

Attachment A

I. Factual Allegations

1. I entered the United States Coast Guard Academy (“USGCA,” “the Academy,” or “CGA”) in [REDACTED] as a member of the class of [REDACTED]. I experienced sexual assault while at the Coast Guard Academy.

2. In [REDACTED], I was raped by a 1/c (senior) when I was a [REDACTED]. On a Saturday night, I was awoken by someone on top of me and I could smell the alcohol on him. He had come to my room on previous occasions after he had consumed alcohol, but I would send him away as we were not friends. I was always awake during those instances, and we only ever talked. This time, he came in and did not turn on the light. Instead, he got into my bed and got on top of me. I asked him to leave, but he did not. He forcibly kissed me. I turned away and went into the fetal position to protect myself. He continued to try to force physical contact, and I realized he was not wearing any clothes. He tried to force me out of the fetal position and put his hands under my shirt to fondle my breasts while telling me to relax. He then got on top of me and held me down by putting his hand on my chest. I asked him what he was doing, started to cry, and repeatedly asked him to stop, but he continued. He then used his other hand to pull my legs apart and move the shorts I was wearing to the side. I tried to push him off and keep my legs shut. However, he was able to get in between my legs and ultimately, penetrated me with his penis. I told him I did not want to get pregnant because I would be kicked out of the Academy, and I did not want to get an abortion. This made him stop and look at me to ask, “but you’re on birth control?” I responded that I was not on birth control and had never taken it. This made him get up. I laid in the fetal position at the edge of the bed. He masturbated on my bed and ejaculated, hitting my right arm and shoulder. He then got up and left. I fixed my clothing after he left and threw them away later. I laid there, crying and in pain.

3. I did not have a roommate that semester, and there were only five female cadets in my company, so there was always one female that had her own room. Everyone knew who lived in what room and which cadets roomed with each other. USCGA policy stated that students could not lock their doors.

4. The following morning, while attending church, I told a friend that I had been raped. I did not feel safe reporting the rape to a superior officer because, at the time, if women reported rape, blame was often turned around on them. Based on how other women were treated when they reported sexual assault, I feared that the administration would say I asked for it or that, somehow, I was as guilty as the person who raped me. I had seen other women be discharged while their assailant was allowed to continue their service. I wanted to be an officer and graduate, so I did not report.

5. I attended cadet counseling to deal with the trauma from being sexually assaulted, but they recommended that I not continue counseling as I could be discharged or not commissioned due to my mental health struggles.

6. In [REDACTED], the friend I had confided in about being raped told me that another woman came forward detailing a similar experience with my assailant. This prompted me to come forward the following day and give a written statement to a lieutenant. I was never called to testify in any investigation. I later found out from my company officer and one of the counselors at the Academy that my name had never come up for possible questioning in the case.

7. In [REDACTED], my assailant came to my room again and backed me into the wall in between my desk and chest of drawers. While against the wall, my assailant told me that being accused by the other female cadet made him realize that what he had done to me was wrong, and he asked me for my forgiveness. I did not believe him, as I thought he was just trying to figure out if I was involved in the case against him. I asked him to leave, but he said he really needed me to forgive him. I wanted him to leave my room, so I said, "fine, I forgive you."

8. I avoided him for the rest of the year. My assailant was allowed to graduate from the Coast Guard Academy but resigned from the Coast Guard in [REDACTED] to avoid disciplinary proceedings stemming from the assault accusations.

9. In [REDACTED], I received a telephone call from my assailant. He told me that he read an article about me in [REDACTED] which prompted him to reach out. He told me he would be attending [REDACTED].

10. After the phone call, I reached out to the lieutenant, as well as a captain, to inquire about the status of the case against my assailant. I had been told his commission was declined and that he would not be able to join any military branch. They told me that the written statement I had provided against him had been lost and that they would investigate the matter of him joining the Air Force. They both discouraged me from reporting my rape. They both told me that if I reported, it would delay my graduation, reporting and qualifying on my ship, and ultimately, my career. They told me I only had three years to come forward, and that I would still be on the ship in three years.

