

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

DELORES LOZANO  
Plaintiff,

v.

BAYLOR UNIVERSITY; ART BRILES,  
In his individual capacity; IAN MCCAWE,  
In his individual capacity; and CITY OF  
WACO  
Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 6:16-CV-00403-RP

**DEFENDANT ART BRILES' ORIGINAL ANSWER**

Defendant Art Briles ("Briles") files this Original Answer in response to Plaintiff's Second Amended Complaint:

**I. Introduction**

1. In Plaintiff's Second Amended Complaint, before outlining her allegations of alleged assaults by her longtime boyfriend, Plaintiff dedicates 90 paragraphs and 17 pages to allegations against Art Briles and the Baylor football program. Topic headings include, "The Celebration of Violence -- The Coaching Staff Created a Culture of Abuse," and "Policy of Accepting Players with Histories of Violence Toward Women." Those allegations about the football program are without basis.

2. Plaintiff has largely adopted legal positions and a narrative advanced by certain individual Baylor Regents who have falsely claimed that Briles and his assistant coaches ran a rogue program and concealed assaults from the university's judicial, Title IX, and law enforcement authorities. Many of Plaintiff's allegations come from a February 2, 2017 court filing in Dallas County, Texas. That filing was not made by Baylor University herself but by several individual Baylor Regents. Other of Plaintiff's allegations against Briles are based on a news article crafted

by certain Baylor Regents and published in the *Wall Street Journal* on October 28, 2016. Other of Plaintiff's allegations come directly from the so-called "Findings of Fact," which were written by Baylor Regents.

3. Briles has remained largely silent in the face of this PR campaign apparently intended by certain Regents to smear Briles, to isolate the problem of sexual assault at Baylor University to black football players, and thereby direct attention away from a decades-long, campus-wide problem on campus that, if revealed and fully admitted to, would have been damaging to the Baylor brand so cherished by these Regents.

4. Having now been sued personally in a case built on a foundation of these public statements by certain Regents, Briles is compelled to defend himself.

5. The facts will show that when made aware of allegations of sexual assault or domestic violence, Briles acted quickly and consistently to either suspend or remove players involved and to cooperate in university investigative processes, which by design are supposed to be handled outside the football program and free from interference from the football program. The facts show an effort by Regents to shift blame to the football team and its coaches when in certain instances the Baylor Police Department and Baylor administration covered up reports of sexual assault, not even informing the football coaches of allegations. The facts will further show a campus-wide problem of sexual assault that pre-dated Briles' coaching tenure at Baylor, and that the university has never fully acknowledged in an attempt to protect the Baylor brand.

6. The facts will also show that the allegations made against Briles and assistant football coaches in the *Wall Street Journal* are based on vague accusations by Regents that have

not been substantiated and in some cases are directly contradicted by facts that have now come to light in other litigation.<sup>1</sup>

7. Briles is likewise forced to respond to Plaintiff's extensive allegations based on the so-called "Findings of Fact" that were written by the Baylor Board of Regents.<sup>2</sup> Facts uncovered in other litigation have shown that certain Baylor Regents engaged in a systematic whitewash<sup>3</sup> of the sexual assault problem that plagued Baylor, with a small group of influential regents flying to Philadelphia to meet with their lawyers from Pepper Hamilton to ensure Pepper Hamilton's report to the full Board of Regents would focus exclusive attention on allegations against football players to the exclusion of the vast majority of assault allegations against non-athletes.<sup>4</sup> To this day, those Regents have withheld the facts of the Baylor scandal from the public, from Baylor's own Title IX Coordinators, and even from Baylor's own chief executive officers while Pepper Hamilton has yet to produce any report of its findings.

---

<sup>1</sup> Plaintiff has adopted in this lawsuit the narrative certain Baylor Regents advanced to the *Wall Street Journal* in the fall of 2016 (five months after Briles was fired). For example, Plaintiff cites a statistic certain Regents fed to the *Wall Street Journal* (17 allegations of sexual or domestic assault involving 19 athletes). (Second Amended Complaint ¶ 76). Plaintiff claims that this statistic came from Pepper Hamilton's findings. Of course Pepper Hamilton never issued findings. At some point during Pepper Hamilton's investigation, the Board of Regents took over and wrote the "Findings of Fact" themselves. This incendiary statistic that the Plaintiff has now adopted in this lawsuit (17 allegations involving 19 athletes) was not in the Board of Regents' Findings of Fact. On information and belief, that is a statistic that Pepper Hamilton never presented to the Baylor Board of Regents and was not discussed with the full Board. The *Wall Street Journal* never reported and the Baylor Regents have never said in regard to this statistic fed to the *Journal* by a few Regents (a) when those accusations were made, if ever, to Baylor officials; (b) when Art Briles became aware of any of them (for example whether he became aware of accusations after they were already in an investigation protocol with Waco PD, Baylor PD, Baylor Judicial Affairs, or Title IX); (c) whether Art Briles acted inappropriately or in violation of Baylor policy in regard to any allegation; and (d) the outcome of those allegations.

<sup>2</sup> See, e.g. Plaintiff's Second Amended Complaint ¶¶ 74 – 90.

<sup>3</sup> Ian McCaw testified under oath that one of the two lead attorneys for Pepper Hamilton told him that the Regents would have the authority to dictate to the law firm whether to issue a detailed report, summary report or "ask us to whitewash the whole thing." (Ian McCaw Deposition pp. 84-85).

