

Attachment A

I. Factual Allegations

1. I entered the United States Coast Guard Academy in [REDACTED] as a member of the class of [REDACTED].

2. In my second year at the Academy, in the winter of [REDACTED], I was raped by a fellow cadet. A group of cadets, including my assailant and I, went to the Academy hockey game. I was the youngest cadet there. On the way to the game, the older, senior cadets filled coke cans with beer, pressuring me into drinking them. I got into a car with my assailant and two of our friends after the game ended, heading back to the Academy. When we arrived, my assailant and I got out of the car, but the two friends we came with stayed inside the vehicle. My assailant offered to walk me back to my room. Once I was back in my room, I changed and got into my bed. My assailant, who had remained in the hallway, then entered my room and closed the door behind him. I became nervous because I did not want to get in trouble for having him in my room while the door was shut. He then kissed me without my consent, which surprised me because he was engaged.

3. The officer of the deck (OOD) then came by for his nightly report. This caused my assailant to leave my room. I was grateful that he was gone and would have locked my door, but it was against Academy policy. After a few minutes passed, my assailant came back inside, closing the door again. He informed me that he had lied to the OOD, who was a fellow classmate of his, telling him that both my female friend and I were in the room, and that everything was okay. I was frightened to be trapped with my assailant, but I was afraid to cry out. My assailant then turned the lights off, came to the bed, kissed me, and climbed into the bunk. He began to touch my breasts and genitals. I told him to stop. When my assailant put his fingers inside of my vagina, I once again told him to stop. He then forced his penis inside of me. I froze and was terrified. I was a virgin, and this was severely painful. My assailant told me about how he had fantasized about my twin sister, who also went to the Coast Guard Academy. I passed out near the end of the rape due to the pain. I was terrified and despondent that my virginity had been taken through sexual assault.

4. I did not think I could tell anyone at the time, as I did not think anyone would believe my word against a well-liked senior cadet like my assailant. Furthermore, I had heard of other women who were not believed when they raised sexual misconduct allegations.

5. I was so traumatized by the rape that I blocked the memory out of my mind until roughly 8 months later, when I attended an acquaintance rape training session. This is when it became clear to me that I had been raped. During that time, there were many signs that I was traumatized, including my grades falling, my constant state of exhaustion, and a complete change in my social patterns and behavior. No one at the Academy checked in with me to see what was going on.

6. Approximately a year after the rape, I told the Civil Rights Officer on campus that something terrible had happened to me at the Academy and that I had been attacked, but I did not tell her the details or who did it. She did not report the incident. I also shared the same thing with

the [REDACTED] who served as a Legal Officer on campus. She did not report the incident either.

7. The summer before my final year at the Academy, I was once again raped while on assignment to a ship. A chief corpsman on the ship befriended me and went out of his way to interact with me. In retrospect, I believe he was grooming me in order to take advantage of me sexually. One weekend while I was on the ship, a female quartermaster who I was friendly with invited me to come with a group of them, including the chief corpsman, to rent a car and explore [REDACTED] while we were in port. I had the understanding that my female friend and I would be staying in a hotel room together, while the corpsman and the other males stayed in a room together. However, at the hotel I was forced to be in a room alone with the chief corpsman. He locked the door and forced himself on me sexually. I was so terrified during the sexual assault that I completely froze. The rape was particularly brutal, with him using objects to penetrate me. Although I was traumatized and physically sore, I was too afraid to report the incident because I had seen the Coast Guard mishandle similar incidents and refuse to believe the victim.

8. After graduating from the Coast Guard Academy, I was assigned to be the one of only two women on a ship with 98 men. I was gang raped many times over the course of the year I was there, being continuously tortured, sodomized, raped, and even impregnated. At one point, my assailants found out I was pregnant and became incredibly angry. They gang raped me again. I was then held down by several men in the shower as they forcibly inserted a foreign object into my vagina to induce an abortion. The atrocities I suffered on that ship were horrific. I never felt like I could report what happened to me. The culture of silence and victim-blaming perpetuated in the Coast Guard prevented me from immediately reporting what happened to me each time, and caused me to completely lose my physical, emotional, and mental stability. The only person I felt comfortable sharing my trauma with was my husband, who I did not meet until the [REDACTED]

9. In the late summer of [REDACTED], I was on assignment in [REDACTED]. While there, I discovered that the man who raped me at the Academy was also frequently there because he was stationed nearby and regularly flew helicopters into [REDACTED]. At one point, while I was there, I confronted my assailant. He denied raping me. Yet, when I threatened to tell his wife about what happened, he asked me to not tell her, saying it would ruin him.

