

As More College Students Say "Me Too," Accused Men Are Suing For Defamation

More people are sharing their "Me Too" stories, but a backlash has been brewing at colleges across the country, with accused students filing defamation suits against women who say they were assaulted.

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About a month after her divorce was finalized, a PhD student at Washington University in St.

identified herself, the stranger quickly handed her an envelope before disappearing. Inside, there was some unsettling news: her ex-husband was suing her for defamation. Her offense: reporting to the university's Title IX office that he had raped her. It was late in the day, so she spent a nerve-wracking night until she could contact an attorney and start on a journey that would drain her savings as she tried to prove she'd told the truth.

Eleven months earlier, in January 2016, the woman known as Jane Doe in court papers had told the school that her then-husband, identified as John Doe, had raped her on Dec. 17, 2015, while they both were students at Washington University. They'd been married less than two years. Within a few months, the university found John, a law student at the time of the reported rape, in violation of campus sexual assault policies. Since he'd already completed classes, the university put his law degree on hold for two years. Jane thought this ugly chapter of her life was over, until that day in December 2016 when the stranger approached.

"I thought I was done suffering at the hand of this person. All of a sudden I'm being sued."



Now, John was blaming her for his loss of a job at a law firm and demanding that she pay damages for having hurt his reputation, his career prospects, and his physical and emotional well-being.

"I thought I was done suffering at the hand of this person," Jane, 27, told BuzzFeed News. "I thought he was done making my life miserable. All of a sudden I'm being sued."

Victims of sexual harassment and assault are saying "Me Too" as the country goes through a culture shift following revelations about [Harvey Weinstein](#), [Kevin Spacey](#), and other major celebrities accused of everything from crude comments to rape. On college campuses, that shift has been playing out for years, due in part to student activism and to increased attention to campus sexual violence from the Obama administration. But defamation lawsuits like the one Jane faces are a new tool in the battle over Title IX enforcement and are proving to be serious obstacles to students filing sexual misconduct complaints. Activists, college administrators, and lawyers say they've seen a spike in defamation lawsuits over the past couple of years as defenders of accused students say they're too often victims of overzealous school disciplinary panels — a view [echoed](#) by Secretary of Education Betsy DeVos.

"The momentum sort of feeds on itself," Scott Schneider, a higher education legal consultant, told BuzzFeed News. He said it has become almost reflexive for accused students found in violation of a college's sexual assault policy to sue their school, which used to be rare.



Laura Dunn, executive director of the sexual assault survivors' organization SurvJustice.

Manuel Balce Ceneta / AP



It's difficult to track how many defamation lawsuits arising from campus sexual assault cases are filed nationwide, but lawyers and victim advocates provided numbers that point to a clear uptick. Colby Bruno, a lawyer at the Victim Rights Law Center in Boston, said that a few years ago, about 5% of her cases arising from alleged campus sexual assaults involved an accuser facing a defamation suit; now a little more than half do. When attorney Laura Dunn started her victim advocacy nonprofit SurvJustice in 2014, she said she did not get any requests from students facing threats of defamation suits for reporting a sexual assault. Since last year, though, Dunn estimates five students have called asking for her help. Until a couple of years ago, Schneider had only seen one student who reported a sexual assault to their college get sued for defamation. Now, he said, it happens in around a quarter of cases he's involved in. "I think that percentage is going to rise."

Eric J. Rosenberg, an Ohio-based attorney who frequently represents college students accused of sexual misconduct, said he'd filed 20 defamation lawsuits in the past couple of years against accusers and settled nine of them. It used to be he only filed about one such lawsuit a year. The Ohio Alliance to End Sexual Violence did not receive requests for legal help on defamation suits until early 2017, when suddenly it started getting calls from defendants. "I can't give you a general rate

but can tell you that in one two-week period after the 2016-17 academic year concluded, we got three calls from survivors needing attorneys," said Camille Crary, a staff attorney at the Ohio Alliance.

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"I'm hearing lawyers talk more about it as a strategy, even if they don't use it," said Brett Sokolow, a lawyer who runs the Association of Title IX Administrators. Young women sometimes ask to withdraw their sexual assault complaints, even when there is evidence to support them, Sokolow said, and schools sometimes learn that the accused is threatening a defamation suit as leverage.