<sup>4</sup> Former Baylor athletic director Ian McCaw testified that a long-serving Baylor Regent, Jay Allison, told McCaw that the meeting in Philadelphia at Pepper Hamilton in early 2016 was supposed to include all of the committee chairs of the Baylor Board and that the purpose of the meeting was to "shape" the Pepper Hamilton presentation to the Baylor Board of Regents, which occurred later in the spring of 2016. (McCaw Deposition p. 121). However, according to McCaw, Jay Allison, was told by Richard Willis just prior to the upcoming Philadelphia meeting that he (Allison) was disinvited to the meeting because Allison, who was an advocate for the football program, "would disagree... with what's going to take place [in Philadelphia]." (McCaw Deposition p. 122). McCaw testified that Jay Allison recorded the phone call in which Board Chair Richard Willis disinvited Allison and played the recording for McCaw at the Baylor-Liberty football game in September 2017. *Id.*

8. The “Findings of Fact” document is a textbook whitewash: incendiary findings totally devoid of supporting facts that place blame on unnamed others and exonerate the Regents themselves, setting the stage for the Regents to congratulate themselves for taking such bold action against others.

9. Evidence emerging from other cases shows that certain Regents had used a few key administrators, most prominently Reagan Ramsower, to contravene the normal administrative chain of command and to be the instrument by which Regents micromanaged the school. Only now, due to depositions taken and documents revealed in a federal lawsuit filed by ten “Jane Doe” plaintiffs, has the public seen Reagan Ramsower’s complicity in covering up assault allegations. The facts show in two high profile cases<sup>5</sup> Baylor’s administration was aware of allegations and refused to act. In one case, involving multiple allegations against Tevin Elliot, administrators were aware of allegations several months prior to Briles, and covered it up. In a May 25, 2012 email, concealed from the public and Baylor students and alumni until only recently, the Baylor Chief of Police described to Reagan Ramsower how the Baylor Police Chief essentially apologized to the football program for not having earlier provided the football program with information about Elliott’s history of being accused of assault. In contrast to the actions of Baylor police and Reagan Ramsower, Briles suspended Elliot from the football team within days of learning that an allegation of sexual assault had been made, and three days before Elliott was even charged with the offense. University administrators and Judicial Affairs officials, on the other hand, allowed Elliot to remain enrolled and on campus for another 30 days following his removal from the football team.

---

<sup>5</sup> Both of these cases are prominently discussed in Plaintiff’s Second Amended Complaint as part of the basis of Plaintiff’s claims against Briles. (See ¶¶ 53-54, 61-65).

10. What those certain Regents failed to acknowledge is that Briles removed more than 30 players from the team for disciplinary reasons over the course of his final six seasons.

11. Having been smeared very publicly by certain Regents, and having seen those smears used against Briles by the Plaintiff in this lawsuit, Briles is now compelled to defend himself with evidence that has long been withheld from the public.

**A. Background: Baylor Board of Regents – A History of Micromanagement.**

12. Since Plaintiff anchors so many of her allegations against Briles in the so-called “Findings of Fact,” Briles is compelled to provide the context showing who wrote the “Findings of Fact” and how and why the “Findings of Fact” came to be written by the very people who should have been among the *subjects* of the institution-wide Title IX investigation, not the authors of its conclusions. The Regents, who owed Baylor the highest duty and should have been subject to the highest level of scrutiny, hired the investigators, wrote the investigators’ findings for them, exonerated themselves, and have concealed the facts (other than selectively-released fragments) from which the legitimacy of the investigation could be measured.

13. For more than a decade, the Baylor University Board of Regents has been famous for its micromanagement of the school. This history is well documented. Baylor business records and depositions from a lawsuit Baylor filed in 2014 against its own alumni association showed Regents directed in great detail President Lilly’s dealings with alumni, literally re-writing his staff reports about alumni relations and ultimately running Lilly off because he was insufficiently obedient to Regent micromanagement. During Kenneth W. Starr’s presidency, emails showed Starr confiding to his chief of staff that the Regents were trying to micromanage him. In one such email Starr instructed his chief of staff to inform then-Regent Chair Buddy Jones to “Pls allow

[Starr] to run the university,” and to tell Buddy Jones that Starr “is not taking kindly (to put it mildly) to the constant rounds of recurring micro-management.”

14. The Regents went on micromanaging the school for the entire year of David Garland’s interim presidency. Dr. Garland was deposed on May 31, 2017, the last day of interim presidency and a year after the Regents issued their Findings of Fact. Dr. Garland testified that his top priority for his year as president had been to implement the Pepper Hamilton “Recommendations.” Yet his testimony revealed that he knew almost nothing about the facts of the crisis. Garland testified that he knew of no details of the so-called “Findings of Fact” other than what is in the document itself. When asked if he knew the identities of the unnamed administrators whom the Findings of Fact refer to as having discouraged and retaliated against sexual assault complainants, President Garland said he did not know.

15. Regents had earlier sent Dr. Garland out to tell the public that Garland was actually knowledgeable about the causes and dimensions of the scandal and was leading the university out of it. Testifying before the Texas Senate Higher Education Committee on March 29, 2017 (ten months into his presidency), Dr. Garland falsely testified that he knew which administrators were responsible for the failings described in the “Findings of Fact” and that none of them still worked at Baylor. Later in the testimony, as skeptical senators (several of them Baylor alumni) probed the basis of his claim, it became clear Garland was not telling the truth and that he knew nothing more than the general public knew (which was almost nothing) about the facts of the sexual assault scandal.

16. Garland was asked about his false Senate testimony a couple of months later at his May 31, 2017 deposition in a Title IX lawsuit:

Q: Well, you told the Texas Senate that everyone culpable for these failures [described in the Findings of Fact] were no longer at Baylor. Do you recall that?

A: I do recall that.

Q: So how do you know that to be true, if you don't know who the senior leadership is that were the ones that did not provide the institutional support or proper engagement? How do you know that to be true, what you told the Texas Senate?