10. In [REDACTED], I told the Coast Guard about the first rape I experienced– the one that occurred while I was at the Academy in [REDACTED]. In [REDACTED] I had to have a hysterectomy. A few weeks later, I was transferred to [REDACTED]. I struggled to recover from the surgery, which was exacerbated by the sexual trauma I had previously experienced. To explain my ongoing health condition, I decided I would have to reveal the previous sexual assault. Accordingly, I informed my Commanding Officer in [REDACTED] that I had been sexually assaulted as a cadet at the Academy. He indicated that he would report the incidents. At that time, I was not ready to share the details of the sexual assaults I experienced on the ships and to reveal that I had been victimized on multiple occasions.

11. The Coast Guard Investigative Service (CGIS) subsequently investigated my allegations, which eventually led to an Article 32 Uniform Code of Military Justice (UCMJ) hearing against my attacker in [REDACTED]. The Article 32 hearing decision makers found my claims to

be credible but ultimately, the case was dismissed without prejudice. I was told that too much time had passed since the time of the assault for them to successfully prosecute. But I was told that if any additional evidence surfaced against my attacker, they would reopen the criminal proceedings. I was told that if there were other reports of misconduct by my assailant, or more evidence surfaced against him, that my case would be reopened. However, I later learned that my assailant was involved in another sexual misconduct case for groping a petty officer's wife. This incident was investigated, but my assailant was given only a non-punitive letter of censure for his behavior involving dancing inappropriately with women. Photos also surfaced later that year of my assailant streaking naked outside of a bar. He faced no punishment for either of these acts and was instead given a promotion during this time. Despite these additional allegations of misconduct, my case was not reopened.

12. Following my Article 32 case being closed and increasingly severe symptoms of PTSD, I was medically retired in [REDACTED]. It was a long process between the Article 32 UCMJ hearing in [REDACTED] and the medical board's official decision to medically retire me in [REDACTED]. During that time, I was not provided with resources to assist me with my PTSD. Rather than support me through the trauma I experienced at the Academy and while serving in the Coast Guard, I was pushed out of the Coast Guard because of my emotional distress.

13. My case was not a part of the Operation Fouled Anchor report, which I found unusual and unsettling. I emailed the Coast Guard Academy on [REDACTED], asking them why my case was not investigated as part of Operation Fouled Anchor. A representative of the Academy responded to me via email on [REDACTED], saying that the Coast Guard Academy acknowledged and regretted their failure to create "a culture intolerant to sexual assault and other misconduct, particularly against women, [which] did not promote an environment conducive for victims to come forward, and did not properly support those victims who did come forward." They did not give an answer as to why my case was not included in Fouled Anchor, but they noted "the conclusions drawn from... [Fouled Anchor] were equally applicable to your case, namely, that by failing to create the appropriate environment and handle sexual assault complaints correctly, you and many others were deterred from coming forward to report sexual assault. This was inexcusable and the Coast Guard regrets any negative impacts this has had on you or your family." I also asked them if my assailant's name had come up in the investigation, as I had been told that any further evidence would cause his criminal case to be reopened. The Academy declined to provide me with any information on this.

14. In [REDACTED] I spoke with members of the Accountability and Transparency Review Committee. This committee was assembled by the Coast Guard following the harsh scrutiny by Congress for the Coast Guard's mishandling of sexual assaults detailed in the Operation Fouled Anchor report. I reached out to a victim advocate and shared the story of all of my sexual assaults at the Academy and on the ships.

15. In [REDACTED], I sent a letter to the United States Senate Permanent Subcommittee on Investigations. The committee was investigating the history of sexual assaults at the Coast Guard Academy. I gave details of my sexual assault at the Academy and in the service, as well as information on the Coast Guard's mishandling of my sexual assaults.

16. I was questioned about my assaults by two Office of Inspector General Agents of the Department of Homeland Security in [REDACTED]. They informed me that there was a criminal investigation ongoing against the Coast Guard. They asked me not to put in a FOIA request about the assault I experienced because they feared the Coast Guard might try to require me to sign an NDA.

17. The man who sexually assaulted me at the Coast Guard Academy was continually promoted in the Coast Guard, retiring as a Coast Guard Commander. In contrast, I lost my career and was forced to take a medical retirement due to the PTSD that I continually experienced after the sexual assaults. The Coast Guard offered me zero treatment, support, or resources before or upon my medical retirement. I have also had to undergo several abdominal surgeries, including a hysterectomy, partly caused by the violence I endured while being raped.

18. The impact of the assaults has haunted me for years. My assailant stealing my virginity was absolutely tragic and heart wrenching to me. The emotional distress has cost me my job and marriage. I have also experienced intense psychological anguish, for which I have been in therapy for years. I was diagnosed with complex PTSD caused by the sexual assaults. I often have nightmares, which have severely disrupted my ability to sleep. The Department of Veteran's Affairs (VA) prescribed me antidepressants in [REDACTED] which I am still taking to cope with the psychological distress caused by the assaults. Additionally, I have also struggled with chronic physical pain since the attack. Specifically, I have developed pelvic floor dysfunction, which is an incredibly painful condition, and I often experience migraines from the stress of living with the aftermath of the assaults. The VA has provided me with a 100% disability rating, meaning they consider me to be totally and permanently disabled due to service-connected disabilities, primarily as a result of my PTSD in addition to other related issues.

