

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION**

FILED  
10/5/2023 8:31 AM  
IRIS Y. MARTINEZ  
CIRCUIT CLERK  
COOK COUNTY, IL  
2023L010135  
Calendar, T  
24658812

Patrick Fitzgerald

v.

Northwestern University and President of Northwestern University Michael Schill

No. \_\_\_\_\_

**CIVIL ACTION COVER SHEET - CASE INITIATION**

A Civil Action Cover Sheet - Case Initiation shall be filed with the complaint in all civil actions. The information contained herein is for administrative purposes only and cannot be introduced into evidence. Please check the box in front of the appropriate case type which best characterizes your action. Only one (1) case type may be checked with this cover sheet.

Jury Demand  Yes  No

**PERSONAL INJURY/WRONGFUL DEATH**

**CASE TYPES:**

- 027 Motor Vehicle
- 040 Medical Malpractice
- 047 Asbestos
- 048 Dram Shop
- 049 Product Liability
- 051 Construction Injuries  
(including Structural Work Act, Road Construction Injuries Act and negligence)
- 052 Railroad/FELA
- 053 Pediatric Lead Exposure
- 061 Other Personal Injury/Wrongful Death
- 063 Intentional Tort
- 064 Miscellaneous Statutory Action  
(Please Specify Below\*\*)
- 065 Premises Liability
- 078 Fen-phen/Redux Litigation
- 199 Silicone Implant

**TAX & MISCELLANEOUS REMEDIES**

**CASE TYPES:**

- 007 Confessions of Judgment
- 008 Replevin
- 009 Tax
- 015 Condemnation
- 017 Detinue
- 029 Unemployment Compensation
- 031 Foreign Transcript
- 036 Administrative Review Action
- 085 Petition to Register Foreign Judgment
- 099 All Other Extraordinary Remedies

By: Dan K. Webb  
(Attorney) (Pro Se)

**2023L010135**

(FILE STAMP)

**COMMERCIAL LITIGATION**

**CASE TYPES:**

- 002 Breach of Contract
- 070 Professional Malpractice  
(other than legal or medical)
- 071 Fraud (other than legal or medical)
- 072 Consumer Fraud
- 073 Breach of Warranty
- 074 Statutory Action  
(Please specify below.\*\*)
- 075 Other Commercial Litigation  
(Please specify below.\*\*)
- 076 Retaliatory Discharge

**OTHER ACTIONS**

**CASE TYPES:**

- 062 Property Damage
- 066 Legal Malpractice
- 077 Libel/Slander
- 079 Petition for Qualified Orders
- 084 Petition to Issue Subpoena
- 100 Petition for Discovery

\*\* \_\_\_\_\_  
\_\_\_\_\_

Primary Email: dwebb@winston.com

Secondary Email: mcarter@winston.com

Tertiary Email: egrden@winston.com

**Pro Se Only:**  I have read and agree to the terms of the *Clerk's Office Electronic Notice Policy* and choose to opt in to electronic notice from the **Clerk's Office** for this case at this email address: \_\_\_\_\_

FILED DATE: 10/5/2023 8:31 AM 2023L010135



full support and cooperation, Northwestern conducted a thorough, monthslong investigation with an experienced and independent third-party investigative law firm, ArentFox Schiff, and lawyer, Maggie Hickey, resulting in a report (hereinafter, “the Hickey Report”). The Hickey Report confirmed that Fitzgerald did *not* know of the alleged hazing until the allegations were reported in late 2022.

3. Northwestern accepted that conclusion and, on July 6, 2023, entered into a binding, legal, oral contract with Fitzgerald whereby, if Fitzgerald accepted a two-week suspension without pay and without any legal challenge, and made a public statement that was supportive of Northwestern’s football program, Northwestern agreed that Fitzgerald would remain head coach with no further discipline related to the Hickey Report and the hazing subject matter investigated. Fitzgerald accepted Northwestern’s terms and performed his obligations under the oral contract.

4. But almost immediately, within four days thereafter, Northwestern breached its oral contract with Fitzgerald and terminated Fitzgerald as Northwestern’s head football coach “for-cause.” By doing so, Defendants irreparably and permanently damaged Fitzgerald’s reputation and destroyed his ability to maintain the football coaching career he had spent his entire professional life creating. As a result, Fitzgerald is entitled to substantial compensatory damages for the harm Northwestern has caused him and an award of punitive damages flowing from Northwestern and Schill’s callous and outrageous misconduct in destroying his career.

5. Born in Chicago’s south suburbs, Fitzgerald attended Carl Sandburg High School in Orland Park, Illinois. After a very successful high school career playing linebacker for Sandburg, Fitzgerald earned several scholarship opportunities to play Division I college football. Ultimately, Fitzgerald chose to accept a scholarship and play football at Northwestern.

6. During his playing career at Northwestern, Fitzgerald helped transform a long-struggling football program into a Big Ten force, including earning Northwestern a berth in the 1996 Rose Bowl – the team’s first bowl appearance in nearly fifty years.

7. Just as importantly, Fitzgerald excelled in his education and earned a degree in Organizational Studies from Northwestern’s School of Education and Social Policy.

8. After graduating, Fitzgerald pursued his football-playing dreams in the National Football League. Fitzgerald played for the Dallas Cowboys in the 1997 preseason but was cut before the season began.

9. Recognizing the great opportunities football helped to provide him, and that coaching football would give him the opportunity to work with student-athletes and help them achieve great athletic, educational, and personal goals, Fitzgerald decided to pursue a career as a college football coach.

10. Fitzgerald’s first position was as a graduate assistant coach at the University of Maryland in 1998.

11. For the next several years, Fitzgerald pursued a college coaching career at several universities. He returned to Northwestern as an assistant coach in 2001 and ultimately became Northwestern’s Head Football Coach in 2006, at the age of 31. Between 2006 and 2023, Northwestern won 110 football games, making Fitzgerald the winningest head coach in Northwestern history.

12. Under Fitzgerald’s leadership, Northwestern’s football program excelled, winning the 2013 Gator Bowl, the 2016 Pinstripe Bowl, the 2017 Music City Bowl, the 2018 Holiday Bowl, the 2020 Citrus Bowl, the 2018 and 2020 Big Ten West Championship, and sending twenty-three

Northwestern football players to the NFL draft, as well as countless other free agents to the NFL, over his seventeen seasons as head coach.

13. Even more importantly, from 2016 through 2022, Northwestern's football team had the highest graduation rate of any Division I Football Bowl Subdivision ("FBS") program, seeing 97% of its football players earn degrees. In 2006, Fitzgerald's first year as head coach, the Northwestern football team won the American Football Coaches Association Academic Achievement Award, a prize based on the highest NCAA Graduation Success Rate, which measures the percentage of students who graduate with a bachelor's degree from their initial school within six years. That same year, the team's GPA during the fall and winter months was the highest it had been in Northwestern's history and Northwestern's football team's Academic Progress Rate ("APR") rose thirty points.

14. APR is a metric that provides a real-time, team-based measurement of academic success and tracks a team's overall eligibility and retention rates. The Northwestern football team's APR scores remained well above the national average throughout Fitzgerald's entire tenure as head coach, and by the end of Fitzgerald's career at Northwestern, the Northwestern football team had the highest APR in the nation, meaning that it also has one of the lowest transfer rates in the country.

15. Northwestern frequently recognized Fitzgerald's commitment to the football team's academic success, and in Fitzgerald's 2013 performance review, then-Athletic Director James Philips wrote, "Due to [Fitzgerald's] tremendous leadership and guidance, academics remain a top priority for our student-athletes. [Various standardized academic tracking numbers] and graduation are among the national leaders in the sport of football." Fitzgerald's 2020

performance review reiterates that Northwestern’s “football program continues to be THE national leader” in academic achievement. (Emphasis in original.)

