both students at Trent University ("the **University**") in the city of Peterborough. At the time, [REDACTED] was working [REDACTED]. Adam worked for the Trent University Emergency First Response Team ("the **Team**") at Lady Eaton College.

6. On or around 3 September 2017, during a lunch meet-and-greet for student staff members employed by the University, Adam introduced himself to [REDACTED]. This is the first time [REDACTED] and Adam had ever met. After chatting with them briefly, Adam insisted [REDACTED] take his Snapchat information should they ever require his assistance or the assistance of the Team in responding to an emergency on campus. [REDACTED] did not ask for these contact details, but her and the [REDACTED] accepted Adam's contact information once offered.

7. [REDACTED] had no further interactions with Adam until later that evening, when Adam entered her dorm room uninvited and forcefully sexually assaulted her, as particularized below.

8. Contrary to the allegations in the Statement of Claim, at no point in any of her interactions with Adam did [REDACTED] invite Adam to her dorm room. [REDACTED] never had the conversations with Adam that are alleged in paragraphs 6-8 of the Statement of Claim, whether about their mutual intentions or otherwise. In particular, [REDACTED] never stated that she was looking for a personal relationship of any kind, including a sexual relationship, with Adam.

9. In fact, [REDACTED] was, at all material times, engaged. At all times, [REDACTED] wore an [REDACTED]

h [REDACTED] [REDACTED] had sat next to her at the lunch table during the meet-and-greet when Adam had introduced himself. [REDACTED] made it clear to Adam and to the general public that she had no interest in a sexual relationship with anyone other than her fiancée and never indicated otherwise to Adam or to others.

Adam Sexually Assaulted [REDACTED]

10. Later that day, before meeting up with a friend, [REDACTED] quickly returned to her dorm room to get some water. [REDACTED] did not lock the door behind her, thinking that she would be going back out momentarily.

11. Without knocking, Adam walked into [REDACTED] dorm room, where she lived alone. Surprised by his presence, as they had only briefly met earlier that day, [REDACTED] told him that he had the wrong room. He stated that he did not have the wrong room, turned, and locked the door behind him. Adam was wearing his Team uniform.

12. Adam took off his backpack, forcefully threw [REDACTED] down on her bed, and began initiating sexual contact. He asked her for a condom. [REDACTED] had not previously engaged in vaginal sexual intercourse and did not have condoms with her. She does not remember answering his question about condoms, but clearly remembers she told Adam she did not want to have sex with him and told him “no.” Adam shoved [REDACTED] face into a pillow, held her down, and forcefully raped her.

13. At no time did [REDACTED] consent to this sexual assault, which was a gross violation of [REDACTED] body and dignity. Adam sexually abused and assaulted [REDACTED] and continued to do so

despite her explicit statement that she did not consent, and her subsequent repeated insistence that Adam stop.

14. The assault lasted for 10-15 minutes.

15. After Adam raped [REDACTED], he dressed, gathered his belongings, and told [REDACTED] he expected he would be hearing from her. Adam insisted that [REDACTED] only contact him on Snapchat, and that if she did not, he would come back. He then departed. [REDACTED] knew that Adam, as a member of the Team, had keys and access to all buildings and rooms on campus. [REDACTED] believed Adam's comments to be a threat that if she did not contact Adam in the future, Adam would return and rape [REDACTED] again.

16. After Adam left [REDACTED] dorm room, [REDACTED] noticed that she had numerous missed calls and texts from the friend waiting for her downstairs, who was wondering where she was. She went downstairs and let her friend into the building. [REDACTED] tried to explain why she was so delayed, and the friend immediately knew something was wrong. [REDACTED] alluded to what had occurred but did not identify Adam. [REDACTED] friend insisted on taking [REDACTED] to the hospital. She also called [REDACTED] parents, who were listed as [REDACTED] emergency contacts.

17. While they were on their way to the hospital, [REDACTED] friend called University security. Security personnel came to [REDACTED] room and investigated the scene. [REDACTED] did not speak to security that evening.