A: Well, I may have been misled, but I understood that personnel decisions were evaluated, and those persons were removed.

Q: Who told you that?

A: Well, just simply the fact that people were removed. No one told me specifically.

Q: Well, so you told the Senate everyone was gone, but you may have been misled. Is that what you're saying?

A: I may have been mistaken or misled. (Garland Deposition pp. 120-121)

17. The Regents even kept the university's Title IX Coordinator in the dark about the facts giving rise to the Title IX scandal. Patty Crawford said in a July 14, 2016 meeting with football coaches, which was recorded, that she had never seen or heard the report from Pepper Hamilton. When one of the coaches responded with a stunned, "Wow," Ms. Crawford replied, "I was not. The board, [Pepper Hamilton] worked for the board. So only the board got that."

18. That Baylor Regents kept not only the public, but also their own chief executive and Title IX Coordinator in the dark about the facts of the sexual assault scandal raises troubling questions. Why withhold the facts from the very people you have supposedly tasked with fixing the problems? What were the Regents seeking to conceal? And since the titular President, David Garland, clearly was not actually running the university for the year following the issuance of the "Findings of Fact," who was?

19. This context is key to understanding why the Regents themselves wrote the findings and conclusions of the only Title IX investigation that Baylor has commissioned. When Baylor's Regents hired Pepper Hamilton, Baylor hailed the law firm as "well recognized experts in the

institutional response to all aspects of sexual misconduct matters.” The Regents promised that Pepper Hamilton had been hired to conduct “a thorough and independent external investigation.” Pepper Hamilton’s engagement agreement with Baylor initially described the scope of work as: “to conduct an independent and external review of Baylor University’s institutional responses to Title IX and related compliance issues through the lens of specific cases.”

20. Yet Pepper Hamilton never issued any report of its findings. And the scope of its work suspiciously changed right around the time a few Regents travelled to Philadelphia and directed the whitewash that later was released. On February 10, 2016, more than five months into Pepper Hamilton’s investigation, Baylor and Pepper Hamilton re-wrote their engagement agreement to fundamentally change the nature of Pepper Hamilton’s work. Whereas the original engagement agreement stated that Pepper Hamilton would “conduct an independent and external review” of Baylor’s Title IX record, the February 10, 2016 amendment changed the relationship such that all of Pepper Hamilton’s work was now being deemed to have been performed “in anticipation of litigation and are privileged work product.” That is quite different than the initial scope of work as independent and external investigators. Retroactively deeming the lawyers to be working for the Regents in anticipation of litigation was intended to allow Baylor’s Board of Regents to withhold the facts of the investigation, even as the Baylor Board, with self-congratulatory fanfare, continues to trumpet its “independent and external review.”

21. Baylor’s Regents literally wrote Pepper Hamilton’s findings for them, issuing on May 26, 2016 a document authored by the Regents, not Pepper Hamilton, titled “Findings of Fact.” The Findings of Fact include no facts, only the Regents’ own conclusory statements of what Regents “found.” Thus, the only Title IX “experts” Baylor hired from the outside have said nothing

publicly about the football program or the Regents' own culpability for Baylor's failures. The Regents have so far silenced them in a cloak of privilege and "work product" immunity.

**B. The Baylor Football Program's Commitment to Title IX**

22. Since Plaintiff based so many of her allegations against Briles on Regent-issued press releases and litigation filings by individual Regents, Briles is compelled to supplement the half-truths and inaccuracies about the football program's commitment to Title IX.

23. As described above, the Regents have concealed what Pepper Hamilton found in regard to the football program's commitment to Title IX. But Baylor also had in-house Title IX experts. And what they have said about the football program is starkly at odds with the narrative advanced by Baylor's Regents.

24. For example, on July 14, 2016, just seven weeks after the Regents issued their Findings of Fact and fired Art Briles, Baylor's Title IX Coordinator, Patty Crawford, conducted a meeting with the Baylor football coaching staff. An audio recording of that meeting was made.

25. Patty Crawford said in the meeting that, since she arrived at Baylor in November 2014 (less than two years prior to the meeting) the Title IX office had processed "about 300 cases so far since I've been here" of sexual assault, sexual harassment or sexual discrimination. Those were allegations from all over the campus. Crawford said in the July 14 meeting that only a small percentage of cases had anything to do with athletics. (July 14 Meeting Transcript, pp. 6, 93).

26. Crawford also stated later in the meeting, "I don't think athletics is a big hot bed of issues. I don't." (Transcript, p. 107). Ms. Crawford also stated that she had made this point publicly, including to a national sports reporter from ESPN who has written extensively on the subject of Baylor's Title IX record. (Transcript p. 93). Yet sports media and the Baylor Board of Regents continue to advance a different narrative.

27. The recording also verifies the previously untold story that the football program had proactively reached out to Baylor's Title IX office before the Baylor scandal broke to request Title IX training. (Transcript pp. 94-95). Some in the media and in the public have rightfully asked why, as allegations came to light, didn't the football program take action? It did. Baylor's Regents simply have decided not to tell the truth about that.

28. Patty Crawford even stated in the July 14 meeting that she touts the actions of Kaz Kazadi, who was Baylor's Associate Athletics Director for Athletic Performance during Briles' tenure as head coach, to other programs as an example of how to successfully integrate Title IX training within an athletic department. (Transcript p. 94-95). When two of the coaches at the meeting lamented that the media was not acknowledging that the Baylor football program had been "further ahead of a lot of universities," Kristan Tucker, who was Baylor's deputy Title IX coordinator at the time and was later promoted to Title IX coordinator after Crawford resigned, responded, "Absolutely." (Transcript p. 100). Patty Crawford responded that she was trying to make "really clear" to the media that the Baylor football coaching staff had been proactive in reaching out to Title IX and setting up Title IX training for its staff. (Transcript p. 101).