16. Throughout his coaching career at Northwestern, Fitzgerald took great care to do everything he reasonably could to help Northwestern’s football program and its student-athletes achieve these academic successes.

17. Fitzgerald made himself available to everyone associated with Northwestern’s football program, and everyone, including the student-athletes in Northwestern’s football program, had Fitzgerald’s cellphone number and could contact him at any time – Fitzgerald’s door was always open.

18. Northwestern football culture was strong during Fitzgerald’s tenure as head coach. At least twelve Northwestern football families sent two of their sons to play at Northwestern, and three of those families sent three sons through Northwestern’s football program. Fitzgerald even sent his own son to play at Northwestern.

19. But Fitzgerald’s commitment and connection to Northwestern have always transcended the football program. Fitzgerald became one of Northwestern’s most-recognized champions and alumni – Northwestern itself, in Fitzgerald’s personnel file, favorably and repeatedly described Fitzgerald as the “face of Northwestern.”

20. Fitzgerald took thoughtful, researched, and extensive steps to ensure that Northwestern’s football program met and exceeded NCAA standards. Fitzgerald also ensured that if anyone associated with the football program experienced or learned of any activity that did not satisfy these NCAA standards, that individual had multiple, various, and often required, confidential reporting avenues, so that Fitzgerald would learn about it.

21. Fitzgerald had an unwavering, zero-tolerance policy for hazing, and he was very thorough and comprehensive in communicating his anti-hazing policies to everyone affiliated with Northwestern's football program. Fitzgerald also instituted many policies and procedures to ensure that if any hazing occurred within the Northwestern football program, he had required mechanisms in place that would ensure that he would learn about the hazing. Because of these steps, Fitzgerald was justifiably confident that if hazing ever occurred in the Northwestern football program, he would learn about it. These policies and procedures are described in more detail in paragraphs 57–62.

22. If Fitzgerald had ever learned of any hazing in the Northwestern football program, he would have stopped it immediately and taken remedial action. However, at no time during his coaching career at Northwestern did he ever learn of any hazing within the Northwestern football program.

23. In fact, in July 2023, on several occasions, Defendants publicly stated that they were not aware of any evidence that Fitzgerald had ever learned of any hazing in the Northwestern football program. The Hickey Report clearly stated that the law firm's thorough investigation did not uncover any evidence that established that Fitzgerald or his coaching staff ever knew about any hazing conduct within the Northwestern football program.

24. During his football coaching career at Northwestern, because Fitzgerald specifically implemented these comprehensive policies and procedures to ensure that Northwestern's football program was free from hazing, it's not surprising that there is no factual evidence that would suggest that Fitzgerald should have known of any alleged hazing conduct within the Northwestern football program.

25. In late 2022, when Northwestern officials first received allegations of hazing within the Northwestern football program, Northwestern hired a major law firm and did a thorough investigation of whether any hazing occurred within the Northwestern football program, and whether Fitzgerald and his coaching staff were aware of any hazing. After Hickey conducted a multi-month, thorough, and comprehensive factual investigation, Hickey provided Northwestern with a detailed report of its investigation. The Hickey Report had two major conclusions. First, the Hickey Report concluded that the evidence corroborated limited allegations of hazing conduct made by one alleged whistleblower (hereinafter, “alleged Whistleblower”), though current and former players interviewed by Hickey varied on their perspective of whether the conduct was hazing, and the evidence did not point to specific misconduct by any individual football player or coach. Second, the Hickey Report concluded that neither Fitzgerald nor the coaching staff had any knowledge of hazing.

26. In early July 2023, based on the Hickey Report (which was provided to Northwestern), Defendants reached a clear and unambiguous conclusion that Northwestern’s proper course of action was to require that Fitzgerald accept a two-week suspension without pay and that Fitzgerald issue a statement that was supportive of Northwestern’s football program. Northwestern clearly made the decision that the facts in the Hickey Report did not provide any basis to terminate Fitzgerald’s written employment contract (set to expire in March 2031) either “for-cause” or “without-cause.”

27. In early July 2023, Northwestern made the decision to enter into an oral contract with Fitzgerald to implement the conclusions it reached as set forth in the paragraph above. After much debate and discussion with others, Fitzgerald made the decision to enter into this oral contract with Northwestern to allow Northwestern to move past the hazing allegations.

Northwestern promised Fitzgerald that if he agreed to Northwestern's proposed oral contract, it would put the entire matter to bed, and Fitzgerald would not face any additional consequences as a result of the Hickey Report and the hazing subject matter investigated.

28. However, within four days after the July 6, 2023, oral contract with Fitzgerald, Northwestern made the calculated decision to illegally breach that oral contract. Thereafter, Northwestern terminated Fitzgerald's employment contract "for-cause" based on the hazing allegations, even though no cause existed under the employment contract. Northwestern's illegal conduct resulted in the destruction of Fitzgerald's outstanding reputation as a college football coach, which he had worked for twenty-five years to develop.

29. Northwestern's conduct in the four days between forming an oral contract with Fitzgerald and breaching the oral contract by terminating Fitzgerald's employment was senseless and legally improper. On July 8, The Daily Northwestern student newspaper published an article about hazing conduct within the Northwestern football program based on the one alleged Whistleblower's report. But compelling evidence later established that this alleged Whistleblower report had no credibility. Later on July 8, Schill made media comments (based on The Daily Northwestern article) that indicated he believed Defendants made a mistake in entering into the July 6 oral contract with Fitzgerald. On July 10, Schill announced that Defendants were terminating Fitzgerald's Northwestern employment contract "for-cause" because Defendants believed Fitzgerald should have known about hazing within the Northwestern football program.

30. Northwestern's conduct was not simply a breach of its contractual agreements – both oral and written – it was also intentionally tortious. When Defendants made a public announcement on July 10, 2023, that they were terminating Fitzgerald's employment contract "for-cause," when in fact there was no factual basis for a termination "for-cause," Defendants published

false statements that defamed Fitzgerald and irreparably harmed his reputation as one of the finest Division I football coaches in the country.

31. For these reasons and as detailed below, Fitzgerald seeks compensatory damages and punitive damages as set forth in the Prayer for Relief.

32. The compensatory damages represent compensation for the loss of Fitzgerald's Northwestern employment contract through March 31, 2031, the expiration date on his employment contract. Compensatory damages also include damages for Fitzgerald's lost ability to obtain similar employment during the prime of his professional coaching career after March 31, 2031, for a reasonable period of time. These two amounts will exceed \$130,000,000. In addition, Fitzgerald is seeking compensatory damages for emotional distress he and his family suffered because of Defendants' conduct.

33. Separate and apart from compensatory damages, Fitzgerald is seeking punitive damages based on Defendants' intentional or willful and wanton conduct described in this Complaint.

## **THE PARTIES**

### **A. Plaintiff**

34. Plaintiff Patrick Fitzgerald is an individual and resident of the State of Illinois.

35. Fitzgerald was an employee of Northwestern from 2001 until his termination on July 10, 2023.

### **B. Defendants**

36. Defendant Northwestern University is a private university with its principal campus located at 633 Clark Street, City of Evanston, County of Cook, State of Illinois.

37. Defendant Michael Schill is the current President of Northwestern, a position he has held since September 12, 2022. His principal place of residence is County of Cook, State of Illinois.

### **JURISDICTION AND VENUE**

38. This Court has jurisdiction over the subject matter of this action under Section 9 of Article VI of the Illinois Constitution of 1970.

39. This Court has jurisdiction over the parties to this action under 735 ILCS 5/2-209(a)(7) because it involves the making or performance of a contract substantially connected to the State of Illinois.

40. This Court has jurisdiction over the parties to this action under 735 ILCS 5/2-209(a)(2) because it involves a tortious act within the State of Illinois.

41. This Court has jurisdiction over Northwestern because it is domiciled in or has sufficient contact with the State of Illinois.