18. [REDACTED] friend, as well as another friend who had subsequently joined them during the investigation, drove [REDACTED] to Peterborough Regional Health Centre ("PRHC"), where medical

personnel conducted a rape kit and determined that [REDACTED] had suffered a significant amount of bruising and visible trauma. Her friends then drove [REDACTED] back to her dorm room.

19. The following morning, [REDACTED] and her parents met with the head of security and a university administrator. Security informed her that, during their investigation, it became apparent that [REDACTED] underwear was missing. Further, in subsequent conversations, the head of security strongly suggested that [REDACTED] report the incident because they had concerns that there may have been a similar attack in another room in the dormitory. They stated that [REDACTED] report could encourage the other possible victim(s) to come forward.

20. For the next month, [REDACTED] had weekly appointment at the Women's Healthcare Centre at PRHC. As a result of being sexually assaulted by Adam, [REDACTED] had to begin a round of medication to reduce the possibility of pregnancy and sexually transmitted diseases, including HIV.

21. [REDACTED] also started to meet with the sexual violence coordinator at the University, appointments which she still maintains to this day. She discussed, and continues to discuss, numerous safety planning measures to protect herself.

22. Campus security insisted that [REDACTED] move to a campus safe room—a room to which only [REDACTED] had the key—for a few nights after the sexual assault.

Adam Continued to Harass [REDACTED]

23. To conceal the sexual assault, Adam continued to message [REDACTED] on Snapchat, using various threats and insidious measures to ensure that [REDACTED] did not disclose the rape. Adam told

██████████ that he knew everyone at school. He told her he could ruin her reputation, threatening that he would tell others that she had cheated on her fiancée. Adam told her that, due to his position with the Team, he had access to her personal information and had access to every room on campus. He told her that he could come back at any time. He also told her that she needed to “flirt” with him more.

24. ██████████ understood from these threats that if she did not do as Adam demanded, he would return and rape her again. As a result, ██████████ would occasionally respond to Adam’s messages out of fear. She remained in constant fear that Adam would return to her room and rape her again.

25. On or around 24 September 2017, Adam did, in fact, return ██████████ room. Once again, contrary to paragraph 10 of the Statement of Claim, Adam had never been invited to ██████████ room. Adam, once again, initiated a forceful and unwanted sexual interaction. He took off ██████████ shirt, exposed himself, and started masturbating. Adam ██████████ to touch his erect penis. ██████████ cried, and begged Adam not to return. Adam left.

26. After this incident, ██████████ decided that she could no longer live in fear of Adam. She blocked him on all messaging and social media services. By blocking Adam on Snapchat, all messages between ██████████ and Adam were deleted. ██████████ has had no contact with Adam since.

██████████ **Reported the Abuse to the Police**

27. The head of University security had originally suggested to ██████████ that she contact the police, particularly due to the concern that there may be other victims. ██████████ was initially hesitant, but eventually decided to meet with the police a few months after the sexual assault, in

December 2017. During that meeting, ██████ told the police the details of how she had been sexually assaulted. ██████ did not name Adam at that time because she feared retribution.

28. Once ██████ knew she was graduating in a few months and would no longer be living on campus, she felt comfortable telling the police that Adam was the perpetrator in April 2018.

29. Over the course of a few months, ██████ had a number of conversations with a detective. The detective repeatedly told ██████ that she should testify against Adam. ██████ was hesitant.

30. In or around January 2019, Adam was criminally charged with sexual assault, and breaking and entering.

31. The only part ██████ played in any criminal process was in speaking to the officers about what had occurred. ██████ has no knowledge about what the Crown did with that information or how they continued their investigation. ██████ was not involved in the decision to lay charges against Adam. It was not her idea to press charges, nor was she involved in the process.

32. After the charges were laid, Adam obtained criminal legal counsel.

33. ██████ conversations with the detective continued after Adam's criminal legal counsel disclosed excerpts of the Snapchat messages between the two. ██████ had not provided the messages to police herself because ██████ had not specifically saved the Snapchat messages and when ██████ blocked Adam on Snapchat, Snapchat automatically deleted the messages between them.