29. Referring to Title IX training of the football program that occurred in August 2015 and negative publicity generated by the Regents about the football program, Patty Crawford said this:

We had been planning that football training and all the other athletic trainings for months, and I said that on the news that day, that night. This is not a response. This is a relationship that we have with athletics. This is something we've always been – we've been working on since I started, a conversation that we've been having. Athletics cares.... And in the end, that truth will always come out, I believe. I believe and I hope. But know that I can advocate for you in that way if you need me to, and I have been from what – what I've seen and what I know.

30. Patty Crawford's words at the July 14, 2016 meeting are also consistent with sworn testimony of Ian McCaw. For example, on February 4, 2015, Title IX Coordinator Patty Crawford scheduled a meeting with Ian McCaw, VP of Operations Reagan Ramsower, the Associate General Counsel (now Baylor's General Counsel) Chris Holmes, and Vice President of Governance and Risk and Chief Compliance Officer Juan Alejandro. (McCaw Depo. Transcript pp. 38-39, 47-48, 57-58). At this meeting, Crawford discussed the review she was conducting of Title IX complaints arising out of the athletic department. *Id.* After this meeting, Mr. Alejandro provided several written interim reports to the group. And then Patty Crawford met with athletic department officials after she completed her review to announce the results of her review. *Id.* Crawford informed the athletic department that, based on her review, "she had not detected any pattern relative to student athletes" within the cases she had reviewed. (McCaw Depo. Transcript pp. 51-52). Suspiciously there is no mention of this review in the Regents' Findings of Fact.

31. Patty Crawford resigned from Baylor on October 3, 2016, less than three months after the July 2016 meeting at which she praised the football program for its outstanding work on Title IX. On October 5, Ms. Crawford told CBS News that she resigned because Baylor's leadership – not the athletic department or football program – set her up to fail, resisted her efforts to truly implement Title IX, and retaliated against her for successfully increasing the rate of reporting. <https://www.cbsnews.com/video/former-baylor-title-ix-coordinator-on-resignation-university-set-me-up-to-fail/> Ms. Crawford said of her efforts to increase sexual assault reporting, "It became clear that's not something that university leadership wanted." *Id.*

32. Ms. Crawford also said that she put all of these concerns in writing to Baylor leadership in July 2016, the same month as her meeting with the football coaches described above. The existence of those notes was confirmed when the *Dallas Morning News* interviewed Crawford

in November 2016. Finding Crawford “imminently believable,” veteran reporter and Baylor alumna Sharon Grigsby, who was named a Pulitzer Prize Finalist for her reporting on the Baylor sexual assault scandal, reported that Patty Crawford has “detailed notes that point to issues she raised with [Reagan] Ramsower throughout the summer [of 2016].”

33. Patty Crawford, who by the time of her resignation had spent almost two years as Baylor’s Title IX Coordinator, chillingly told CBS News, “A group of senior leaders [] made sure they were protecting the brand I believe instead of our students.” Ms. Crawford said that as she pushed for Title IX compliance, actions we now know included a strong working partnership with a football program that was proactive and engaged in her efforts, upper leadership within the Board and administration took away her authority and decision-making on Title IX issues “based on protection of the brand rather than protecting our students.”

**C. False Claim that Football Program Accepted Players with Histories of Violence Toward Women.**

34. The Plaintiff alleges, citing the Board of Regents’ so-called Findings of Fact, that the Baylor football program had a policy of accepting “high-risk transfers.”<sup>6</sup> The Findings of Fact give no examples of such conduct. Plaintiff points to only one example: the now discredited claim that Sam Ukwuachu transferred to Baylor after being dismissed from the Boise State football due to a violent past.

35. In fact, Sam Ukwuachu was never accused of domestic or sexual violence at Boise State. Rather, Ukwuachu’s ex-girlfriend raised an allegation of domestic violence for the first time at Ukwuachu’s trial in August 2015, long after Ukwuachu, who never played a down of football for Baylor, had been suspended from the Baylor football team by Briles. A statement issued by Boise State University in August 2015 made clear:

---

<sup>6</sup> See Plaintiff’s Second Amended Complaint ¶¶ 61-62, 84.

Boise State University never received any reports nor had any knowledge of Sam Ukwuachu being involved in any accusations of sexual assault before or during his time at Boise State. In widely reported testimony from the Aug. 20 Texas trial, Ukwuachu's former girlfriend stated Ukwuachu hit and choked her while they were students at Boise State. This information about their relationship was not reported to Boise State when the two were students here.

36. Even some of the Baylor Regents who have a history of smearing Briles acknowledge that Baylor and Briles had no knowledge of allegations of sexual or domestic violence prior to Ukwuachu's August 2015 trial. In a February 2, 2017 court filing in Dallas County, Texas, Baylor Regents Cary Gray, Ron Murff, and David Harper acknowledged that Baylor had adequately checked Sam Ukwuachu's background and that the allegation by Ukwuachu's girlfriend "was unknown to Baylor or Boise State officials until the victim testified at his trial in August 2015."

37. The transfer paperwork from Boise State also shows that there was no indication of a history of violence. In May 2013, Boise State University completed a Transfer Information Request related to Ukwuachu. The form requires Boise State's Director of Compliance to indicate whether Ukwuachu had been suspended or disqualified from Boise for disciplinary reasons. Boise State indicated he had not. The form also required Boise State to declare whether Ukwuachu was in good academic standing with Boise. Boise State certified that Ukwuachu was in good standing. Boise State also completed the form indicating that Ukwuachu had not been declared "Medically Disqualified." The form even showed that Ukwuachu would have been eligible to play football had he returned to Boise State.