42. This Court has jurisdiction over Schill because he resides in or has sufficient contact with the State of Illinois.

43. Venue is proper pursuant to 735 ILCS 5/2-101 because the transactions giving rise to the causes of action alleged herein occurred in Cook County.

### **GENERAL ALLEGATIONS**

#### **A. Fitzgerald's Lifetime of Commitment to Northwestern**

44. Since 1993, Fitzgerald has devoted most of his academic and professional life to Northwestern's community and football program.

45. From 1993 to 1996, Fitzgerald played as a standout linebacker on Northwestern's football team. And in 1996, Fitzgerald served as Northwestern football's team captain. In Fitzgerald's junior season, Northwestern earned a highly unexpected berth in the Rose Bowl – "The Granddaddy of Them All." Northwestern went on to win a bid to the Citrus Bowl during Fitzgerald's senior season. During both seasons, Northwestern was the Big Ten Champion.

46. Not only did Fitzgerald contribute to the Wildcats' success as a team, but he was honored with a litany of individual athletic awards. Fitzgerald was twice awarded both the Bronko Nagurski Trophy, honoring the best defensive player in college football, and the Chuck Bednarik Award, conferred by the Maxwell Football Club to the best defensive player in the country. In 1997, at the close of his senior year, Fitzgerald won the Big Ten Medal of Honor, which is given to the one student-athlete out of all athletic programs at each Big Ten university who has attained the greatest proficiency in athletics and scholastic work. Later, in 2008, Fitzgerald was inducted into the College Football Hall of Fame, as only the 15th player in Northwestern's history to achieve the honor.

47. Fitzgerald pursued an NFL career with the Dallas Cowboys but was cut before the 1997 season began. That led immediately to the beginning of his college coaching career.

48. In 1998, Fitzgerald was a graduate assistant coach for the University of Maryland.

49. In 1999, Fitzgerald was a graduate assistant coach for the University of Colorado.

50. In 2000, Fitzgerald earned his first full-time coaching position at the University of Idaho.

51. In 2001, Fitzgerald was humbled to return home to Northwestern to serve as the defensive backs coach.

52. Following the unexpected and tragic 2006 death of Northwestern's then-head coach, Randy Walker, Fitzgerald was promoted to head coach of the football program at the age of 31. Under Fitzgerald's direction, Northwestern's football program set new school records and earned the team berths in ten bowl games between 2008 and 2020 – including five bowl victories. Between 2006 and 2023, Northwestern won 110 football games, making Fitzgerald the winningest head coach in Northwestern history.

53. As head coach, Fitzgerald implemented resources to improve the lives of Northwestern football players and the football coaching staff (not just for their athletic pursuits, but also for their personal, educational, and professional endeavors). Fitzgerald's coaching staff's motto was "To Be the Best Player Development Staff in the Country," and every aspect of the program was centered around the Northwestern football players and their development. Fitzgerald specifically implemented the following programs and positions in the Northwestern football program:

(a) Fitzgerald created a Big Brother program, through which freshmen football players and incoming transfers were paired with an upperclassman on the football team. This upperclassman was typically a member of the Leadership Council, a group Fitzgerald created early in his career as head coach of the Northwestern football program, which was comprised of two players from the freshmen, sophomore, and junior classes and six senior players, who were all elected by their football team peers, and whose role it was to open lines of communication between the football players and football coaching staff through candid weekly meetings.

(b) Fitzgerald created a comprehensive Mentor Program in which sophomore football players were paired with a former Northwestern football player who would serve as their mentor during their time at Northwestern and beyond.

(c) Fitzgerald, along with an influential group of minority Northwestern alumni, created a minority mentorship program called the “Black Cats,” in which minority players were paired with an alumnus who identified as a minority to guide minority players through their football careers at Northwestern and serve as an intermediary between minority football players and the football coaching staff.

(d) Fitzgerald created a position on his football coaching staff called “Director of Player Development,” who served as a liaison for the football players, provided academic support, and oversaw and assisted the Mentor Program, helping football players to secure internships during the offseason and obtain full-time employment after their football careers at Northwestern ended.

(e) Fitzgerald created a position on his football coaching staff called “Director of Player Engagement” to oversee and assist with minority football players and improve their overall experience at Northwestern. The Director of Player Engagement also implemented Diversity, Equity, and Inclusion initiatives and worked hand-in-hand with Northwestern’s Senior Associate Athletic Director and Northwestern’s Chief Diversity and Inclusion Officer.

(f) Fitzgerald also insisted that his football coaching staff include a Mental Skills Coach who worked with the Northwestern football players on a daily basis to develop players’ mental skills and leadership and to identify mental health concerns. The Mental Skills Coach would refer any mental health concerns about players in the football

program to the Northwestern football team's Sports Psychologists and the Counseling and Psychological Services Department, a body separate and independent from the Athletic Department.

54. Fitzgerald's efforts to improve the personal and educational lives of student-athletes at Northwestern and to prepare them for life after Northwestern are shown through the football players' academic successes. For example, in 2006, Fitzgerald's first season as head coach, the team won the American Football Coaches Association ("AFCA") Academic Achievement Award. And from 2016 to 2022, Northwestern's football team had the highest graduation rate of any Division I Football Bowl Subdivision program. The strong academic performance of the football team was consistent throughout Fitzgerald's tenure and is reflected in various other metrics as well.

55. Fitzgerald's personnel file has always been effusive in its praise of Fitzgerald's conduct.

(a) In 2002, Fitzgerald's annual review read, "[Fitzgerald h]as a tremendous loyalty to this school, which is easily seen. Is a positive role model and a wonderful representative for [Northwestern] players."

(b) In 2007, Fitzgerald's annual review contained a note from then-Athletic Director Mark Murphy, which read, "I have been very impressed with [Fitzgerald] in [his commitment to student welfare and experience]. He is very concerned about his student-athletes. He pushes them to improve as football players, but also wants to ensure they mature as individuals. He has handled many difficult situations with his student-athletes and is not afraid to have tough conversations with them. His student athletes have great respect for him."

(c) In 2009, Fitzgerald’s annual review read, “[Fitzgerald] does an excellent job communicating with his players. It is a continual/daily process with him. Whether it is face-to-face in meetings, during or after practice, or via text and email messages, his student-athletes know where they stand and what is expected of them. [Fitzgerald] is VERY, VERY effective in this area and [that] bares [sic] itself out in our student-athlete evaluations.” (Emphasis in original.)

(d) In 2012, Fitzgerald’s annual review read, “[Fitzgerald] is a leader within the Department and University, as well as on a Conference and national level. He has earned the respect of his peers as well as the student-athletes he coaches. He embodies what Northwestern stands for and what it is about.”

(e) In 2015, Fitzgerald’s annual review read, “The Leadership Council is a pillar of [Fitzgerald’s] working to enhance the experience of the student-athletes in his program. The program’s policies and procedures are in place to assist the student-athletes to have a great experience through their [time] at Northwestern.”

(f) In 2016, Fitzgerald’s annual review read, “[Fitzgerald] has excellent communication skills. The annual student-athlete surveys confirm the positive ‘vibe’ and sense of family endorsed by [Fitzgerald] and his staff.”

(g) In 2017, Fitzgerald’s annual review read, “The positive comments that appear in the year-end student evaluations [reinforce] the bond between [Fitzgerald] and the student-athletes.”

(h) In 2019, Fitzgerald’s annual review read, “[The] success [of the football program] is, perhaps, overstated a bit, but [Fitzgerald’s] willingness to evolve is not. He has created a terrific football department with a culture built day by day, decision by

decision. There is nothing accidental about where and why our football program is [where it is] today.”

(i) In 2020, Fitzgerald’s annual review read, “Not only did [Fitzgerald] handle himself extraordinarily well [during civil unrest related to the death of George Floyd], he also orchestrated a separate two-hour call with nearly 20 former black football players [and Northwestern’s then-current team]. It is just the first step in the process of listening, learning, planning, and acting to ensure a more inclusive and welcoming environment within the football program.”