34. Nothing in ██████ disclosure to the police was inconsistent with the Snapchat messages. In fact, once the communications were disclosed, ██████ and the detective reviewed the messages

together and ██████ pointed out gaps in the conversation where it appeared Adam had provided an incomplete copy of their communications.

35. At all times, the detective continued to suggest that ██████ testify, so they could move the charges forward.

36. More than anything, ██████ wanted to put this incident behind her. She did not want to relive the events that had occurred, she did not want to see Adam again, and she did not want to feel as though she – herself – was on trial. ██████ therefore repeatedly told the detective that she would not testify at trial.

37. Eventually, the detective told ██████ that the police could not proceed with the charges if ██████ would not testify at trial. The detective therefore advised ██████ that the Crown would be dropping the charges. At no point did the police indicate that there was no merit to ██████ claim. Indeed, it was ██████ decision not to testify.

No Claim for Malicious Prosecution

38. There is no cause of action that lies against ██████ for malicious prosecution. Specifically, ██████ did not initiate the criminal proceedings against Adam, the proceedings did not terminate in favour of Adam, the proceedings were not instituted without reasonable and probable cause, and ██████ was not actuated by malice nor did she act for a primary purpose other than that of reporting a crime to the relevant authorities.

39. ██████ denies that she ever commenced or initiated any prosecution against Adam. The police and/or the Crown Attorney conducted an independent investigation and exercised their own

discretion to lay charges on Adam. ██████ did not take any active steps to request or urge the police to lay charges against Adam, or to continue their investigation at any point after that. In fact, ██████ did not want the Crown to prosecute. ██████ was wary of going to the police at the outset, and was concerned about continuing with criminal proceedings. Despite pressure from the detective and the Crown, it was ultimately her decision not to testify or get involved further.

40. ██████ denies that the prosecution was terminated in favour of Adam. The prosecution was terminated because ██████ wanted to put this matter behind her and had no interest of inflicting the stress of a criminal trial—and the possibility of seeing Adam again—on herself.

41. ██████ denies that the proceedings were instituted without reasonable and probable cause. ██████ held and continues to hold an honest belief that Adam committed the criminal offence of sexual assault against her. At all times, she had reasonable and probable cause to speak to the police about what she endured. ██████ went to the police in good faith and spoke honestly and truthfully about the sexual abuse Adam inflicted on her. At all times, ██████ told the police a full account of the incidents to the best of her recollection and provided all supporting evidence available to her. ██████ was not actuated by malice, or any purpose other than that of carrying the law into effect. ██████ sole purpose in speaking to the police was to report a crime to the relevant authorities, in order to protect other young women from similar victimization.

42. This cause of action should be struck in its entirety.

No Claim for Defamation

43. There is no cause of action that lies against ██████ for defamation.

44. The Plaintiff has not identified any specific words that were or are capable as a matter of law of giving rise to any defamatory meanings. Rather, at paragraph 17 of the Statement of Claim, Adam pleads that [REDACTED] statements to the police are defamatory, and vaguely states that it is “Adam’s belief that [REDACTED] communicated her false complaint to a number of her friends and colleagues” (together, “**the Words Complained Of**”).

45. [REDACTED] denies making any statements referring to Adam that were or are capable as a matter of law of giving rise to any defamatory meanings. [REDACTED] has never discussed this matter, or any of the facts it arises from, with friends or colleagues. Any friends or colleagues who are aware of the sexual assault were those who were directly present and involved in the aftermath of the first sexual assault and its subsequent investigation by the University. None of those individuals were aware of Adam’s identity, and any comments made by [REDACTED] at the time did not refer to Adam.

46. In the alternative, [REDACTED] states that if the Words Complained Of refer to Adam and/or bear any one or more of the meanings alleged in the Claim, then to the extent any such Words Complained Of, in their plain and ordinary meaning and in their full and proper context are statements of fact, such facts are true or substantially true. In particular, [REDACTED] states that all statements of fact regarding the details of and sequence of events during the two sexual assaults are true or substantially true.