19. Although my case was not included in the Operation Fouled Anchor report, the widespread mishandling of sexual assault complaints detailed in the report illuminates the culture of tolerance that permeated the Academy while I was a student. Operation Fouled Anchor began in September of 2014, when the Coast Guard Investigative Services (CGIS) opened an investigation into the Coast Guard's handling of sexual assault and harassment at the Coast Guard Academy. Operation Fouled Anchor began when a Coast Guard officer disclosed that she had been raped 17 years earlier at the Academy. From September 2014 to June 2019, CGIS investigated 102 incidents of sexual assault that occurred at the Academy between the 1980s and the early 2000s. The investigation found that sexual misconduct ran rampant and unchecked at the Academy, and that Academy leaders routinely mishandled reports of such misconduct, at times actively concealing incidents of sexual assaults. Perpetrators rarely faced significant punishment, if they were investigated at all, and many continued to ascend the Coast Guard ranks into high-ranking leadership positions. Survivors, meanwhile, frequently faced blame by the Academy leaders purportedly investigating their claims. According to the Fouled Anchor report, the Academy disciplined one female cadet, who reported being raped by a classmate, for "engaging in lewd acts," with an Academy official determining that the survivor did not protest her assailant's advances strongly enough.

20. The report further revealed that the Academy leaders "did not fulfill their responsibility to ensure the physical protection, emotional support, and medical and psychological

care for those alleging rape or sexual assault.” Instead of disclosing the Fouled Anchor findings, Coast Guard Academy leaders, including former Commandant Admiral Karl Schultz, chose to conceal the findings from Congress and the public.

21. Despite its explicit acknowledgments of institutional wrongdoing, the Coast Guard subsequently embarked on a years-long effort to silence the survivors identified in the Fouled Anchor report, in turn causing them needless re-traumatization and subjecting them to additional institutional abuse. From early 2019 into that summer, the Coast Guard ordered CGIS agents to travel across the country to meet with the survivors identified in the Fouled Anchor report. Referred to internally as “an apology tour,” the purported nature of these visits was to offer formal apologies to survivors and to supply them with resources, including health benefits. Instead, the survivors had to brutally relive their traumatic experiences with CGIS agents, only for the Coast Guard to use these meetings to coerce survivors into signing non-disclosure agreements about their assaults. Agents also fed survivors lies about the Coast Guard’s efforts to redress the epidemic of sexual assault at the Academy, falsely telling them that the Coast Guard had briefed Congress of the report’s findings. Agents also pledged to help survivors obtain Veterans Affairs’ aid for their assaults but failed to provide them with the correct forms to receive such support.

22. Shannon Norenberg, a Coast Guard Academy Sexual Assault Response Coordinator, who partook in these meetings, came forward in 2024 as a whistleblower to expose the Coast Guard’s improper handling of sexual assault cases in Operation Fouled Anchor. Norenberg asserted that, during the “apology tour,” Coast Guard officials intentionally withheld from survivors the appropriate benefits form, as these forms would require the Coast Guard to enter the survivors’ sexual assaults into the cross-agency Defense Sexual Assault Incident Database. Given the high number of survivors identified in Operation Fouled Anchor, Norenberg suspected that the Coast Guard sought to shield itself from congressional and public scrutiny by deliberately preventing the Fouled Anchor survivors from having their abuses entered into an external, regulated database. Norenberg also claimed that the Coast Guard prevented survivors from filing this form so that survivors lacked evidence.

23. In 2023, CNN revealed the shocking details of Operation Fouled Anchor and the Coast Guard’s subsequent efforts to keep the findings of its Fouled Anchor report hidden. Over the last year, CNN has detailed the Coast Guard’s systematic silencing of cadets who were sexually abused at the Academy, as well as the Coast Guard’s failure to properly handle their claims. CNN’s reporting triggered Congressional investigations into the cover-up of Operation Fouled Anchor. In June 2024, the Senate Homeland Security and Governmental Affairs Subcommittee on Investigations heard the testimony from Commandant Admiral Linda Fagan. Senators grilled Admiral Fagan for over an hour during the hearing. Senators emphasized the “deep moral rot within the Coast Guard” and the “culture of concealment” that has pervaded the Academy for decades. Admiral Fagan admitted to having known about Operation Fouled Anchor since 2018 and having explicit conversations in 2020 regarding keeping the report concealed. Admiral Fagan also admitted that sexual assault at the Coast Guard Academy remains a “persistent and unacceptably prevalent” issue despite previous claims that the problem had stagnated.