56. Fitzgerald’s commitment and connection to Northwestern has always transcended the football program. Fitzgerald became one of Northwestern’s most-recognized champions and alumni – Northwestern itself favorably and repeatedly described Fitzgerald as the “face of Northwestern.” He and his family took great pride in contributing their time to many Northwestern-affiliated charitable pursuits, including Northwestern Dance Marathon, Special Olympics, Misericordia, the Northwestern chapter of Uplifting Athletes, Catholic Charities, Camp Kesem, and weekly school and children’s hospital visits. Fitzgerald was also appointed by his peers to the Allstate American Football Coaches Association Good Works Team as recognition for Fitzgerald’s charitable contributions to his community.

**B. Fitzgerald’s Longstanding Commitment to Prevent Hazing and Promote Respect**

57. As set forth above, Fitzgerald led the Northwestern football program to athletic success on the field, helped Northwestern’s student-athletes achieve personal, educational, and professional successes off the field, and contributed to Northwestern overall as the face of the university and through his devoted philanthropic and charitable efforts. Importantly, Fitzgerald has always made it clear that hazing is unacceptable – Fitzgerald had an unwavering zero-tolerance policy for hazing, he repeatedly stressed that policy to the football program, and he was justifiably

confident in the steps he and Northwestern's football program took to provide an outlet for anyone associated with the football program to report hazing.

58. Fitzgerald took multiple and varied affirmative steps to prevent hazing within Northwestern's football program, and to make certain that if hazing did occur, he would find out about it.

59. Individuals associated with the Northwestern football program are required to report hazing as follows:

(a) Student-athletes, including football players, are required to complete an annual anonymous survey consisting of forty questions, including questions about hazing. The responses are sent to the Northwestern Athletic Director, the Faculty Athletic Representative, who is an individual who assists Northwestern football players with their academic progress toward graduation and eligibility to play, and the Committee on Athletics and Recreation, a committee composed of Northwestern faculty members who all had oversight over the Northwestern football program. The introduction to the survey states that the surveys "will be shared, as [handwritten], with the administrator responsible for your sport and then anonymously presented to your head coach. If you have additional comments that you do not want to put in writing, please arrange a meeting with the administrator responsible for your sport." The survey explicitly asks, "[h]ave you ever been subjected to or witnessed behavior that you thought to be hazing? If yes, please describe and indicate when it occurred." Some versions of this questionnaire throughout the years also asked football players whether they would "feel comfortable reporting a hazing incident if [they] suspected one had occurred." The Northwestern football program received only one complaint about the Northwestern football program during Fitzgerald's

tenure. That single complaint related to offseason winter workouts, and Northwestern's Committee on Athletics and Recreation investigated the complaint and found it meritless. Fitzgerald did not receive any other complaints related to the football program during his seventeen years as head coach.

(b) Northwestern holds a required Senior Post-Eligibility Meeting between graduating football players and the Faculty Athletic Representative to review their experience on Northwestern's football team without any coaches present. Graduating student-athletes, including Northwestern football players, also complete a "Student-Athlete Exit Interview Questionnaire," which asks, "[h]ave you ever been subjected to or witnessed behavior that you thought to be hazing? If yes, please describe and indicate when it occurred." In previous years, the Athletic Department allowed Fitzgerald to review senior football players' feedback from their Senior Post-Eligibility Meeting and the Student Athlete Exit Interview Questionnaire, which he would use to implement constructive feedback from players. Since 2021, Fitzgerald has only received bullet points from the Athletic Department that relate to the football program's wins and losses record.

(c) Each month, the Student-Athletic Advisory Committee – a student-led group formed to enhance the student-athlete experience, promote student-athlete welfare, and facilitate communication between student-athletes and Northwestern, the Big Ten, and the NCAA – is required to meet with the Faculty Athletic Representative to discuss any issues within the football program, including hazing, and complete exit interviews (without any coaches present) before Northwestern football players graduate from Northwestern.

60. Aside from the above, Fitzgerald also held regularly scheduled meetings with all Northwestern football players multiple times a year. During these meetings, Fitzgerald often

stressed his zero-tolerance policy for hazing and other inappropriate behavior and encouraged those he met with to report anything they were uncomfortable with or having trouble with. These meetings included:

(a) Fitzgerald and staff met with newcomers to the Northwestern football team two to three times a week during the summer school workouts prior to preseason training camp. These meetings were meant to build Fitzgerald's relationship with new players, especially ones who were not recruited to play at Northwestern, so that they would feel welcome in the football program.

(b) Fitzgerald held weekly Leadership Council Meetings with Northwestern football players, who were elected by their football teammates to represent their class year on the football team during the season. At the end of each Leadership Council Meeting, Fitzgerald asked members of the Leadership Council whether there was anything Fitzgerald needed to know about the football program or anything the Leadership Council members wanted to discuss.

(c) Fitzgerald held weekly meetings with the Northwestern football team captains.

(d) Fitzgerald held meetings with each Northwestern football player during the postseason.

(e) Fitzgerald and staff held meetings with each Northwestern football player and his position coach during the postseason.

(f) Fitzgerald and staff held optional meetings with Northwestern football players and their team coordinator during the postseason.

(g) Fitzgerald held individual post-spring practice meetings with each Northwestern football player to discuss their anticipated role in the program and address any concerns they had as a member of the team. In these meetings, football players would frequently describe the Northwestern football team as a “brotherhood.” The alleged Whistleblower said in his own post-spring practice meeting during his freshman year that the Northwestern football program undersold how great the older players were when the alleged Whistleblower was being recruited to play football at Northwestern.

61. Fitzgerald also maintained an open-door policy and invited his athletes to contact him at any time, which provided numerous opportunities for Northwestern football players to discuss any hazing conduct that occurred within the Northwestern football program. These opportunities included the following:

(a) Fitzgerald held unscheduled meetings with any Northwestern football player whom he perceived to be having issues or struggling.

(b) Fitzgerald held unscheduled meetings after practice to share information and solicit feedback from Northwestern football players and staff.

(c) Fitzgerald welcomed all Northwestern football players and staff to come to his office to discuss any concerns.

(d) Fitzgerald distributed his phone number to each Northwestern football player on the team and invited them to contact him at any time.

62. In addition, Fitzgerald and the Athletic Department reviewed the football program’s zero-tolerance policy for hazing, including, but not limited to, the following times:

(a) Every year, Fitzgerald would review his zero-tolerance policy for hazing with early enrollee freshmen and transfers when they reported to Northwestern's campus to begin their Northwestern football careers in January.

(b) Every year, just before football training camp began in June, the Athletic Department, through the Team Physician and the Director of Compliance, provided anti-hazing training in a meeting. This training included a review of Northwestern's hazing policy and the consequences for hazing, which included possible legal sanctions, university probation, suspension from sports teams, and community service. Before any Northwestern football players could even participate in the Northwestern football program, and while they were still at the anti-hazing training meeting, players were required to sign a form acknowledging that they read and understood Northwestern's anti-hazing policy and agreed to report violations of that policy to the Dean of Student or the Office of Judicial Affairs. Fitzgerald attended this meeting every year, and Fitzgerald and his coaching staff assisted the Athletic Department in ensuring every football player had signed the form and returned it to the Athletic Department prior to participating in any football activities.

(c) Every year, Fitzgerald would review his zero-tolerance policy for hazing with freshmen and transfers when they reported to Northwestern's campus to begin their Northwestern football careers, typically just a few days after the meeting described directly above in subparagraph (b).

(d) Nearly every day at training camp, Fitzgerald held meetings with the Northwestern football team at which he would review any issues the team was having at training camp.