47. Further and in the alternative, [REDACTED] states that if any of the Words Complained Of refer to Adam and/or bear any one or more of the meanings alleged in the Claim, then to the extent any such Words Complained Of, in their plain and ordinary meaning and in their full and proper context, are expressions of opinion or comment, then:

- (a) they are fair comment, made in good faith and without malice on matters of public interest; and,
- (b) they constitute opinions or comments a person could honestly hold or make based on the series of events that occurred, the facts of which are substantially true.

48. In the further alternative, the Words Complained Of were made on occasions of absolute or qualified privilege. [REDACTED] has only discussed the sexual assault with relevant authorities (including police and campus security) and health care providers. In fact, [REDACTED] specifically pleads that the only individuals to whom she revealed Adam's identity were the police and her health care providers, and only after she felt safe enough to do so. [REDACTED] pleads that any statements made to the police or her health care providers are protected by absolute or qualified privilege.

49. [REDACTED] is not responsible for any media reports that subsequently named Adam and the charges against him—she did not provide any comments to any journalists, and did not play any role in their publication.

50. Any “defamation” that may have occurred is attributable to Adam's actions only, and not to any actions or statements made by [REDACTED]

51. This cause of action should be struck in its entirety.

The Action is an Abuse of Process and an Attempt to Silence and Intimidate [REDACTED]

52. ██████ pleads that this action is an abuse of this Court's process and is being pursued to discourage public discourse on matters of public interest, and in particular, ██████ lived experiences of sexual abuse on a University campus.

53. This claim is being pursued for the collateral purpose of intimidating and silencing ██████ and arises from expressions made by ██████ relate to a matter of public interest, namely, the disclosure of sexual abuse to the police and/or to other relevant authorities.

54. ██████ pleads that the Statement of Claim discloses no reasonable cause of action, and that there is no genuine issue to be tried.

55. The action constitutes an abuse of this court's process. Adam's intention in bringing this lawsuit is to further harass, intimidate and threaten ██████

The Plaintiff has Suffered no Damages

56. ██████ denies that Adam suffered the damages alleged in the Statement of Claim, or any damages at all, and puts Adam to the strict proof thereof.

57. In the alternative, if Adam has suffered any damages, ██████ pleads that the amount of damages claimed are excessive, exaggerated, remote, unavailable at law, unmitigated and unconnected with any alleged act or omission on her part.

58. ██████ specifically denies that Adam is entitled to punitive or aggravated damages, and states that the amount of such damages claimed in the action – \$1 million – is another indicia of the strategic and improper purposes of the action, which is to harass, threaten, intimidate, and/or silence ██████.

59. The Defendant therefore asks that this action be dismissed with costs.

COUNTERCLAIM

60. The Plaintiff by Counterclaim, [REDACTED], claims:

- (a) general damages for physical and sexual assault and/or physical and sexual battery, and intentional infliction of mental suffering in the amount of \$500,000.00;
- (b) aggravated and punitive damages in the amount of \$250,000;
- (c) special damages in an amount to be proven at trial;
- (d) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (e) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*;
- (f) the costs of this proceeding, plus all applicable taxes; and,
- (g) such further and other Relief as to this Honourable Court may seem just.

61. The Plaintiff by Counterclaim, [REDACTED] and relies upon the allegations in the Statement of Defence in support of the Counterclaim.

Adam is Liable to ██████ for the Abuse

62. Adam's conduct, as described above, constitutes the torts of physical and sexual assault and physical and sexual battery. On two occasions, Adam forcibly and intentionally touched ██████ in a physical and sexual way. Adam's conduct was an intentional and non-consensual invasion of ██████ bodily security and was otherwise harmful and deeply offensive contact.

63. Adam's harassment and abuse also constitute the tort of intentional infliction of mental suffering. Adam sexually forced himself on ██████, who was, at the time, engaged to a woman and had never had sexual intercourse. Adam then threatened, intimidated and harassed ██████ to ensure she would not tell others and used his power and authority on campus to scare ██████ into submission. Adam's actions were extreme, flagrant and outrageous. His specific acts were calculated to produce harm or were such that he knew the consequences were substantially certain to follow. Adam's specific acts did cause ██████ harm.