24. Only when CNN disclosed the Coast Guard Academy’s pervasive mishandling of sexual assault cases for decades, did it become clear to Academy sexual assault survivors (like

myself) – both those included in Operation Fouled Anchor and those not – that the Coast Guard’s negligence played a substantial role in my victimization, as well as in my continued pain and suffering.

II. The Coast Guard’s Legal Liability

25. What happened to me was the entirely preventable result of the negligent actions and inactions of the Coast Guard, the Department of Transportation, and the Department of Homeland Security (collectively “the Coast Guard”). Due to the Coast Guard’s negligence, I was severely and irreparably harmed. Accordingly, the Coast Guard is liable under the FTCA.

26. The Coast Guard owed a duty of care to all Coast Guard Academy cadets to undertake reasonable efforts to prevent foreseeable harm. However, the Coast Guard breached this duty by negligently implementing inadequate policies and practices that caused me to be sexually assaulted at the Coast Guard Academy. The Coast Guard negligently created, condoned, and actively concealed the rampant nature of sexual harassment and assault at the Academy, knowingly placing me and other cadets in danger.

27. Specifically, from the Academy’s inception to the present day, the Coast Guard engaged in a pattern of refusing to prevent or otherwise mitigate the danger posed by sexual predators at the Academy. The Coast Guard likewise implemented for decades an institutional policy and practice of discouraging sexual assault victims from reporting abuse and seeking protection from their abusers. The Coast Guard further breached its duty to cadets by deliberately concealing sexual violence at the Academy and orchestrating additional cover-ups to keep its institutional malfeasance hidden. By sanctioning sexual violence at the Academy, the Coast Guard actively facilitated an environment at the Academy where the sexual harassment and assault of cadets could run rampant and unchecked.

28. Had the Coast Guard implemented policies or practices at the Academy to prevent and properly address sexual violence, my abuser would not have been in a position to sexually abuse me. The fact that countless female and male cadets have endured sexual violence at the Academy, consistently, over the course of several decades, clearly evidences the Coast Guard’s negligence.

29. The risk that a cadet might be sexually assaulted at the Coast Guard Academy was foreseeable. As documented by numerous investigations and reports, the sexual harassment and assault of cadets at the Academy occurred with high frequency and consistency over several decades. And, as evidenced by the Coast Guard’s own internal findings, Coast Guard leaders not only knew of this chronic problem plaguing the Academy but also undertook deliberate steps to silence victims and protect abusers from any mitigating action. Further, in Connecticut, the state where the Academy is located, whether the Coast Guard possessed notice of the predatory propensity of my specific abusers is not determinative. *Doe v. Saint Francis Hosp. and Med. Ctr.*, 309 Conn. 146, 196-97 (2013) (Supreme Court of Connecticut holding that plaintiffs need not establish that the institutional defendant “knew or should have known of [the individual perpetrator’s] propensity to sexually abuse”). Therefore, the Coast Guard knew or should have known the high risk of cadet sexual assault at the Academy exposed me to an unreasonable threat

of sexual violence. Despite this knowledge and its ability to implement policies and practices to protect me and my fellow cadets, the Coast Guard failed to undertake such preventative and protective actions.

30. The Coast Guard also acted negligently under a premises liability theory. The events at issue occurred primarily in Connecticut. Thus, Connecticut law applies. 28 U.S.C. § 1346(b)(1). Connecticut law imposes a duty on landowners “to reasonably inspect and maintain the premises in order to render them reasonably safe”. *Considine v. City of Waterbury*, 279 Conn. 830, 859 (Conn. 2006). An invitee is a person who has an invitation to be on another’s premises, for reasons “directly or indirectly connected with the business of the possessor of the land.”. *Corcoran v. Jacovino*, 161 Conn. 462, 465 (Conn. 1971). At the time my injury arose, I was enrolled and living full time at the Academy, where I received the education and training the Academy primarily serves to provide. As an invitee, the Coast Guard thus owed me a duty to ensure that the Academy grounds were reasonably safe. The Coast Guard, as stated above, was well aware of the dangerous conditions posed to cadets, particularly the rampant nature of sexual violence on campus and the obstacles faced by cadets who endured sexual abuse and harassment. Despite this knowledge, the Coast Guard engaged in chronic, deliberate efforts to avoid rectifying the institution-wide dangers that exposed me and countless others to harm on the Coast Guard’s premises.

31. As a direct and proximate result of the Coast Guard’s negligence, I sustained and continue to sustain emotional distress. I am traumatized due to the sexual abuse I have experienced and continue to experience symptoms of this trauma.

32. Accordingly, I am entitled to be compensated for these injuries, including but not limited to:

- a. past, present, and future emotional pain and suffering;
- b. past, present, and future psychological trauma and impairment;
- c. medical bills and other expenses for past and future treatment related to the Coast Guard’s act;
- d. loss of professional opportunity.