(e) Every year, during football training camp, Fitzgerald again reviewed the Northwestern anti-hazing policy with the Northwestern football players. In his presentation to the football players, Fitzgerald reviewed a slide that stated, “Hazing in all of its forms is **prohibited** at [Northwestern] (zero tolerance). There does not have to be a hazing issue with your team for you to seek assistance. Hazing can occur with any group you are a part of. If you haze, you will not compete and you will jeopardize your eligibility to ever compete again at [Northwestern].” (Emphases in original.) Fitzgerald’s presentation continued, “In short, there is no excuse for hazing. It isn’t team bonding. Bonding builds people up, it doesn’t tear them down. Don’t haze.” Fitzgerald’s presentation also stated, “Regardless of when, where, and how it occurs, students and/or student groups who are targets or witness bias incidents and/or hate crimes are encouraged to take the following action.” Fitzgerald then provided the Northwestern football team with two websites where they could report incidents of hate crimes or instances of bias.

63. The Northwestern football program, in general, provided football players with many additional resources, which gave them many opportunities to report hazing. These resources included:

- (a) An anonymous drop box located at the athletics center where Northwestern athletes, including football players, could submit complaints or report issues they were experiencing within their sports programs;
- (b) P.U.R.P.L.E. Peer Mentors, a group of student-athletes who support mental health and wellness programs for student-athletes;
- (c) Student-Athlete Advisory Committee Representatives;
- (d) Athletic trainers, doctors, and dieticians;

- (e) Sports psychologists and mental skills coaches;
- (f) Academic advisors and counselors;
- (g) Compliance officers; and
- (h) Sports administrators.

64. During Fitzgerald's entire football coaching career at Northwestern, no Northwestern football player, coach, or staff member ever reported hazing to Fitzgerald. In addition, on information and belief, there are no contemporaneous Northwestern documents or reports during Fitzgerald's entire coaching career that ever reported any hazing conduct within the Northwestern football program, in spite of the numerous requirements and opportunities to report hazing, which are referenced above.

65. While no Northwestern football player, coach, or staff member ever reported hazing to Fitzgerald, Fitzgerald did receive two incidents of *false* reporting. First, in August 2022, Fitzgerald was informed of an anonymous complaint submitted to the Northwestern Athletic Department referencing serious misconduct and hazing. Shortly thereafter, Fitzgerald asked freshman members of the Leadership Council whether there was anything improper occurring within the football program that Fitzgerald needed to know about and address. The freshmen on the Leadership Council said there was nothing that Fitzgerald needed to know about. Both Northwestern and the police investigated this allegation and determined that the allegation was unfounded.

66. Second, in mid-November 2022, at a weekly meeting of the Leadership Council, Fitzgerald held the quarterback members of the Leadership Council behind to ask about a teammate whom Fitzgerald perceived to be having issues. A member of the Leadership Council informed Fitzgerald that a disgruntled member of the football team (the alleged Whistleblower)

was planning to report *false* hazing allegations to Northwestern with the intention of having Fitzgerald’s employment harmed and/or terminated. Fitzgerald again asked the quarterback members on the Leadership Council whether there was anything improper occurring within the football program that Fitzgerald needed to know about and address. The quarterback members of the Leadership Council told Fitzgerald there was nothing happening in the football program that he should know about.

### C. The Hickey Report

67. On November 30, 2022, an anonymous whistleblower on the football team – the alleged Whistleblower – made allegations of hazing to Northwestern.

68. Fitzgerald was shocked and disappointed to hear about the allegations because he had no knowledge of and took many comprehensive steps to prevent hazing within the Northwestern football program.

69. In January 2023, Northwestern announced that Maggie Hickey of ArentFox would investigate the hazing allegations. And on January 11, 2023, The Daily Northwestern reported that Northwestern hired Hickey to conduct “interviews with players, coaches and staff.”<sup>1</sup>

70. Hickey is a former Executive U.S. Attorney and is a partner and co-leader of ArentFox’s Complex Litigation Group and Government Enforcement & White Collar Group. Hickey’s long, highly respected career focuses on internal investigations, compliance programs, issues of sexual harassment in the workplace, and ethics training. Hickey has been trusted to spearhead reform initiatives in the Chicago Police Department<sup>2</sup> and in the Office of the Speaker

---

<sup>1</sup> <https://dailynorthwestern.com/2023/01/11/lateststories/football-northwestern-initiates-investigation-into-alleged-hazing-incident-following-the-2022-season/>.

<sup>2</sup> <https://www.chicagobusiness.com/law/woman-policing-chicago-cops>.

of the House in Illinois<sup>3</sup> and was appointed as Executive Inspector General for the Agencies of the Illinois Governor.<sup>4</sup>

71. From January 2023 to July 2023, Hickey conducted a comprehensive and thorough investigation of Northwestern's football program and hazing allegations. During her investigation, Hickey and her team interviewed more than fifty coaches and current and former players about allegations of hazing within the Northwestern football program. And, on or about April 6, 2023, Hickey and her team conducted an interview with Fitzgerald as part of their investigation into the allegations of hazing within Northwestern's football program. Northwestern has acknowledged that Fitzgerald completely cooperated with the investigation. The attorneys who conducted Fitzgerald's interview did not confront him or provide him with any evidence whatsoever that suggested he ever had any knowledge of hazing within the Northwestern football program.

72. During Hickey's interview, Fitzgerald stated he knew nothing about any hazing activities within Northwestern's football program. The attorneys who conducted Fitzgerald's interview did not confront him or provide him with any evidence whatsoever that suggested he ever had any knowledge of hazing within Northwestern's football program.

73. During Hickey's interview, Fitzgerald stated he had no reason to suspect that hazing activities were occurring within Northwestern's football program.

74. During Hickey's interview, Fitzgerald stated no player on Northwestern's football program ever reported any incidents of hazing to him, beyond the false reports referenced in paragraphs 65 and 66. The attorneys who conducted Fitzgerald's interview did not confront him or provide him with any evidence whatsoever that suggested any player in Northwestern's football

---

<sup>3</sup> [https://www.thecentersquare.com/illinois/report-finds-bullying-harassment-bad-behavior-widespread-under-the-dome-in-springfield/article\\_1097bdd8-c368-11e9-96aa-8fa79c2d0766.html](https://www.thecentersquare.com/illinois/report-finds-bullying-harassment-bad-behavior-widespread-under-the-dome-in-springfield/article_1097bdd8-c368-11e9-96aa-8fa79c2d0766.html).

<sup>4</sup> <https://chicago.suntimes.com/2018/6/18/18361772/madigan-taps-rauner-s-former-watchdog-to-probe-house-for-failures-and-mistakes>.

program ever reported any credible incidents of hazing within the Northwestern football program to him.

75. Furthermore, to assist Hickey and her team, Fitzgerald shared contact information for the football player who first told Fitzgerald of the alleged Whistleblower's plan to make false allegations of hazing, which is referenced above in paragraph 66. Fitzgerald is unsure whether Hickey ever contacted the football player to investigate. The football player's contact information was shared with Schill, who refused to meet with the football player.

76. During Hickey's interview, Fitzgerald stated that no staff member on Northwestern's football program ever reported any incidents of hazing or suspicion that hazing was occurring to him. The attorneys who conducted Fitzgerald's interview did not confront him or provide him with any evidence whatsoever that suggested any staff member in Northwestern's football program ever reported any incidents of hazing within the Northwestern football program to him.

77. After concluding the investigation, Northwestern and Hickey, through Northwestern's General Counsel, Stephanie Graham, complimented Fitzgerald and the football coaching staff for their cooperation throughout the entire investigation.