#### ***D. Wall Street Journal***

38. Plaintiff anchors several of her allegations against Briles on an article that was published in the *Wall Street Journal* on October 28, 2016. Briles is compelled to respond to these allegations.<sup>7</sup>

39. On October 28, 2016, the day before the Baylor football team played the University of Texas, the *Wall Street Journal* published an article headlined “Baylor Regents Found Alleged Sexual Assaults by Football Players ‘Horrific.’” The now infamous article smearing Art Briles and the football program was sourced almost entirely from interviews with Baylor Regents Cary Gray, Kim Stevens, and Ron Murff, along with information selectively fed to the *Wall Street Journal* “off the record” and “on background” by Baylor’s PR firm, G.F. Bunting.

40. The two centerpieces of the *Wall Street Journal* article were (i) Regent Cary Gray’s claim that Briles had admitted to “delegating down” allegations of sexual assaults to his assistants and (ii) Regent Ron Murff’s claim that Briles had acted improperly in some way after learning that a member of the Baylor volleyball team and her parents had talked to Baylor’s head volleyball coach about an allegation that she had been sexually assaulted a year earlier.

##### **i. False Insinuation that Briles “Delegated Down” Handling of Allegations of Sexual Assault**

41. The *Wall Street Journal* apparently never asked Cary Gray what sexual assault allegations, if any, Briles had delegated his assistants to handle. In fact, the *Wall Street Journal* did not report that the handling of *any* sexual assault allegation had been delegated by Briles to an assistant. Rather, a finely parsed quote from a Regent perpetuated an incendiary narrative that Briles had turned a blind eye to sexual assault allegations without any specific fact to back it up.

---

<sup>7</sup> (See e.g. Second Amended Complaint ¶ 76).

42. The facts, including a recorded meeting between Baylor athletic director Mack Rhoades on the day the *Wall Street Journal* ran this story, show that those at Baylor who actually knew the facts ***did not believe*** that Briles delegated the handling of sexual assault to his assistants.

43. On the day the *Wall Street Journal* published this article, Baylor's athletic director Mack Rhoades met with the assistant football coaches to inform them that the article had been published. The meeting was audiotaped.

44. In the meeting, Mack Rhoades told the assistant coaches they had done nothing wrong. Rhoades told the coaches that the Regents' dealings with the *Wall Street Journal* were "not right." And Rhoades promised to call every athletic director in the country if necessary to defend the assistant coaches' integrity.

45. Mack Rhoades called the October 28, 2016 meeting. The *Wall Street Journal* article had been published online only a few hours earlier, and Rhoades wanted to discuss it with the assistant coaches, all of whom had worked for Briles and had been retained by Baylor when Briles was fired. The meeting began with Mack Rhoades telling the assistant coaches that the university had not "instigated" the *Wall Street Journal* article. One of the assistant coaches said, "that's not true," and claimed that the Regents' PR firm (G.F. Bunting) had initiated and facilitated the article. Rhoades then conceded he did not know one way or the other who instigated the article.

46. However, Rhoades did claim Baylor was heavily involved in crafting the narrative of the *Wall Street Journal* story. In two separate parts of the conversation, Rhoades said that Baylor had influenced the *Wall Street Journal* to edit the story to refrain from naming the assistant football coaches who Regents were accusing of having sexual assault allegations delegated to them. At one point Rhoades told the coaches, "You were all in this article. I can tell you, you were in this article."

And I'm not, I'm not asking you for a thank you or a pat on the back or anything, but I'm asking you to at least acknowledge the fact that we fought like hell to get you out of the article."

47. Rhoades also told the coaches that Baylor was planning to "do something next week with a media outlet" about how the assistant coaches had done all of the right things.

48. The meeting continued with coaches angrily accusing Regent Cary Gray of taking a comment by Art Briles related to "delegation" out of context. "That had nothing to do with sexual assault," one of the coaches said. "Cary Gray is trying to lump that in with sexual assault?... That wasn't about sexual assault. It was about missing class and MIPs (referring to a player cited for minor in possession on alcohol)."

49. The meeting between Mack Rhoades and the assistant coaches was confrontational at times.<sup>8</sup> At the crescendo of the meeting, with coaches emotionally expressing their frustration that the Regents had fed falsehoods to the *Wall Street Journal*, Phil Bennett asked Mack Rhoades, "Do you think it's right?" Mack Rhoades replied,

No. I don't think it's right. I don't think it's right. OK? I don't. OK? And I said, you know I walked into this situation, and Chris [Achuff] I understand, OK? I'm doing the best that I can. I hate it for each one of you, because you're good people. And you're hell of a [sic] football coaches. OK? And I still stand by them. I will do everything I can to help you. You're not walking in my shoes, and I'm not walking in yours, but I'm trying to understand. I'm trying to do everything I can. This fight ain't over. I will do everything I can to try to help this group. And if that means I gotta call every freaking 126 ADs [sic] and tell them these are good people and they deserve to be hired, then you know what, I'll do that. I will absolutely do that. You are good people in this room. I have great respect for you because of the way you handled the toughest, damndest situation that anybody could have gone through. That it has been about these kids. And we've got six more games. And I hope that we can still keep it where it is still about those kids. And you may be right. Maybe it is too late. But I ain't done fighting. I ain't done fighting to make sure people

---

<sup>8</sup> One coach referred to one of the Regents as "that little punk motherfucker." At one point, as assistant coach Chris Achuff raised his voice to be heard over someone trying to interrupt him, Mack Rhoades yelled at Achuff, "Hey Chris! You better be fucking respectful. Right now! You better lower your fucking voice right now!" Phil Bennett shot back, "He will. He's had enough.... [But] you don't raise your voice to us. Because I'm going to tell you something, that bullshit works two ways."

know and understand that you're good people and that you deserve to continue to coach this game.