Impact of the Abuse

64. As a result of Adam's acts of abuse against ██████, as described above, together with the environment of fear and anxiety to which Adam subjected ██████ has suffered permanent and extensive injuries and losses, including:

- (a) physical, emotional and mental pain;
- (b) mental distress, psychological distress, anxiety and depression;
- (c) humiliation, indignity and loss of self-esteem;

- (d) loss of virginity;
- (e) feelings of guilt, worthlessness, shame and self-blame;
- (f) social anxiety, social isolation, and loss of ability to trust other individuals, especially males;
- (g) insomnia;
- (h) intrusive thoughts related to the incidents;
- (i) loss of appetite, return of previous eating disorder and subsequent enrolment in eating disorder program;
- (j) loss of enjoyment of life;
- (k) impaired ability in work and school, resulting in loss of academic achievement and subsequent income-earning capacity;
- (l) high dosages of anti-depressants, anti-anxiety medication and sleep medication;
and
- (m) such further and other damages as may be advised prior to trial.

65. At the time that the abuse occurred, [REDACTED] felt afraid, shocked, confused and ashamed. It was, and continues to be, very painful for [REDACTED] to think about, let alone speak about. Adam's conduct was and is an extreme source of pain and suffering for [REDACTED].

66. [REDACTED]

She was prescribed numerous medications, not only for the prevention of pregnancy and STDs, including HIV, immediately after the fact, but also on a long-term basis to deal with the resulting depression, anxiety, and insomnia caused by Adam's actions.

67. Through all of this, [REDACTED] continued to live in fear that she would run into Adam on campus. She avoided public transit and any of her classes that were located near the Team office, where Adam might be [REDACTED]

[REDACTED] [REDACTED] claims damages for injuries sustained as a direct result of Adam's acts of physical and sexual assault, physical and sexual battery and psychological abuse against her, for infringement of her bodily integrity and for intentional infliction of emotional distress.

69. As a direct result of the abuse [REDACTED] has sustained a permanent loss of competitive advantage. As a result of her mental and emotional anguish after the incidents, she experienced a significant dip in grades, which has resulted in a permanent mark on her academic record. This impact on her academic achievement and income-earning capacity has contributed directly to a diminution and long-term loss of income earning potential. Particulars of [REDACTED] past and future loss of income will be provided prior to trial.

70. As a result of the aforementioned abuse, [REDACTED] has suffered and will continue to suffer damages and out of pocket expenses. [REDACTED] has and will continue to require therapy and other counselling services. [REDACTED] requests special damages in an amount to be proven at trial.

71. [REDACTED] will provide particulars prior to trial of any other psychological harms and consequent damages that were caused by Adam's tortious actions that become apparent during [REDACTED] ongoing treatment.

Aggravated and Punitive Damages are Warranted

72. [REDACTED] requests punitive and aggravated damages.

73. Adam's conduct was intentional, malicious and was done with the knowledge that it would cause [REDACTED] humiliation, indignity, and sexual, physical, emotional and mental distress and injury, with a complete disregard for [REDACTED] personal dignity, bodily autonomy and personhood. This conduct was reprehensible and deeply offensive to any ordinary standards of decent conduct in the community. It is conduct that ought to be deterred and is deserving of the strongest condemnation and punishment from this Court.

No Limitations Period Applies

74. This Counterclaim is not barred by any limitation periods. [REDACTED] pleads and relies on subsections 16(1)(h), 16(1)(h.2), 16(1.1) and 16(1.3) of the Limitations Act, 2002, S.O. 2002, c. 24. 16(1)(h.1).

75. The Defendant/Plaintiff by Counterclaim proposes that this action be tried in the City of Toronto together with or immediately after the main action.

November 30, 2020

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

TO:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
ADAM BULLOCK
[REDACTED]

-and-

[REDACTED]
[REDACTED]
[REDACTED]

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
PETERBOROUGH

STATEMENT OF DEFENCE AND COUNTERCLAIM

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]