78. Hickey and her team eventually created a detailed and confidential report, setting forth their factual investigation and their findings, which was provided to Northwestern. Northwestern has refused to provide Fitzgerald and his attorneys with this detailed investigative report. It is unclear if the Hickey Report discloses actual evidence of any significant amount of hazing within the Northwestern football program that occurred over the twenty-two years that Fitzgerald was a football coach at Northwestern. The Hickey Report apparently is premised on the testimony of the single alleged Whistleblower. All that Northwestern has released is a brief,

one-page summary of the Hickey Report, which contains no discussion of actual evidence of hazing within the Northwestern football program and, in fact, states that “the investigation did not uncover evidence pointing to specific misconduct by any individual football player or coach.”

79. On July 7, 2023, Northwestern and Schill acknowledged that Fitzgerald did not know of hazing within the football program in a press release that also included an Executive Summary of the Hickey Report. Northwestern’s press release stated that “the investigation did not discover evidence that coaching staff knew about ongoing hazing.” The press release is attached hereto as Exhibit A. And in the Executive Summary of the Hickey Report, Northwestern stated, “The investigation team did not discover sufficient evidence to believe that coaching staff knew about the ongoing hazing conduct.” The Executive Summary of the Hickey Report is attached hereto as Exhibit B.

**D. The Events Leading Up to Fitzgerald’s Termination, the Termination Itself, and the Events Immediately After**

80. The events leading up to Fitzgerald’s termination, the termination itself, and the events immediately after are notable. These events reveal Northwestern’s legally improper misconduct.

**July 2, 2023**

81. On July 2, 2023, Fitzgerald had a call with Derrick Gragg, Athletic Director at Northwestern. Gragg relayed to Fitzgerald that Gragg and Northwestern’s general counsel, Stephanie Graham, wanted to meet with Fitzgerald regarding the Hickey Report.

**July 3, 2023**

82. On July 3, 2023, Fitzgerald met with Gragg and Graham at Northwestern’s Evanston campus. Gragg and Graham outlined a plan they presented to Fitzgerald that related to Fitzgerald accepting some punishment because of the hazing findings of the Hickey Report. As

part of that plan, Northwestern advised Fitzgerald that it wanted him to accept a two-week suspension without pay and release a statement supportive of Northwestern's football program.

83. Gragg and Graham stated that though Fitzgerald knew nothing about any hazing activity among the football team and though the Hickey Report did not implicate him, Northwestern still wanted Fitzgerald to accept a two-week suspension without pay and release a statement supportive of Northwestern's football program because of the findings of the Hickey Report. Gragg also stated that Schill felt that Fitzgerald needed to "take a hit" for the findings summarized in the Hickey Report, even though the Hickey Report concluded that Fitzgerald and his staff did not know about any hazing activities within the Northwestern football program.

84. Gragg and Graham told Fitzgerald if he agreed to this plan, Northwestern wanted the two-week suspension to coincide with Fitzgerald's two-week vacation, so Fitzgerald could attend an important recruiting event on Northwestern's behalf shortly after his suspension ended.

85. Gragg and Graham provided Fitzgerald with a proposed draft statement that Northwestern wanted Fitzgerald to agree to, so Northwestern could release the statement as part of Northwestern's press release announcing the Executive Summary of the Hickey Report.

86. Northwestern's proposed draft statement for Fitzgerald reiterated the fact that Fitzgerald did not know of any hazing within the Northwestern football program, included language to that effect, and contained a statement by Fitzgerald accepting his two-week suspension without challenge and agreeing to begin serving the suspension immediately.

87. Following his meeting with Gragg and Graham, Fitzgerald forwarded Northwestern's proposed draft statement for him to his agent, Bryan Harlan, because he needed Harlan's advice on whether he should accept Northwestern's plan described in paragraphs 82-86. Harlan is a very experienced sports agent on whom Fitzgerald heavily relied for advice during his

career at Northwestern. Thereafter, Harlan and Fitzgerald had detailed discussions as to whether Fitzgerald should accept Northwestern's plan regarding the Hickey Report. Ultimately, Fitzgerald, with Harlan's guidance, decided he would agree to Northwestern's plan and accept a two-week unpaid suspension, without challenge, and release a statement supportive of Northwestern's football program, so long as Northwestern agreed that the suspension would constitute the full extent of any discipline related to the Hickey Report and the hazing subject matter investigated and Fitzgerald would remain the head coach of the Northwestern football program.

**July 6, 2023**

88. As a result, on July 6, 2023, Harlan had a phone call with Graham to confirm the discipline issue and finalize the terms of the oral contract that were presented to Fitzgerald on July 3. During their phone call, Harlan told Graham that he and Fitzgerald had edited Northwestern's proposed statement by Fitzgerald related to the Hickey Report. Harlan specifically asked Graham whether Fitzgerald's agreement to the two-week suspension and the release of the statement Northwestern proposed and Fitzgerald edited would "put the matter to bed" and that it would be "all" the discipline Fitzgerald would receive related to the Hickey Report and the hazing subject matter investigated.

89. In this phone call, Graham confirmed to Harlan that if Fitzgerald accepted the two-week suspension without challenge and released a statement supportive of Northwestern's football program, that would constitute the full and only discipline Fitzgerald would receive from Northwestern related to the Hickey Report and the hazing subject matter investigated and Fitzgerald would remain head coach of Northwestern's football team. Based on this representation, Fitzgerald accepted his two-week suspension without challenge and allowed Northwestern to release the statement supportive of Northwestern's football program. As a result,

as of July 6, 2023, Northwestern and Fitzgerald had finalized the terms of their oral contract regarding the Hickey Report and the hazing subject matter investigated.

**July 7, 2023**

90. On July 7, 2023, Fitzgerald began performing his obligations under the oral contract between Fitzgerald and Northwestern by beginning his two-week suspension without pay and without legal challenge. Later that day, Northwestern posted a press release on its news website related to the oral contract with Fitzgerald discussed above. The press release included a copy of the Executive Summary of the Hickey Report. *See Exs. A & B.*

91. The press release stated that “[t]he investigation did not discover evidence that coaching staff knew about ongoing hazing.” *See Ex. A.* Likewise, the Executive Summary stated that “the investigation team did not discover sufficient evidence to believe that coaching staff knew about the ongoing hazing conduct.” *See Ex. B.*

92. By agreement of the parties, the press release also included a statement from Fitzgerald. *See Ex. A.* Fitzgerald’s statement reads as follows:

I was very disappointed when I heard about the allegations of hazing on our football team. Although I was not aware of the alleged incidents, I have spoken to University officials, and they informed me of a two-week suspension, effective immediately. Northwestern football prides itself on producing not just athletes, but fine young men with character benefitting the program and our University. We hold our student-athletes and our program to the highest standards; we will continue to work to exceed those standards moving forward.

**July 8, 2023**

93. On July 8, 2023, The Daily Northwestern published a story online detailing hazing allegations being made by one whistleblower (the alleged Whistleblower), a former Northwestern football player. This story simply repeated the same allegations that Northwestern had referred to attorney Hickey for her investigation in December 2022. There was absolutely nothing new in The Daily Northwestern story that was not already known by Northwestern based on the

allegations the alleged Whistleblower submitted to Northwestern on November 30, 2022. A copy of The Daily Northwestern story is attached hereto as Exhibit C.

94. For some inexplicable reason, around 11:00 p.m. on July 8, about forty-eight hours after Northwestern and Fitzgerald had entered their oral contract to resolve the hazing allegation issue, Schill reacted to The Daily Northwestern story and released a bizarre and confusing media statement. Schill stated that, on July 8, he had again reviewed the Hickey Report that he had in his possession for an extended period of time. Based on that review, he announced that he had now decided that he had possibly made a mistake when, forty-eight hours earlier, he had resolved the hazing issue with Fitzgerald with a two-week unpaid suspension. In this media statement, he did not cite any additional evidence or facts that would explain what mistake he made. In fact, in this July 8 media statement, Schill again referenced that the Hickey Report had concluded that there was no evidence that Fitzgerald was ever aware of the hazing. Schill's statement is attached hereto as Exhibit D.

