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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

## U.Mich. Settles Title IX Claim Over Campus Sex-Violence Risk

By **Max Jaeger**

Law360 (March 24, 2022, 5:25 PM EDT) -- The University of Michigan agreed to "major institutional reforms" Thursday to settle a class action alleging its longtime employment of a predatory former sports doctor evidenced a toxic environment where students face an increased risk of sexual violence in violation of Title IX.

The centerpiece of the **proposed deal** — which requires court approval — is the creation of a Coordinated Community Response Team to shape how the school prevents and responds to campus sexual violence.

Lead plaintiff Josephine Graham **sued last year** alleging an increased risk of sexualized violence on campus, based on how the school failed to adequately respond to allegations that former campus sports doctor Robert E. Anderson sexually abused athletes. The overall culture of permissiveness created an unequal learning environment in violation of Title IX, she claimed.

"This agreement will modernize UofM's approach to preventing and responding to sexual violence, and ensure our safety is a top priority," Graham said in a statement Thursday. "The CCRT will allow greater input from those in our community, including students like myself, who can help create a better future at our university."

The proposed settlement comes months after the school **agreed to pay \$490 million** to resolve a class action by more than 1,000 victims of Anderson, who worked at the school from 1966 until 2003 and died in 2008. Thursday's accord does not block the plaintiffs from financial relief.

"While I can't change or forget what happened to me while I was a student at UofM, I am proud to be part of making it a safer place for current and future students," one Anderson survivor said in a statement provided by his attorneys. "I sought to hold UofM accountable not just to obtain compensation, but to drive meaningful change to protect not just future athletes and football players, but everyone who chooses to enroll at this incredible university. This agreement accomplishes that goal."

The parties reached Thursday's accord after 17 months of "intensive" mediation overseen by the court-appointed mediator Robert F. Riley of Riley & Hurley PC, according to the agreement. Riley also mediated the prior settlement in John Doe MC-1 v. The University of Michigan et al.

The settlement comes with a motion to dismiss still pending in the case. Last August, the school **attacked Graham's standing**, arguing the suit was an "utterly meritless" bid to insert herself into litigation by the "actual survivors," because she was admittedly not the victim of sexual violence — let alone Anderson. The public university also argued Graham failed to state a claim under Title IX and cited immunity from such suits as an arm of the state government.

On Thursday, UofM President Mary Sue Coleman called the settlement "another important step toward our vision of becoming a national

leader in protecting our community from inappropriate behavior and sexual misconduct."

The CCRT's structure will give "voice to all members of our community who have a perspective to share on this vital effort," she added.

The settlement provides a framework for the roughly 30-member CCRT to advise the school on sexual violence policy, but the group's precise role and day-to-day operations will come into focus once the CCRT coalesces, the university said.

Members will include representatives of the Washtenaw County Prosecutor's Office, the nonprofit SafeHouse Center, students, survivors, community members, faculty and administration, including the director of the university's Equity, Civil Rights and Title IX Office.

A faculty member, administrator and external expert will co-chair the CCRT, though the internal co-chairs can choose not to bring back the external chair after three years, according to the settlement, which requires the school to maintain the panel for at least five years.

The external co-chair would be paid under the settlement to maintain independence, according to the court papers.

The settlement agreement seeks to appoint Lief Cabraser Heimann & Bernstein LLP, The Miller Law Firm PC and Sauder Schelkopf LLC as class counsel.

"As a UofM alum myself, I am proud to present this settlement to the Court and the UofM community for consideration," said Jonathan D. Selbin, an attorney with Lief Cabraser, in a statement on Thursday.

They plan to apply for \$5 million in attorneys fees and costs, with \$900,000 going to subject-area experts and the mediator.

The agreement also asks the court to name Graham class representative for the roughly 48,000 current students enrolled at UofM. Graham would receive \$2,500 for her contributions to the case.

Graham is represented by Annika K. Martin and Jonathan D. Selbin of Lief Cabraser Heimann & Bernstein LLP, Joseph G. Sauder of Sauder Schelkopf LLC and Sharon S. Almonrode, William Kalas and E. Powell Miller of The Miller Law Firm PC.

The University of Michigan and its board are represented by Amanda K. Rice, Andrew J. Clopton, Jack Williams Jr., Jennifer L. Weizenecker, Matthew E. Papez and Stephen J. Cowen of Jones Day.

The case is Graham et al. v. University of Michigan et al., case number 2:21-cv-11168, in the U.S. District Court for the Eastern District of Michigan.

--Additional reporting by Zachary Zaggar. Editing by Alex Hubbard.