"I'm aware of 10 to 12 of those in the last two years, and I am sure there are many more I do not know about," Sokolow told BuzzFeed News.

Outside of academia, Hollywood producer Brett Ratner, who has been accused of sexual harassment and misconduct by more than a half a dozen women, is suing one for libel over a Facebook post she wrote accusing him of rape. Musical artist Gaslamp Killer, real name William Bensussen, sued a woman who said on Twitter that he drugged and raped her, and Crystal Castles singer Ethan Kath sued former bandmember Alice Glass for saying in a statement online that he raped her.

Advocates fear that if defamation lawsuits continue to grow in use, victims will be scared back into the shadows, leaving more assailants to evade justice. Yet defenders of the accused argue the lawsuits are the only option to clear someone's name after a false allegation, especially on campuses where they believe administrators presume guilt from the moment a sexual assault is reported.

"I never in a million years thought that I would be doing this kind of work, but it's important to me to do it because my clients' lives are being destroyed by false allegations," said Rosenberg, who nine years ago founded a nonprofit to help sex-trafficked women. "I have zero tolerance for sexual assault, but there's got to be a ramification for destroying someone's life. Sometimes the only way to remedy the harm done in these cases is to sue the accuser."

said the university essentially did little more than wish her good luck and tell her to get a lawyer. The school did not respond to a request for comment.

"They don't even advise you on this, you are completely on your own," Jane said. "Which is one thing when you're 27, [and] I imagine is a completely different thing when you're 19."

So far, it has cost Jane and her family nearly \$20,000 to defend herself. Some months, her legal bills have reached as high as \$6,000 — more than twice her monthly income, she said. A statement from November that BuzzFeed News reviewed showed she was billed \$3,340.

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"He's suing me for money that I don't have," Jane said. "I'm a grad student, I don't make very much money, and he knows this."

In September, a judge dismissed most of the claims against Jane but allowed the suit to continue based on the allegation that Jane had defamed John by sending texts to a close friend saying he had raped her. Jane has now filed a counterclaim, seeking at least \$25,000 to cover lost wages, therapy, and a delay in graduation that she blames on time spent fighting the legal battle.

Schneider said universities, many of which have encouraged students like Jane to come forward with sexual misconduct allegations, need to consider whether they should be providing lawyers to defend those students against subsequent defamation suits. Even if universities did this, the students would face formidable opponents with a sympathetic ear in Washington.





Secretary of Education Betsy DeVos at the Department of Education on July 13, 2017.
The Washington Post / Getty Images



Rosenberg and Kimberly Lau, John Doe's attorney, are on the board of Families Advocating for Campus Equality (FACE), a group representing accused students that has assumed more influence on Title IX policies under DeVos. Lau, who did not respond to a request for comment, met with DeVos in July, and deputies of DeVos have frequently met with FACE, Stop Abusive & Violent Environments (SAVE), and other attorneys and advocates for accused students, according to records obtained by BuzzFeed News.

Groups like FACE and SAVE insist they can find common ground with victim advocates as DeVos pursues Title IX reforms that would change how colleges respond to sexual assault reports. But victim advocates say the personal nature of these defamation suits, filed by attorneys with close ties to groups that they deride as "men's rights" organizations, makes it difficult to build trust between the warring sides.

That's especially true in today's heightened state of awareness about the prevalence of sexual harassment and assault.

"A finding of sexual misconduct is the ultimate scarlet red letter."



Rosenberg said schools need to do a better job of preventing accusers who've filed sexual assault complaints from publicly labeling their alleged attackers as rapists. He's currently representing a client who sued for defamation after a classmate at Columbia College Chicago told students he'd sexually assaulted her while she was drunk. The client says he's innocent. But when other students heard the woman's allegations, they flipped him off, slipped notes under his dorm room door calling

him a "fucker" who'd committed "an atrocious act," and one punched him in the face, according to the defamation suit.

"A finding of sexual misconduct is the ultimate scarlet red letter," Rosenberg said.