11. During my final year at the Academy, one of my friends was sexually assaulted at a party thrown by a different male cadet. I attended the party with my friend. At one point during the party, the male cadet jumped on me and kissed me. He later sexually assaulted my friend while she was asleep and too drunk to understand what was going on. The incident exacerbated the trauma I felt from being raped the previous year.

12. I was made aware that one of the other women raped by my assailant quit the academy the following year, and I believe two other cadets ultimately came forward with similar allegations against him.

13. The rape impacted me greatly during my whole career. While on the ship, I cried often and at one point, my mental health was so poor that my Executive Office thought I was suicidal, though I was not. I received negative Officer Evaluations due to my frequent crying at my first unit. Those negative evaluations have followed me throughout my career.

14. In [REDACTED] I went to the VA Hospital for counseling. During counseling, I realized that it was because of the sexual assault I experienced at the Academy that I still had pain between my legs during penetration. I then reported the rape on [REDACTED], to the Coast Guard Investigative Service (CGIS). They opened an investigation and found that another investigation for a separate rape allegation in [REDACTED] had taken place against my assailant, and that two additional victims had made allegations against my assailant while he was a cadet at the Academy.

15. On [REDACTED], my assailant was charged with one charge and one specification of rape, in violation of Article 120, Uniform Code of Military Justice (UCMJ). On [REDACTED], he was referred for trial before a general court martial for raping me. However, the case was dismissed with prejudice because of due process and speedy trial violations on [REDACTED]

16. [REDACTED], the CGIS investigators discovered the other women who had been victimized by my assailant and others. This led to them launching a larger investigation. 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.

17. 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, Academy leaders, including former Commandant Admiral Karl Schultz, chose to conceal the findings from Congress and the public.

18. 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.

19. 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

20. 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.

21. 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.

22. My experience at the Academy impacted my life immensely. My physical and mental health has been harmed significantly. I have chronic insomnia and constantly need to ensure my sleeping and living space is safe and all doors are locked. I have severe anxiety. I have experienced stress related health problems including low thyroid, infertility, core issues, and a lack of sexual satisfaction. It has harmed my current marriage and contributed to the end of my first marriage.

23. My career was also significantly harmed due to my experience at the Academy. My first unit performance review was rated low due to a lack of self-confidence, which was caused by my assault. I was told I had all of the technical knowledge necessary, but that my lack of self-confidence caused me to be rated lower. This destroyed my active-duty career, leading me to join the reserves. Although I had a stellar career and record in the reserves, I was still passed over in

my first round of promotions to Lt. Commander. I did not receive the promotions I should have and returned as a lower rank. It felt like I was being punished for my own assault, even when I was doing the right thing. To this day, I have a hard time receiving feedback at work due to the stress and anxiety I have experienced ever since my assault.

II. The Coast Guard's Legal Liability

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

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

33. 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.

34. 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”).

35. 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.””).

36. 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).

37. 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”).

38. 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.

39. 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).

40. Further, I know that many Academy sexual assault survivors have had difficulty obtaining veterans or any other type of military-related benefits for the injuries they suffered due to the Coast Guard’s negligence. This problem is often exacerbated by 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).

41. 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).

42. 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 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”).

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

43. 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).

44. 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. 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.

45. 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).

46. 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. I submitted a written statement about my assault to Academy officials and attempted to report my assault in

1997. The Academy ultimately told me that they lost the statement, and officials scared me into not reporting my assault. Such efforts, while rebuffed by the Coast Guard, were of reasonable diligence in light of the harsh circumstances existing for survivors at the Academy. *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))).

47. 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. I myself faced extraordinary efforts by the Coast Guard to prevent me from reporting. Officials discouraged me from reporting my rape, stating that it would delay my graduation and detrimentally impact my career in the Coast Guard. When I ultimately reported my assault in 2014, my assailant’s case was summarily dismissed. These factors collectively constituted circumstances so extraordinary that I was prevented from filing my complaint against the Coast Guard at an earlier date. These factors collectively constituted circumstances so extraordinary such that I was prevented from filing my complaint at an earlier date. *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

48. 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 damaged as a result of what I experienced.