33. Given the Coast Guard’s negligence and the resultant harm I endured, the Coast Guard is liable under the FTCA.

34. I can readily establish each element of a FTCA claim. Specifically, (i) Coast Guard employees are employees of the federal government; (ii) Coast Guard employees who were responsible for instituting and enforcing policies and procedures were administering their official duties and thus acting within the scope of their employment when they acted negligently; (iii) I was gravely harmed by the Coast Guard’s negligence; (iv) that harm was foreseeable and avoidable had the Coast Guard taken adequate measures to ensure the safety of its cadets at the Coast Guard Academy.

35. The intentional act exception to the FTCA does not apply in this matter because my claims are against the Coast Guard, not the individual perpetrator who assaulted me, for negligently failing to implement adequate policies and practices to reasonably ensure my safety.

As such, FTCA claims that hinge on the negligent allowance of a foreseeable intentional act do not violate the intentional act exception. See *Sheridan v. United States*, 487 U.S. 392, 401 (1988) (holding that the negligence of U.S. Navy “employees who allowed a foreseeable assault and battery to occur may furnish a basis for Government liability” under the FTCA); *Senger v. United States*, 103 F.3d 1437, 1442 (9th Cir. 1996) (holding that the intentional tort exception does not bar negligent claims centering on the negligent acts of the government); see also *Boles v. United States*, 3 F. Supp. 3d 491, 513 (M.D.N.C. 2014) (“The negligence of government employees who allow a foreseeable assault and battery to occur may furnish a basis for government liability under the Federal Tort Claims Act”).

36. In addition, the *Feres* doctrine does not preclude me from pursuing FTCA claims against the Coast Guard because the sexual assault that I endured did not arise out of and was not in the course of activity incident to my military service. While being sexually assaulted, I was not engaging in an activity that was related to a military duty. In a recent circuit court opinion on the application of *Feres* to the sexual assault of a servicemember, the Ninth Circuit made resoundingly clear that sexual assault is not related to any military mission and thus does not fall under the *Feres* doctrine. *Spletstoser v. Hyten* 44 F.4th 938, 957-958 (9th Cir. 2022) (“the tortious act at issue in this case is the intentional tort of sexual assault. It is unimaginable that Plaintiff would have been ‘under orders’ to submit to [the] sexual advances, or that [he] was performing any sort of military mission in conjunction with the alleged assault... Indeed, ‘private sexual conduct’ and ‘intimate association’ are at the essence of an individual’s personal life ... A claim based on sexual assault is a far cry from those calling into question basic choices about the discipline, supervision, and control of military personnel . . . one would be hard pressed to conclude that a tortious sexual assault is in any way incident to “a decision requiring military expertise or judgment.””).

37. Similarly, my time as a Coast Guard Academy cadet does not implicate the type of military service that the FTCA intended to bar and that courts typically immunize under *Feres*. The plain language of the servicemember exception to the FTCA makes clear that only claims which “aris[e] out of the *combatant activities* of the military or naval forces, or the Coast Guard, *during time of war*” are excepted. 28 U.S.C. § 2680(j) (emphasis added). In broadening this exception in *Feres v. United States*, the Supreme Court nonetheless circumscribed government immunity to only those injuries that are “incident to *military service*”. 340 U.S. 135 (1950) (emphasis added).

38. The unique characteristics of the Coast Guard require a more tailored application of this FTCA exception and the *Feres* doctrine. Notably, unlike every other branch of the armed forces, the Coast Guard currently falls under the Department of Homeland Security and before that, fell under the Department of Transportation. Both of those Departments are explicitly civilian federal agencies. Only “[u]pon the declaration of war if Congress so directs...or when the President directs, the Coast Guard shall operate as a service in the Navy,” a military department. 14 U.S.C. § 103(b). At the time my injuries arose, the Coast Guard was neither operating under the United States Navy nor requiring me or my abuser to perform one of the Coast Guard’s seven primary duties, all but one of which expressly encompass non-military activity. See 14 U.S.C. § 102 (only duty relating to military or combatant activity is that requiring “a state of readiness to assist in the defense of the United States”); see also *Panagacos v. Towery*, 782 F. Supp. 2d 1183, 1191 (W.D. Wash. 2011) (“The Coast Guard, unlike the other four branches of the military, is a

hybrid agency” that serves both law enforcement and military purposes). Accordingly, in the rare instances in which the Supreme Court has applied the *Feres* doctrine to claims arising in the Coast Guard, the Court has only done so where the relevant activity squarely fell within the performance of an explicit Coast Guard Function. *See, e.g., Johnson v. United States*, 481 U.S. 681, 692 (1987) (holding that *Feres* barred plaintiff’s claim where decedent “was killed while performing...a primary duty of the Coast Guard” and “was acting pursuant to standard operating procedures of the Coast Guard”).