50. Mack Rhoades' words are starkly at odds with the false narrative pitched by a few Regents and G.F. Bunting to the *Wall Street Journal*. The Regents were telling the world -- without facts -- that the coaching staff had been Briles' instruments to create a football program run amok and had aided him in carrying out a policy of covering up sexual assaults. Yet the people actually in a position to know -- like Mack Rhoades and Title IX Coordinators Patty Crawford and Kristan Tucker -- were saying the exact opposite.

**ii. Allegation by Member of Volleyball Team**

51. The other centerpiece of the *Wall Street Journal* article was the claim that in one case "Briles knew about an alleged incident and didn't alert police, the school's judicial affairs staff or the Title IX office in charge of coordinating the school's response to sexual violence." The *Wall Street Journal* failed to report that Baylor had no Title IX office at the time. The *Wall Street Journal* also failed to provide any meaningful context that would explain whether Briles acted appropriately or inappropriately with the information in that single case cited by the Regents.

52. We now know that this case refers to an allegation made in the spring of 2013 by a member of the Baylor volleyball team to her coach, Jim Barnes, that she had been sexually assaulted approximately a year earlier. That allegation was the subject of a lawsuit against Baylor, which Baylor quickly settled before any depositions were taken, before written discovery was conducted and before either Briles or the head volleyball coach were contacted by the lawyers for either side to discuss the allegations.

53. Jim Barnes, who is now the head volleyball coach at Tulane, was at the time the head coach of the Baylor volleyball team. Barnes had numerous direct communications with his player and her family, described Briles' involvement in the situation much differently than did the

individual Baylor Regents in their public communications. Barnes has provided a written statement regarding the facts of this allegation. Mr. Barnes's statement reads in relevant part:

I was informed by [a member of the volleyball team] in late April 2013 [of an accused assault that allegedly happened approximately a year earlier]. I took the information to the Athletic Director. I asked what could be done. He gave me the phone number to Judicial Affairs to give to the victim. I then met with Coach Briles and informed him.

The next day her parents arrived to meet with me and to take her back home out of state. Before I met with them I called Judicial Affairs and asked them how a victim would make a report. They said she needed to come to the office or call to make a report. I then met with her and her parents. They informed me they did not want her name involved and did not want to make a report. I gave them the number to Judicial Affairs and I pleaded with them to make a report but they refused and departed from Baylor. From that day I have protected her name from getting out to the public as she asked me to do. We still stay in contact and she is doing very well.

Pepper Hamilton met with me in May of 2016. I explained this to them as well in a 4 hour interview. They said that I was completely innocent and that I did above and beyond what was expected in the situation. They gave me high praise in my part and support of the victim. I do not believe they accurately explained this event to the Baylor Board of Regents because Coach Briles and I basically did the same thing, in reporting this to the Athletic Director.

When I met with Coach Briles he immediately responded with concern for my player. He said she should prosecute the accused and he had nothing to hide or protect and asked how he could help. 4 of the accused were already gone from the program. The 1 remaining player was taken off the roster. At no time did Coach Briles try to cover this up in any way. We both did what we were told to do in this situation and that was report it to the Athletic Director. We never received any other type of training. There was no Title 9 office established at that time.

I was told by the AD there was nothing else that could be done since she did not want to report the rape that happened approx a year prior.

I have not made a public statement because I needed to protect my players name. Because there is so much wrong information out there and Coach Briles has been accused of a cover-up, my player has fully endorsed me to make a statement. In fact she said Art Briles was a good and faithful man. She appreciated his support and she was very thankful that he kept her name out of this as well.

54. Oddly, Baylor's individual Regents seem to find fault in Briles for not going on his own to Judicial Affairs to initiate a complaint – even though Briles had no first-hand knowledge of the situation, had been informed that the matter was being handled at the highest levels of the administration (by his supervisor, the Athletic Director, who reports directly to the President) and the head coach to whom the student and her mother had made the report, and even though Briles had been informed that the student and her mother had expressed to Coach Barnes that they did not want to go to Judicial Affairs.

55. Baylor had no policy that would have required or even encouraged Art Briles to intervene and take this matter to Judicial Affairs under these circumstances. In fact, athletic department protocols for dealing with Judicial Affairs and Baylor's protocols for other employees who might learn of accusations of sexual assault indicate that it might have been improper for Briles to take this matter (about which he had no personal knowledge and that had only been reported to him by those at or above his level of authority) into his own hands and go to Judicial Affairs against the wishes of the student and her family.

56. For example, Ian McCaw has testified that, in the wake of the 2003 Baylor scandal involving the murder of basketball player Patrick Dennehey by a teammate, Baylor implemented a strict rule forbidding the athletic department from contacting Judicial Affairs other than through Paul Bradshaw, an assistant Athletic Director. Such a policy would be consistent with concerns that a coach might be perceived as interfering in an investigation or attempting to preempt an investigation by contacting Judicial Affairs on his own. Baylor's policies for reporting crimes and policies related to sexual assault at the time made no mention of any requirement of going to Judicial Affairs. In fact, Baylor University's "Sexual Assault Protocol – Medical" that went into effect July 26, 2010 makes clear that when someone calls the Baylor health center and states that

an assault has occurred, the Baylor employee is only to contact the police “if victim wants to report the crime.” The policy goes into great detail about what other steps to take, including arranging for transportation and emotional support, yet says nothing whatsoever about contacting Judicial Affairs.

