

VERMONT SUPERIOR COURT
Washington Unit
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CIVIL DIVISION
Case No. 25-CV-04798

Stephanie Ainsworth v. Norwich University et al

ENTRY REGARDING MOTION

Title: Motion to Dismiss (Motion: 6)
Filer: Pietro J. Lynn
Filed Date: April 24, 2026

The motion is DENIED.

Plaintiff Dr. Stephanie Ainsworth was hired as an instructor at Norwich University (Norwich) in 2016 and became a tenured professor in 2022. She resigned in 2025 after enduring, she alleges, extensive sexual harassment, a violent sexual assault, and related discrimination. Her January 14, 2026, second amended complaint asserts 26 counts. Defendants include Norwich; Mr. Robert Berkey, Norwich's former Director of User Support Services, who is alleged to have violently sexually assaulted Ms. Ainsworth after becoming obviously intoxicated at Good Measure Pub and Brewery (Good Measure); and Good Measure.

Norwich has filed a Rule 12(b)(6) motion to dismiss arguing that each of the 25 counts asserted against it fails to state a claim. It argues, in sum, that once one disregards the allegations that are conclusory or conclusions of law masquerading as facts, the remaining allegations either do not provide fair notice of the claims or do not sufficiently support particular elements of the claims and consequently fail to state a claim complying with the spirit of Rules 8 and 12(b)(6). The claims against Mr. Berkey and Good Measure are not currently at issue.

1. Procedural Standard

Rule 8 requires that, while no "technical forms of pleading . . . are required," V.R.C.P. 8(e)(1), a "pleading which sets forth a claim for relief . . . [nevertheless] shall contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." V.R.C.P. 8(a). The Vermont Supreme Court has summarized the standard for determining whether a complaint fails to state a claim under Rule 12(b)(6) as follows:

“A motion to dismiss . . . is not favored and rarely granted.” This is especially true “when the asserted theory of liability is novel or extreme,” as such cases “should be explored in the light of facts as developed by the evidence, and, generally, not dismissed before trial because of the mere novelty of the allegations.” In reviewing a motion to dismiss, we consider whether, taking all of the nonmoving party’s factual allegations as true, “‘it appears beyond doubt’ that there exist no facts or circumstances that would entitle the plaintiff to relief.” We treat all reasonable inferences from the complaint as true, and we assume that the movant’s contravening assertions are false.

Alger v. Dep’t of Labor & Indus., 2006 VT 115, ¶ 12, 181 Vt. 309 (citations omitted). In assessing a complaint for compliance with this standard, courts are not required to accept “‘conclusory allegations or legal conclusions masquerading as factual conclusions.’” *Rodrigue v. Illuzzi*, 2022 VT 9, ¶ 33, 216 Vt. 308 (quoting *Colby v. Umbrella, Inc.*, 2008 VT 20, ¶ 10, 184 Vt. 1 (quotation omitted). Nevertheless, “the threshold a plaintiff must cross in order to meet our notice-pleading standard is ‘exceedingly low.’” *Bock v. Gold*, 2008 VT 81, ¶ 4, 184 Vt. 575.

2. Background

Ms. Ainsworth has amended her complaint twice, ostensibly to improve accuracy and provide additional detail. The current version is 71 pages long and not “short and plain” as contemplated by Rule 8(a)(1). The court declines to summarize it in detail here. The thrust of it, all that matters for present purposes, is as follows.

During her employment at Norwich, Ms. Ainsworth alleges that she was flagrantly sexually harassed, principally by then-President Mark Anarumo and Mr. Berkey. She alleges that Mr. Berkey also “used physical force . . . to commit . . . penetration . . . causing physical injuries and trauma requiring medical treatment.” Although Mr. Anarumo’s and Mr. Berkey’s employment eventually ended, Ms. Ainsworth’s complaints to Norwich officials were largely ignored, not taken seriously, or disbelieved, leading to a retaliatory and defamatory environment. “By May 2025, Plaintiff’s conditions at Norwich became intolerable. Plaintiff’s therapist opined that continued employment with Norwich would cause Plaintiff severe harm.” She reluctantly resigned her tenured position, characterizing it as a constructive discharge.