39. Additionally, while the Coast Guard is technically considered a military service, the Coast Guard Academy is explicitly categorized as a *federal* service academy, separate and distinct from the three *military* service academies: the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy. U.S. Congressional Research Serv., *Defense Primer: Military Service Academies* (Sept. 12, 2023). Notably, the only other federal service academy, the United States Merchant Marine Academy, is exempted from the *Feres* doctrine. In fact, service time during a cadet’s years at the Academy is not included for military service time calculations for retirement benefits.

40. Additionally, my claims would not result in unnecessary inquiry into military discipline, an oft-cited concern by courts in barring servicemembers’ claims under the *Feres* doctrine. *See U.S. Shearer*, 473 U.S. 52 (1985) (“the situs of the [injury] is not nearly as important as whether the suit...might impair essential military discipline.”). My claims do not center on the disciplinary actions of Coast Guard leaders, but rather on the Academy’s negligent implementation of inadequate policies and practices that caused me to be sexually assaulted at the Coast Guard Academy. Specifically, my claims assert that the Coast Guard negligently created, condoned, and actively concealed the rampant nature of sexual harassment and assault at the Academy, knowingly placing me and other cadets in danger. These are not the sort of allegations that would substantially implicate improper inquiry into military discipline. *See Taber v. Maine*, 67 F.3d 1029, 1048 (2d Cir. 1995) (“*It is difficult to see how FTCA damage awards can, except in the rarest of cases, interfere with a disciplinary relationship between the government and the military tortfeasor....* Injunctions and regulations tell people what they must do and what they must not do, and it is these types of intrusions that would entangle courts in military affairs. *Tort judgments do neither of these things....* Pursuant to the FTCA, courts merely determine whether analogous behavior by a private-sector employee would give rise to some form of fault-based vicarious liability on the part of a private-sector employer.”) (emphasis added); *see also Costo v. United States*, 248 F.3d 863, 866-67 (9th Cir. 2001) (the military discipline “rationale has not...escaped criticism. If the danger to discipline is inherent in soldiers suing their commanding officers, then no such suit should be permitted, regardless of whether the injuries arise out of or are in the course of activity incident to service. But *Feres* itself imposes this limitation. If the fear is that civilian courts will be permitted to second-guess military decisions, then even civilian suits that raise such questions should be barred. But they are not.”) (citations omitted).

41. Further, I anticipate having difficulty obtaining increased veterans or any other type of military-related benefits for the injuries I have suffered due to the Coast Guard’s negligence. The Coast Guard’s failure to properly and thoroughly investigate my sexual assault by quickly shutting down the investigation into this matter disadvantages me significantly. I was not offered a Form CG-6095 by the CGIS agents investigating my case. My depression and anxiety have

worsened since the MeToo Movement of 2017, Kavanaugh hearings in 2018, media reports regarding the OFA coverup, and subsequent stonewalling by senior Coast Guard leadership to provide transparency to both houses of Congress. My difficulty in obtaining benefits stems, in part, from the Coast Guard's systemic and deliberate failure to provide survivors the necessary documentation to obtain Veterans Affairs services for sexual violence injuries, including a persistent refusal to provide cadets and former cadets with their medical records. U.S. Senate, Permanent Subcommittee on Investigations, *A Pervasive Problem: Voices of Coast Guard Sexual Assault and Harassment Survivors*, p. 9 (Aug. 7, 2024). Given that circuit courts frequently emphasize the availability of benefits to the complainant in erecting the *Feres* bar, this factor likewise warrants a finding that *Feres* does not block my claims. *See, e.g., Miller v. United States*, 42 F.3d 297, 303 (5th Cir. 1995) (“the existence of...benefits’ for service members obviate[s] the need for application of the FTCA whose primary purpose was to extend a remedy to those who had been without”) (quoting *United States v. Johnson*, 481 U.S. 681, 689-90 (1987)); *Collins v. United States*, 642 F.2d 217, 220 (7th Cir. 1981) (finding that the existence of benefits “strongly supports” barring service member claims).

42. The discretionary function exception of the FTCA also does not bar my claims against the Coast Guard. *See* 28 U.S.C. § 1346(b). The Coast Guard cannot satisfy its burden in proving that its conduct both “involves an element of judgment or choice” and would occasion “judicial second-guessing” of public policy. *United States v. Gaubert*, 499 U.S. 315, 322-23 (1991); *Prescott v. United States*, 973 F.2d 696, 702 (9th Cir. 1992) (“the United States bears the ultimate burden of proving the applicability of the discretionary function exception.”). Furthermore, the Coast Guard's actions do not implicate the public policy considerations that Congress designed the exception to shield. *See Croy v. United States*, 697 F. Supp. 3d 653, 665 (W.D. Tex. 2023) (“even if...an element of judgment” is involved, the failure to undertake safety measures for plaintiff “implicates no relevant public policy considerations. The [d]efendant had only one issue to consider, namely, [p]laintiff's health”) (citations and quotations omitted). Particularly “where the challenged governmental activity involves safety considerations under an established policy...the rationale for the exception falls away and the United States will be held responsible for the negligence of its employees.” *Aslakson v. United States*, 790 F.2d 688, 693 (8th Cir. 1986).