95. Fitzgerald and his family were dumbfounded and confused by Schill's July 8 media statement because it had only been two days earlier that the hazing issue, according to Northwestern's general counsel, was "put to bed."

**July 10, 2023**

96. On July 10, 2023, Schill called Fitzgerald and told him Northwestern was terminating his employment. Schill did not tell Fitzgerald what provision of Fitzgerald's employment contract with Northwestern he was purportedly invoking to terminate Fitzgerald. In addition, Schill did not even tell Fitzgerald what conduct Fitzgerald had allegedly engaged in that could be the basis for a termination.

97. Fitzgerald and his family were immediately shocked and bewildered because they realized that for no reason whatsoever, Fitzgerald's entire twenty-five-year coaching career was

going to be destroyed because Northwestern was going to publicly announce it was terminating Fitzgerald in connection with hazing conduct that Fitzgerald did not know about. Fitzgerald had no idea what provision of his contract could be used by Northwestern to terminate him.

98. Later on July 10, at approximately 5:15 p.m., Graham and Harlan spoke, and Graham told Harlan that Northwestern had fired Fitzgerald “for-cause” and would be publicly announcing the termination very shortly. Graham did not tell Harlan what provision of Fitzgerald’s employment contract Northwestern was purportedly invoking to terminate Fitzgerald. Graham told Harlan that a statement from Schill was forthcoming.

99. Around 6:00 p.m., Schill released a public statement about Fitzgerald’s “for-cause” termination. Schill once again acknowledged the fact that “the investigator [ArentFox] failed to find any credible evidence that Coach Fitzgerald himself knew about [the hazing].” Schill also stated, however, that Fitzgerald was responsible for a “broken culture” within the Northwestern football program. Schill’s statement is attached hereto as Exhibit E.

100. Northwestern’s actions on July 10, 2023, breached the oral contract between Fitzgerald and Northwestern that they had entered just four days earlier. Northwestern’s actions between July 6 and July 10 were callous, outrageous, intentional, and willful and wanton.

### **July 24, 2023**

101. On July 24, 2023, in an interview with The Daily Northwestern, Schill again acknowledged the fact that Fitzgerald did not know of hazing within the Northwestern football program and stated, “I believe individual culpability and knowledge matters in these things. The report concluded that there was insufficient evidence to indicate that Coach Pat Fitzgerald knew about what was going on, even though there were some opportunities to find out. That was what I weighed too heavily.” Schill’s interview with The Daily Northwestern is attached hereto as Exhibit F.

### E. Patrick Fitzgerald's Employment Contract

102. Fitzgerald and Northwestern entered into an employment contract on January 18, 2021. In sum, that contract provided that Fitzgerald would serve as Northwestern's coach from January 1, 2021, until March 31, 2031. The contract provided for a minimum annual salary of \$5.65 million that would escalate over time based on performance incentives and other factors. The employment contract is attached hereto as Exhibit G.

103. The employment contract, at paragraph F(2), provided a **Termination without Cause** provision, which provided that "[i]n the event of a termination without cause, the University's financial obligation to you will be limited to paying liquidated damages in an amount according to the following: 100 percent of current monthly base salary times number of months remaining if the termination occurs before March 31, 2031." *See* Ex. G.

104. Had Northwestern terminated Fitzgerald "without-cause" as of July 10, 2023, Northwestern would have been obligated to pay Fitzgerald approximately \$43 million.

105. But Northwestern did not terminate Fitzgerald "without-cause." Instead, Northwestern said it was terminating Fitzgerald "for-cause" under his employment contract.

106. The employment contract, at paragraph F(1), provided a **Termination for Cause** provision, which provided that Northwestern could terminate Fitzgerald "for-cause" for the following enumerated reasons:

- (a) you commit a deliberate and serious violation of any law, rule, regulation, constitutional provision, bylaw, or interpretation of the University, the United States, the State of Illinois, the Big Ten Conference, or the NCAA (major violation, as defined by the NCAA) and such violation reflects adversely upon the University or its athletic program, including any violation that may result in the University's being placed on probation or being subjected to any other significant NCAA or Big Ten Conference sanction;

(b) you know or reasonably should have known of the commission by any member of the football coaching staff of a deliberate and serious violation of any law, rule, regulation, constitutional provision, bylaw, or interpretation of the University, the United States, the State of Illinois, the Big Ten Conference, or the NCAA (major violation as defined by the NCAA) and such violation reflects adversely upon the University or its athletic program, including any violation that may result in the University's being placed on probation or being subjected to any other significant NCAA or Big Ten Conference sanction;

(c) you fail or refuse to perform in good faith any of those duties that are reasonably related to your position as Head Football Coach as defined by the Vice President for Athletics & Recreation; provided, however, that the University will first give you written notice of such violation or violations and give you ten (10) days from the date of such written notice to cure such violation(s);

(d) you commit serious or repeated violations of any provision of this Agreement; provided, however, that the University will first give you written notice of such violation or violations and give you thirty (30) days from the date of such written notice to cure such violation(s);

(e) you engage in conduct that constitutes moral turpitude; or

(f) except for circumstances that are beyond your control, such as disability or illness, you are unavailable to the University to perform your duties as Head Football Coach; or

(g) you seek outside employment in violation of paragraph G of this Agreement. Should this Agreement be terminated by the University for cause as above

provided, the University will not thereafter be liable for damages of any kind, including but not limited to, the payment of any salary, employee benefits, or any other compensation, or any installments thereof, that accrue following the end of the month in which such termination occurs, nor will the University be liable for the loss of any collateral business opportunities dependent upon your status as Head Football Coach of the University. Any termination for cause by the University is also subject to the terms of Paragraph B.3.

*See Ex. G.*

107. The **Termination for Cause** provision also reads, “[s]hould this Agreement be terminated by the University for cause as above provided, you will be given written notice of such termination and will have the procedural right to a review of your termination by the President of the University. The President’s decision on review will generally be rendered within sixty (60) days of notice of termination and shall be final.” *See Ex. G.*

108. While Northwestern said it terminated Fitzgerald’s employment “for-cause” on July 10, 2023, Northwestern did not provide the required proper written notice of the “for-cause” termination because the written notice Northwestern provided did not inform Fitzgerald of the subparagraph of the termination “for-cause” section Northwestern was invoking. Northwestern has never informed Fitzgerald under which subparagraph of the termination “for-cause” section Fitzgerald was terminated.

109. It is not surprising Northwestern has never informed Fitzgerald under which subparagraph of the termination “for-cause” section Fitzgerald was terminated because none apply.

(a) Section (a) requires Northwestern to identify *deliberate* violations of laws, rules, and regulations by Fitzgerald. But Schill and others said in multiple public statements that Fitzgerald did not know about instances of hazing and, therefore, could not have been acting deliberately.

(b) Section (b) requires that Fitzgerald knew or reasonably should have known about violations of law or regulations by the coaching staff. But Schill and others said in multiple public statements that no members of the coaching staff, including Fitzgerald, knew of or were involved with hazing. And because of the extensive, comprehensive, and required policies and procedures that Fitzgerald specifically implemented to ensure that Northwestern's football program was free from hazing, there is no evidence to suggest that Fitzgerald knew or reasonably should have known.

(c) Section (c) allows for termination where Fitzgerald failed to perform duties reasonably related to his position as head coach. But this section requires that Northwestern give Fitzgerald written notice of what duties he did not perform and then allow him ten days to cure any supposed failure. However, Northwestern did not give Fitzgerald this required written notice of what duties he did not perform and did not give him an opportunity to cure.

(d) Section (d) allows for termination where Fitzgerald commits serious or repeated violations of his employment agreement. This section requires that Northwestern give Fitzgerald written notice of specific, serious, or repeated violation(s) and allow Fitzgerald thirty days to cure any noncompliance. Northwestern did not give Fitzgerald this required written notice of specific, serious, or repeated violation(s) and did not give him an opportunity to cure.