The client, who was found in violation of the college's sexual assault policy and suspended for the 2016-17 academic year, named both his accuser and Columbia College in his defamation suit, which has yet to be resolved.

The woman, meanwhile, has filed a counterclaim alleging among other things that the defamation suit, which was filed in January, caused her to suffer "several intense emotional breakdowns" and to drop out of school.

Not only are these suits intimidating, they are unique. Defamation suits are typically filed over what someone says about another person, and unlike other crimes, sexual assaults rarely have witnesses. They happen in private, often between people who know each other. So frequently, whether a rape occurred comes down to one person's word against another, a situation that sets the stage for defamation suits if the accused feels unjustly targeted. Reporting a crime to police is typically protected by law, but those protections don't apply when the accusation is made in another arena, such as on a college campus in text messages among students.





Former Florida State University quarterback Jameis Winston

Kevin C. Cox / Getty Images

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Lawyers for victims noticed the tactic of using defamation suits growing after one high-profile example: star Florida State University quarterback Jameis Winston [countersued](#) his accuser, Erica Kinsman, in 2015. (The case eventually settled on undisclosed terms.) That same year, multiple libel suits were filed against *Rolling Stone* over a discredited story about an alleged gang rape at the University of Virginia. (*Rolling Stone* [settled two](#) lawsuits, and one is ongoing.)

"What I think has come to the surface much more in the past two years is the actual filing of those lawsuits," Bruno, of the Victim Rights Law Center, told BuzzFeed News. "Your life is dragged into yet another thing that you didn't want to get dragged into in the first place, with the first being the rape or sexual assault."

Now, groups like End Rape On Campus and Know Your IX say they're encountering so many students facing defamation lawsuit threats that they need guidelines for alleged assault victims on how to handle these situations. But [amid changes](#) to federal Title IX directives under the Trump administration, many of these advocates have shifted focus about where the biggest battles are and are working to fight what they see as a rollback of rights for survivors.

In addition to discouraging victims from coming forward, Sokolow said defamation suits can force universities to let accused students walk free and move on to other campuses. If an alleged victim backs out of filing a complaint to avoid being sued for defamation, for example, a college might close the case by having all parties sign a nondisclosure agreement and letting the accused rapist withdraw from school and have the allegation erased.

"I would like to start holding the students who make false accusations responsible by including them in a lawsuit if they outright lie."



Such deals create an ethical dilemma. They save people from being sued and protect alleged victims from encountering their abusers on campus, but they also pass onto other campuses students who could be dangerous. "What is the dean or Title IX office going to say if another dean asks what the student's disciplinary history is?" said Sokolow.

College students were already reporting more sexual assaults to their universities during the Obama years, according to federal data, and experts believed that was due to trust that their cases will be taken seriously, not an increase in rapes. Now that the "Me Too" moment has taken over the culture at large, many people working on these issues expect another uptick in reports on campuses. Except now there is more influence on national policy from the viewpoint of groups like SAVE, which argue false rape claims are not uncommon and suggested defamation lawsuits against alleged victims are a "trend in the right direction."

"I would like to start holding the students who make false accusations responsible by including them in a lawsuit if they outright lie," said Michelle Owens, a Nashville-based attorney who works with accused students. "If it's a misunderstanding then no," Owens would not sue the accuser, "but if you're lying and you're trying to destroy somebody's life, then you should be held accountable."



The Duke lacrosse players at a news conference in Raleigh, North Carolina, on April 11, 2007.

Gerry Broome / AP



Each lawyer defending accused students has stories about receiving calls from suicidal young men who have been accused of sexual assault . It's life-altering, said Kerry Sutton, a North Carolina-based attorney who has worked on campus sexual assault cases and who defended one of the Duke lacrosse players falsely accused in a 2006 case that made national headlines.

"Some of them are very angry, and some of them are very bitter," Sutton told BuzzFeed News. She's all for clients like John Doe suing Jane Doe to avenge themselves. "If a client wants to name

right, if it's legal and it's ethical, and there's some reason to do it. It's their case, they get to decide," she said.

Advocacy groups for rape victims are lobbying in some states for measures known as anti-SLAPP laws, which were developed largely to stop corporations from silencing whistleblowers.