43. During the relevant time period of my claims, Coast Guard Academy leaders were charged with the Academy's administration, including the implementation and maintenance of measures for cadet safety. *See* 14 U.S.C. § 1901; *see also* Regulations for the Corps of Cadets, § 1-2-01, 02.¹ Despite this responsibility, the Academy's leaders engaged in routine refusal to prevent or otherwise mitigate the danger posed to cadets by sexual predators, actively facilitating a dangerous environment in which I and countless other cadets endured harm. This failure to act for cadet safety is not the type of conduct the discretionary function exception immunizes. *See, e.g., Whisnant v. United States*, 400 F.3d 1177, 1183 (9th Cir. 2005) (“Like the government's duties to maintain its roads in safe condition, to ensure the use of suitable materials in its building projects, and to monitor the safety of its logging sites, the government's duty to maintain its grocery store as a safe and healthy environment for employees and customers is not a policy choice of the type the discretionary function exception shields”); *Andrulonis v. United States*, 952 F.2d

¹ Policies such as this have been in place at the Coast Guard Academy for decades.

652, (2d Cir. 1991) (finding no discretionary function where “[n]othing indicates that CDC policy required, or even encouraged, [employee] to ignore unsafe laboratory conditions and thereby unnecessarily place the lives of laboratory workers at risk”); *Sutton v. Earles*, 26 F.3d 903, 910 (9th Cir. 1994) (holding a failure to act in regards to “a specific, known hazard for which the acting agency is responsible is not the kind of broader [public] policy decision that the [] exception is intended to protect”).

44. Additionally, I have timely filed my FTCA complaint because my cause of action did not accrue until I learned of the Coast Guard’s negligence in causing my injury, bringing my claim within the statute of limitations. *See U.S. v. Kubrick*, 444 U.S. 111 (1979) (“A claim accrues [under the FTCA] when the plaintiff knows both the existence *and the cause* of his injury”) (emphasis added). Circuit courts across the nation have explicitly affirmed the *Kubrick* discovery rule in the context of injuries stemming from sexual abuse. *See, e.g., Snyder-Hill v. Ohio State Univ.*, 48 F.4th 686, (6th Cir. 2022) (plaintiffs’ claims were timely, despite the abuse occurring decades before, where the university engaged in a “decades-long cover up”, concealed and destroyed evidence, and “actively misled students” about abuse allegations); *Ouellette v. Beaupre*, 977 F.3d 127, 145 (1st Cir. 2020) (plaintiff’s claims for sexual abuse injuries sustained in the late 1980s did not accrue until 2015 “when [...] social media posts and press coverage first publicized...the indifference [of police department leaders] to the sexual abuse of minors by [police] officers”); *Simmons v. U.S.*, 805 F.2d 1363, 1367-68 (9th Cir. 1986) (plaintiff’s claim against the United States for the sexually abusive conduct of her Indian Health Services counselor accrued not when she first had sexual intercourse with the counselor, but rather several years later when a psychiatrist advised her of the government’s role in her psychological injuries).

45. The Coast Guard engaged in a decades-long cover up of not only the rampant sexual abuse at the Coast Guard Academy but also the malfeasance of Coast Guard leaders in failing to respond appropriately to reports of sexual abuse at the Academy. I experienced this malfeasance firsthand when the Civil Rights Officer and Legal Officer whom I alerted about my 1993 sexual assault failed entirely to make mandated reports to the requisite Coast Guard Academy personnel. Only when CNN publicized this cover-up in the summer of 2023 did I understand the causal connection between the Coast Guard’s negligent actions and the abuse I endured at the Academy. Therefore, only upon learning that the Coast Guard orchestrated a mass and chronic suppression of numerous sexual abuse claims did I understand that the Coast Guard’s negligence in preventing and responding to sexual abuse at the Academy resulted in my own subjection to abusive conduct as a cadet. *See Diaz v. U.S.*, 165 F.3d 1337, 1339 (11th Cir. 1999) (*Kubrick* rule aims “to protect [claimants] who are blamelessly unaware of their claim because the injury has not yet manifested itself or because the facts establishing a causal link between the injury and the [tortious conduct] are in the control of the tortfeasor or are otherwise not evident.”) I have thus timely filed my FTCA complaint within the two-year statute of limitations.