The following counts (all but #15) are asserted against Norwich:

1. Hostile work environment/sex (11/22–6/23);
2. Hostile work environment/sex (7/23–11/23);

3. Hostile work environment/sex (11/23–5/25);
4. Hostile work environment/crime victim status (11/23–5/25);
5. Hostile work environment/physical or mental impairment 11/23–5/25);
6. Discrimination based on sex;
7. Discrimination based on crime victim status;
8. Discrimination based on physical or mental impairment;
9. Retaliation for protected activity;
10. Sexual assault and battery;
11. Intentional infliction of emotional distress;
12. Negligent hiring, retention, supervision, failure to warn, negligent undertaking, and negligent failure to disclose;
13. Negligence and gross negligence (premises, operations, and security);
14. Negligent infliction of emotional distress;
16. Breach of employment contract;
17. Breach of implied employment contract;
18. Breach of implied covenant of good faith and fair dealing;
19. Breach of employment contract (investigation records);
20. Breach of implied contract (investigation records);
21. Breach of implied covenant of good faith and fair dealing (investigation records);
22. Promissory estoppel;
23. Unjust enrichment;
24. Constructive discharge;
25. Defamation per se; and
26. Ordinary defamation.

Ms. Ainsworth pleading leaves few, if any, legal stones unturned. Norwich dissects each claim in detail. Its motion to dismiss is 48 pages long. Ms. Ainsworth responds in greater detail. Her principal opposition brief is 95 pages.

Much of the protracted briefing by both parties is unnecessary. On a Rule 12(b)(6) motion, the court draws all reasonable inferences in favor of the plaintiff, and the plaintiff is not required to include every detail so that, if all are taken as true, the asserted claim would be *proven*. The plaintiff is required only to provide fair notice of a claim that does not clearly lack legal merit.

For Rule 12(b)(6) purposes, Norwich has put the complaint under far too powerful a microscope and has failed to draw inferences in Ms. Ainsworth's favor.

Nor do Norwich's protestations that the allegations are too conclusory for it to understand the claims have merit. If the allegations are so vague that Norwich truly is unable to determine how to respond, the proper course would be a motion for more definite statement. V.R.C.P. 12(e). Such an outcome is unwarranted given the lengthy and detailed pleading of record.

In any event, the court generally would not dismiss for mere lack of detail without first giving the plaintiff an opportunity to cure the deficiency. See 5 FED. PRAC. & PROC. CIV. § 1216 (4th ed.) ("Of course, if the requisite allegations are not in the complaint and a motion to dismiss for failure to state a claim upon which relief may be granted is made under [Rule] 12(b)(6), the pleader should be given the opportunity to amend the complaint, if she can, to show the existence of the missing elements."). Yet Norwich seeks dismissal, not further detail. Ms. Ainsworth repeatedly requests an opportunity to amend if the court should agree that any allegations are insufficient, and Norwich expressly opposes any such amendment.

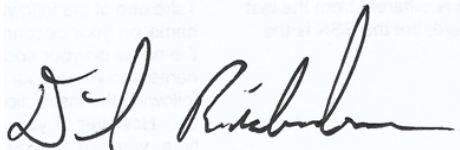
The bill of particulars was phased out long ago. See 5C Fed. Prac. & Proc. Civ. § 1375 (3d ed.) ("A major objective of the [contemporary] rules was to eliminate the practice of using multiple, complex pleadings and a series of corrective motions to elicit the facts underlying the plaintiff's claim and to narrow the issues in the case.").

The more productive path forward in this case is discovery and Rule 56 practice that will be grounded in and circumscribed by evidence in the record and allow the court to discern the facts and nature of the dispute beyond the limited analysis of Rule 12(b)(6).

ORDER

Norwich's motion to dismiss is **Denied**.

Electronically signed on 7/16/2026 7:01 PM pursuant to V.R.E.F. 9(d)

A handwritten signature in black ink, appearing to read "Daniel Richardson", is written over a light blue rectangular background.

Daniel Richardson
Superior Court Judge