One such anti-SLAPP proponent is Bridget Mahoney, whose ex-husband sued her and their daughter for publicly accusing him of physical, including sexual, abuse. The suit, which was settled late last year, cited testimony that Mahoney's daughter had given in the Ohio state Senate while she testified in support of a bill requiring schools to teach students about dating violence. Mahoney, chair of the Ohio Domestic Violence Network, said it cost her \$100,000 to fight her ex-husband's defamation suit. As a condition of the settlement, she is forbidden from speaking about her alleged abuse in the Youngstown, Ohio, area where her ex-husband lives and works.

Ohio is one of 22 [states](#) without an anti-SLAPP law.

"It's hard to change the culture if people can't talk."



"By the very nature of the threat, we don't know how many aren't even coming up to report their sexual assault or tell their domestic violence stories because they've been threatened into silence," Mahoney told BuzzFeed News. "It's hard to change the culture if people can't talk."

Compounding the problem is that federal grants to nonprofits that help survivors restrict how much assistance the groups can provide people facing defamation suits. Crary, of the Ohio Alliance to End Sexual Violence, said their grant requirements prevent them from doing defense work, even if the alleged defamation is based on a legally protected action, such as reporting a campus rape to a university.

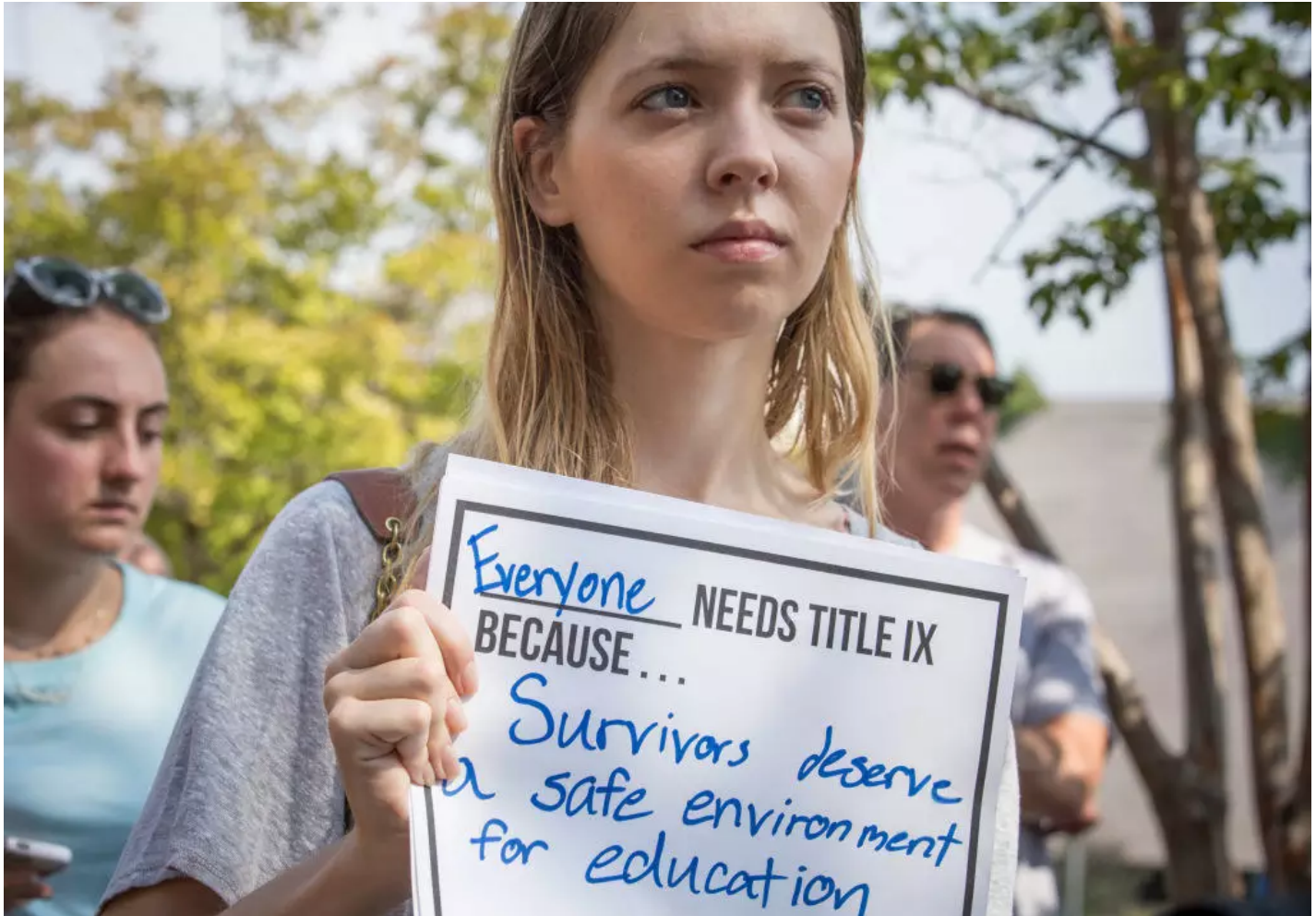
"What is horrible for survivors is that even though there is the highest chance their case will get dismissed because the activity was protected, they still have to retain an attorney, pay that attorney, and endure months or even longer of aggressive court practice," Crary told BuzzFeed News.