46. In the alternative, the statute of limitations should be equitably tolled because of my diligence and the extraordinary circumstances present in this case. *See United States v. Wong*, 575 U.S. 402, 407-408 (2015) (“a court may usually pause the running of a limitations statute in private litigation when a party “has pursued his rights diligently but some extraordinary circumstance” prevents him from meeting a deadline”); *see also id.* at 419 (“All that is special about the FTCA cuts in favor of allowing equitable tolling. As compared to other waivers of

immunity [. . .], the FTCA treats the United States more like a commoner than like the Crown [...and that] this Court has often rejected the Government’s calls to cabin the FTCA [. . .]”). Equitable tolling is available when a plaintiff can establish: (1) they have been pursuing their rights diligently; and (2) some extraordinary circumstances stood in their way. *See Credit Suisse Sec. (USAS) LLC v. Simmonds*, 566 U.S. 221, 227 (2012); *Miles v. Prunty*, 187 F.3d 1104, 1107 (9th Cir. 1999); *Kwai Fun Wong v. Beebe*, 732 F.3d 1030, 1052 (9th Cir. 2013).

47. Here, I both worked diligently to pursue my rights and faced circumstances so extraordinary that the equitable tolling doctrine should apply to my FTCA claim. As outlined above, I alerted two Academy officers about my 1993 sexual assault, but they failed to take any action to address what happened to me. As the Coast Guard Academy explicitly admitted to me, the Academy failed to “create the appropriate environment [to] handle sexual assault complaints correctly”, causing me and countless other cadets to be “deterred from coming forward to report sexual assault” in a formal manner. The Coast Guard Academy’s neglect to escalate my informal complaints further along the reporting ladder, as required, made clear to me that my reasonable efforts to pursue my rights, including making a formal report against my abuser, would prove futile. *Kwai Fun Wong*, 732 F.3d at 1052 (equitable tolling does not require of the plaintiff “overzealous or extreme pursuit of any and every avenue of relief. It requires the effort that a reasonable person might be expected to deliver under [their] particular circumstances’.... Central to the analysis is whether plaintiff” is at fault in pursuing their claim.” (quoting *Doe v. Busby*, 661 F.3d 1001, 1015 (9th Cir. 2011))).

48. Additionally, I encountered extraordinary circumstances that prevented me from filing my FTCA complaint at an earlier date. The wrongful, decades-long conduct of the Coast Guard in suppressing reports of sexual abuse at the Coast Guard Academy and preventing survivor-cadets from seeking redress for their injuries constitutes the type of extraordinary circumstances that courts routinely find sufficient to equitably toll plaintiffs’ claims. A recent congressional report found that Academy leadership actively discouraged cadets who experienced sexual violence from reporting their harm, with high-ranking officers and even Coast Guard attorneys employing scare tactics to disincentivize reporting. U.S. Senate, Permanent Subcommittee on Investigations, *A Pervasive Problem: Voices of Coast Guard Sexual Assault and Harassment Survivors*, p. 7 (Aug. 7, 2024). The same report also found that a “culture of ostracization, shaming, and disbelief silenced victims...or made them regret coming forward”. *Id.* at p. 18. The widely documented career ramifications imposed on cadet-survivors who bring forth allegations served as further deterrents to filing complaints. *Id.* at 18. These extraordinary circumstances also include, in the Coast Guard Academy’s own words, an Academy “culture [that was] intolerant to sexual assault” and which “did not promote an environment conducive for victims to come forward”. This hostile environment at the Coast Guard Academy, deliberately condoned and maintained by Academy leadership, further warrants the equitable tolling of my claims. *See, e.g., Stoll v. Runyon*, 165 F.3d 1238, 1242 (9th Cir.1999) (plaintiff’s claims are equitably tolled when the defendant’s wrongful conduct prevents the plaintiff from asserting a claim); *Doe v. United States*, 76 F.4th 64, 72 (2d Cir. 2023) (holding that a court may equitably toll a plaintiff’s claims if she reasonably feared that the defendant would retaliate against her for asserting her claims). Therefore, I both worked diligently to pursue my rights and encountered extraordinary circumstances such that the equitable tolling doctrine should apply.

III. Conclusion

49. For the foregoing reasons, I have stated a viable FTCA claim against the Coast Guard and am entitled to damages of \$10 Million. Specifically, I have experienced and will continue to experience significant past, present, and future emotional pain and suffering and psychological trauma and impairment. *See, e.g., Baca v. Endless Summer*, Case No. 0:18-CV-60200 (S.D. Fl. 2018) (jury verdict awarding sexual assault victim, an employee aboard a yacht, \$66 million for pain and suffering, \$70,000 for lost wages, and \$4.2 million for lost future earnings). In addition, I will incur future medical and mental health bills related to the assault. I have also been financially and professionally impacted by what I experienced.