57. The facts will show that Art Briles followed Baylor policies and protocols in his handling of this situation. Ian McCaw has testified that Regent Mark Hurd told McCaw that, during Pepper Hamilton’s presentation to the Board of Regents, Hurd asked the lawyers from Pepper Hamilton whether Art Briles had violated any Baylor policy of any kind in regard to the handling of any sexual assault allegation. According to McCaw, Hurd said that the lawyers from Pepper Hamilton, whose only job was to investigate Title IX compliance and responses to allegations of sexual assault, said they were not sure. (Ian McCaw Depo. p. 127).

58. The young woman at issue in this allegation alleged in a federal lawsuit that she had reported the incident to the Baylor University counseling center, and named names of football players. According to the complainant, the counselor tried to talk her out of reporting the incident. The Counseling Center is under the auspices of Judicial Affairs.

59. The facts will show that Briles acted always in good faith and in an earnest desire to appropriately respond to every allegation of sexual assault or domestic violence made against a player. In constructing a narrative to focus blame for sexual assault on black football players (none of whom were even interviewed by Pepper Hamilton or the Regents who wrote the Findings of Fact) so as to direct scrutiny and national attention away from Regent and senior administration failures, some of Baylor’s Regents selectively cherry-picked facts and covered up facts damning to their narrative. Defendant Briles looks forward to further revealing the truth.

**II. Answer**

60. Briles admits that Lozano was a student at Baylor University but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 1.

61. Briles admits the allegations in paragraph 2.

62. Briles admits that he was the head football coach at Baylor and denies the remaining allegations in paragraph 3.

63. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4.

64. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5.

65. Briles admits the Court has jurisdiction over this action.

66. Briles admits that venue is proper in this Court.

67. Briles admits the allegations in paragraph 8.

68. The allegations in paragraph 9 contain assertions of law, which Briles denies.

69. The allegations in paragraph 10 contain assertions of law, which Briles denies.

70. The allegations in paragraph 11 contain assertions of law, which Briles denies.

71. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12.

72. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13.

73. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14.

74. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15.

75. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16.

76. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17.

77. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18.

78. Briles admits the allegations in paragraph 19.

79. Briles admits the allegations in paragraph 20.

80. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21.

81. Briles admits that the three individuals named in paragraph 22 were on his coaching staff and that Kendal Briles is his son and Jeff Lebby is his son in law. Briles denies the remaining allegations in paragraph 22.

82. Briles denies the allegations in paragraph 23.

83. Briles admits the allegations in paragraph 24.

84. Briles admits the allegations in paragraph 25.

85. Briles admits that the team won 10 games and that Robert Griffin III won the Heisman Trophy in 2011 but denies the remaining allegations in paragraph 26.

86. Briles denies the allegations in paragraph 27.

87. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28.

88. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29.

89. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30.

90. Briles denies the allegations in paragraph 31.

91. Briles denies the allegations in paragraph 32.

92. Briles denies the allegations in paragraph 33.

93. Briles denies the allegations in paragraph 34.

94. Briles denies the allegations in paragraph 35.

95. Briles denies the allegations in paragraph 36.

96. Briles denies the allegations in paragraph 37.

97. Briles denies the allegations in paragraph 38.

98. Briles denies the allegations in paragraph 39.

99. Briles denies the allegations in paragraph 40.

100. Briles denies the allegations in paragraph 41.

101. Briles admits that the quote from a book has been selectively quoted in paragraph 42 and taken out of context.

102. Briles denies the allegations in paragraph 43.

103. Briles admits that the quote from a book has been selectively quoted in paragraph 44 and taken out of context. Briles denies the remaining allegations in paragraph 44.

104. Briles denies the allegations in paragraph 45.

105. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46.

106. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47.

107. Briles denies the allegations in paragraph 48.

108. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations related to the Baylor and Waco Police Departments and denies all allegations in paragraph 49.

109. Briles denies the allegations in paragraph 50.

110. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51.

111. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52.

112. Briles denies that he engaged in the practice described in paragraph 53 and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 53.

113. Briles denies that he engaged in the practice described in paragraph 54 and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 54.

114. Briles denies the allegations in paragraph 55.

115. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56.

116. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57.

117. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 58.

118. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59.

119. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 60.

120. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61.

121. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62.

122. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63.

123. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64.

124. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65.

125. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 66.

126. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 67.

127. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 68.

128. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 69.

129. Briles denies the allegations in paragraph 70.

130. Briles denies the allegations in paragraph 71.

131. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 72.

132. Briles denies the allegations in paragraph 73.

133. Briles denies the allegations in paragraph 74. Specifically, Briles denies that what Plaintiff defines as the “Baylor Findings” resulted from an “internal audit” and denies that it is a “summary of Pepper’s findings” and incorporates this denial into all subsequent uses of the term “Baylor Findings.”

134. Briles admits the allegations in paragraph 75.

135. Briles denies the allegations in paragraph 76.

136. Briles denies the allegations in paragraph 77.

137. Briles denies the allegations in paragraph 78.

138. Briles denies the allegations in paragraph 79.

139. Briles denies the allegations in paragraph 80.

140. Briles denies the allegations in paragraph 81.

141. Briles denies the allegations in paragraph 82.

142. Briles admits that the Findings of Fact are correctly quoted but is without sufficient information to admit or deny the remaining allegations in paragraph 83.

143. Briles denies the allegations in paragraph 84.

144. Briles denies the allegations in paragraph 85.

145. Briles denies the allegations in paragraph 86.

146. Briles denies the allegations in paragraph 87.

147. Briles denies the allegations in paragraph 88.

148. Briles denies the allegations in paragraph 89.

149. Briles denies the allegations in paragraph 90.

150. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 91.

151. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 92.

152. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 93.

153. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 94.

154. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 95.

155. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 96.

156. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 97.

157. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 98.

158. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 99.

159. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 100.

160. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 101.

161. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 102.

162. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 103.

163. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 104.

164. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 105.

165. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 106.

166. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 107.

167. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 108.

168. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 109.

169. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 110.

170. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 111.

171. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 112.

172. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 113.

173. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 114.

174. Briles denies the allegations in paragraph 115.

175. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 116.

176. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 117.

177. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 118.

178. Briles denies the allegations in paragraph 119.

179. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 120.

180. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 121.

181. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 122.

182. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 123.

183. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 124.

184. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 125.

185. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 126.

186. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 127.

187. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 128.

188. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 129.

189. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 130.

190. Briles denies the allegations in paragraph 131.

191. Briles admits that Chafin was suspended from the football team for disciplinary reasons but denies the remaining allegations in paragraph 132.

192. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 133.

193. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 134.

194. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 135.

195. Briles admits that the so-called “Findings of Fact” were released on May 26, 2016 (not 2017). Briles denies the remaining allegations in paragraph 136.

196. Briles is without knowledge or information sufficient to form a belief as to the truth of the date stated in paragraph 137.

197. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 138.

198. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 139.

199. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 140.

200. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 141.

201. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 142.

202. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 143.

203. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 144.

204. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 145.

205. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 146.

206. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 147.

207. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 148.

208. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 149.

209. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 150.

210. Briles is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 151.

211. In response to paragraph 152, Briles incorporates his responses to the allegations in all paragraphs of this Answer.

212. Paragraphs 153 - 161 describe a cause of action against Baylor University and does not require a response from Briles.

213. In response to paragraph 162, Briles incorporates his responses to the allegations in all paragraphs of this Answer.

214. Briles denies the allegations in paragraph 163.

215. Briles denies the allegations in paragraph 164.

216. Briles denies the allegations in paragraph 165.

217. Briles denies the allegations in paragraph 166.

218. Briles denies the allegations in paragraph 167.

219. Briles denies the allegations in paragraph 168.

220. Briles denies the allegations in paragraph 169.

221. The allegations in paragraph 170 describe a cause of action against Baylor University and does not require a response from Briles.

222. Briles denies the allegations in paragraph 171.

223. Briles denies the allegations in paragraph 172.

224. In response to paragraph 173, Briles incorporates his responses to the allegations in all paragraphs of this Answer.

225. Briles denies the allegations in paragraph 174.

226. Briles denies the allegations in paragraph 175.

227. Briles denies the allegations in paragraph 176.

228. Briles denies the allegations in paragraph 177.

229. Briles denies the allegations in paragraph 178.

230. Briles denies the allegations in paragraph 179.

231. Briles denies the allegations in paragraph 180.

232. The allegations in paragraphs 181 – 207 assert causes of action against the City of Waco, which Briles is not required to admit or deny.

233. Briles opposes all relief requested in the Prayer for Relief.

### **III. Specific Defenses**

234. Plaintiff's claim against Briles is barred by the applicable statute of limitations, including but not limited to the statute of limitations in TEX. CIV. PRAC. & REM CODE § 16.003.

235. Plaintiff's claim against Briles is barred by the principle of Texas law that a citizen has no duty to control the conduct of third parties.

236. The acts and/or omissions of persons, entities, or parties – including non-parties to this action – whom Briles did not control or retain the right to control and for whose acts and/or omissions Coach Briles is not responsible under Texas law were the sole, contributing, and proximate cause for the incident made the basis of Plaintiff's claim. Accordingly, Coach Briles pleads the doctrines of proportionate responsibility as set forth in TEX. CIVIL PRAC. & REM. CODE §§ 33.003, 33.004, 33.011, 33.012, 33.013, 33.015 and 33.016.

237. Briles hereby pleads that the limitations, restrictions and caps on punitive or exemplary damages as set forth in Chapter 41 of the TEX. CIVIL PRAC. & REM. CODE.

238. Any judgment awarding punitive or exemplary damages would contravene Briles' rights under the Fifth, Sixth, Eighth and Fourteenth Amendments to the U.S. Constitution and Article I, Sections 13, 14 and 19 of the Texas Constitution.

239. Plaintiff's claim against Briles is barred by the exclusive remedy provision of the Texas Workers' Compensation Act. *See e.g.* TEX. LABOR CODE § 408.001.

Dated: August 30, 2018

Respectfully submitted,

/s/ Ernest Cannon

Ernest Cannon

Texas Bar No. 03746000

[ernestcannon1@yahoo.com](mailto:ernestcannon1@yahoo.com)

P.O. Box 1193

Stephenville, Texas 76401-0011

(254) 918-1006 telephone

**(Application for Admission Pro Hac**

**In process)**

/s/ Tom Nesbitt

Thomas A. Nesbitt

Texas Bar No. 24007738

[tnesbitt@dnaustin.com](mailto:tnesbitt@dnaustin.com)

Scott F. DeShazo

Texas Bar No. 24011414

[sdeshazo@dnaustin.com](mailto:sdeshazo@dnaustin.com)

Laura J. Goodson

Texas Bar No. 24045959

[lgoodson@dnaustin.com](mailto:lgoodson@dnaustin.com)

DeShazo & Nesbitt L.L.P.

809 West Avenue

Austin, Texas 78701

512/617-5560

512/617-5563 (Fax)

**COUNSEL FOR ART BRILES**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document has been served on the parties of records *via* the Court's ECF filing system on the 30<sup>th</sup> day of August, 2018:

/s/ Thomas A. Nesbitt

Thomas A. Nesbitt