Anti-SLAPP laws in Texas and California have been used to [defeat](#) defamation suits brought by accused harassers named in campus misconduct cases.

"It's a free speech issue," said Krista Lee Baughman, an attorney in a California case in which a court ruled that anti-SLAPP legislation protected the defendant's comments about her alleged harassment.

concern; students have to feel safe to complain about this stuff and address it in the proper channels."

Some lawyers, like Schneider, think that state legislatures shouldn't wait for court cases to set precedents — lawmakers should consider laws that explicitly say statements made during Title IX proceedings are protected from defamation suits.



Protesters at a rally for survivors of sexual assault and their allies outside the Department of Education.
The Washington Post / Getty Images



It's unclear whether anti-SLAPP laws would protect statements made on social media or in blog posts. As part of the #MeToo campaign, many people have identified abusers online, bypassing talking to journalists, law enforcement, and human resources departments, let alone Title IX offices. Dunn, of SurvJustice, worries that this could lead to legal repercussions for people naming an alleged abuser without filing a formal report. "If you do not report, you are at risk," she said.

Stand-up comedian Aaron Glaser sued comedy writer Jasmine Pierce for defamation, demanding

later said in a video on Facebook that it caused her to stop talking about rape culture for about nine months while the lawsuit was pending.

"This was an attempt to silence me and it was successful."



"This was an attempt to silence me and it was successful," said Pierce, who was not one of the women who accused Glaser of assault.

Bruno, of the Victims Rights Law Center, said they often counsel clients to be careful about speaking in public about an assault.

"We will say that while we totally support you going out there and making these public statements, there's still a cost-benefit analysis you need to do," Bruno said. "So even in our most supportive moment to our survivor, that gets tempered by thinking of the threat of a lawsuit."

Glaser's demand for \$38 million was eye-popping, but not unheard of in these cases. Three Liberty University athletes demanded a collective \$150 million in damages from a woman they say falsely accused them of rape (though one of the claims was recently dismissed). A former West Point Academy cadet this year was ordered to pay \$8.4 million to a US Army colonel whom she'd accused of raping her in a 2013 blog. The woman never recanted, but a jury decided it was likely she lied about the alleged assault.

Yet according to Rosenberg, the goal of suits he handles is not to get a cash payout; it's to clear up personal and professional damage done by false accusations, often by getting an accuser to make a statement retracting the allegation. That worked for one of his clients at the University of Chicago whose name appeared in 2014 on a "rapist list" circulating on campus. The client, John Doe in court papers, was placed on that list after a female student accused him of sexual assault, but the university found him not responsible.

A second woman later told the university that Doe had sexually assaulted her and posted on social media that a university theater program was "putting on a show directed by the boy who assaulted me/many others on this campus."

The woman retracted her complaint and issued a statement clearing John Doe after he'd sued her. In return, he dropped his defamation suit. ●