(e) Section (e) allows Northwestern to terminate Fitzgerald's employment if he engages in conduct constituting moral turpitude. Northwestern has never identified any conduct that Fitzgerald engaged in that constituted moral turpitude. In Illinois law, moral turpitude is used in the context of a crime that shows a person's baseness or depravity.

(f) Section (f) allows Northwestern to terminate Fitzgerald's employment if he is unavailable to perform his duties as head coach. Fitzgerald has always been available to perform his duties, and Northwestern has never identified any occasion in which that was not the case.

(g) Section (g) permits Northwestern to terminate Fitzgerald's employment if he were to seek employment outside Northwestern in violation of his contract. Fitzgerald has never sought outside employment in violation of his contract, and Northwestern has never identified any occasion otherwise. In addition, the evidence will show that, in this time period, Fitzgerald spoke with multiple people at Northwestern expressing his desire to continue working for Northwestern.

**COUNT ONE**  
**(Fitzgerald v. Northwestern)**  
**(Breach of Oral Contract)**

110. Fitzgerald incorporates by reference all preceding paragraphs.

111. On or about July 3, 2023, Fitzgerald met with Northwestern's Athletic Director, Gragg, and General Counsel, Graham, to discuss the Hickey Report. Northwestern, through Gragg and Graham, told Fitzgerald about a plan Northwestern had developed that related to the hazing findings of the Hickey Report. Northwestern told Fitzgerald that, while Fitzgerald knew nothing about any hazing activity within the Northwestern football program, Northwestern wanted Fitzgerald to accept a two-week unpaid suspension and release a statement supportive of

Northwestern's football program. Northwestern provided Fitzgerald a draft statement to which it wanted Fitzgerald to agree.

112. After this meeting, Fitzgerald forwarded this statement to his agent, Harlan, and he and Harlan had detailed discussions about whether Fitzgerald should accept Northwestern's plan regarding the Hickey Report. Ultimately, Fitzgerald decided he would agree to Northwestern's plan and accept a two-week unpaid suspension, without challenge, and release a statement supportive of Northwestern's football program. Fitzgerald's decision to accept Northwestern's plan was driven by Northwestern's agreement that the suspension would constitute the full extent of any discipline related to the Hickey Report and that Fitzgerald would remain the head coach. For more detail about the July 3, 2023 events, see paragraphs 82–87.

113. On or about July 6, 2023, Harlan had a phone call with Graham to confirm the discipline issue and finalize the terms of the oral contract that were presented to Fitzgerald on July 3. During their phone call, Graham confirmed to Harlan that if Fitzgerald accepted the two-week suspension without challenge and released a statement supportive of Northwestern's football program, that would constitute the full and only discipline Fitzgerald would receive from Northwestern related to the Hickey Report and the subject matter investigated and Fitzgerald would remain the head coach. Based on this representation, Fitzgerald accepted his two-week unpaid suspension without challenge and allowed Northwestern to release a statement supportive of Northwestern's football program. Northwestern and Fitzgerald thus finalized the terms of their oral contract regarding the Hickey Report and the hazing subject matter investigated. For more detail about the July 6, 2023 events, see paragraphs 88–89.

114. Fitzgerald began performing the oral contract he entered into with Northwestern on July 7, 2023, when he began serving his two-week unpaid suspension without legal challenge and

allowed Northwestern to release a press statement by him supportive of Northwestern's football program. For more detail about the July 7, 2023 events, see paragraphs 90–92.

115. On July 10, 2023, Northwestern wrongfully breached its oral contract with Fitzgerald when it summarily and callously abandoned the oral contract it had just entered with Fitzgerald on July 6 and irreparably damaged Fitzgerald's football coaching career by publicly announcing that Northwestern had decided to terminate Fitzgerald's employment with Northwestern "for-cause," when no cause existed as defined in Fitzgerald's written employment contract. For more detail about the July 10, 2023 breach of contract events, see paragraphs 96–100.

116. Because of Northwestern's breach, Fitzgerald sustained substantial compensatory damages. For more detail about Fitzgerald's compensatory damages, see paragraphs 32 and 104.

WHEREFORE, Fitzgerald, by and through his attorneys, WINSTON & STRAWN LLP, demands judgment against Northwestern in an amount in excess of the jurisdictional minimum, together with the costs of this action and any and all further relief the Court deems fair and just.

**COUNT TWO**  
**(Fitzgerald v. Northwestern)**  
**(Breach of Written Contract)**

117. Fitzgerald incorporates by reference all preceding paragraphs.

118. In or around early 2021, Northwestern made an offer of employment to Fitzgerald.

119. Fitzgerald accepted Northwestern's offer.

120. Fitzgerald offered good and valuable consideration to Northwestern through his performance and by declining other offers of employment.

121. Fitzgerald entered into a validly formed employment contract with Northwestern executed by the parties on January 18, 2021.

122. Fitzgerald performed the terms of his employment contract with Northwestern until July 10, 2023, when Northwestern unlawfully terminated his employment.

123. Northwestern breached Fitzgerald’s employment contract in the following ways:

(a) Northwestern wrongfully terminated Fitzgerald “for-cause,” when there no basis in the employment contract to terminate Fitzgerald “for-cause.”

(b) Northwestern wrongfully failed to give Fitzgerald timely written notice of his termination as required in paragraph F(1) of Fitzgerald’s employment contract, and the ability to cure any performance deficiencies as required in paragraphs F(1)(c) and F(1)(d) of Fitzgerald’s employment contract.

(c) Northwestern wrongfully failed to identify under which enumerated contract clause it purportedly terminated Fitzgerald’s employment “for-cause,” as required in paragraph F(1) of Fitzgerald’s employment contract.

(d) Northwestern wrongfully failed to give Fitzgerald an opportunity to appeal his termination decision, as required in paragraph F(1) of Fitzgerald’s employment contract.

For more detail about Northwestern’s breaches of its written contract with Fitzgerald, see paragraphs 102–109.

124. Because of Northwestern’s breach, Fitzgerald sustained substantial compensatory damages. For more detail about Fitzgerald’s compensatory damages, see paragraphs 32 and 104.

WHEREFORE, Fitzgerald, by and through his attorneys, WINSTON & STRAWN LLP, demands judgment against Northwestern in an amount in excess of the jurisdictional minimum, together with the costs of this action and any and all further relief the Court deems fair and just.

**COUNT THREE**  
**(Fitzgerald v. Northwestern and Schill)**  
**(Intentional Infliction of Emotional Distress)**

125. Fitzgerald incorporates all preceding paragraphs by reference.

126. Between July 3 and July 7, 2023, Defendants promised Fitzgerald and his family that the Hickey Report would not have any significant impact on Fitzgerald's coaching career or his professional reputation. Defendants advised Fitzgerald that they had reached this decision that the appropriated discipline for Fitzgerald resulting from the Hickey Report was a two-week suspension without pay because the evidence clearly established that Fitzgerald never had any knowledge of any hazing activity that had ever occurred within the Northwestern football program. At the time this promise was made, Defendants were fully aware of all facts that had any relevance to the Northwestern hazing allegations that had first been raised in November 2022.

127. In a very short period of time, between July 8 and July 10, 2023, in an extreme, outrageous, callous, intentional, and senseless course of conduct, Defendants, based on no new facts or information, made the decision to intentionally destroy Fitzgerald's football coaching career, his future, and the future of his family. Defendants did this by deciding to make a public announcement on July 10 that Fitzgerald had engaged in such a serious course of irresponsible behavior as Northwestern's football coach, that he needed to be punished to the extreme – permanent termination of his employment as the Northwestern head football coach “for-cause.” Based on this public announcement, the only conclusion the public could reach is that Fitzgerald must have engaged in serious misconduct as head football coach. In the days that followed, Fitzgerald and his family experienced enormous emotional distress because they obviously became acutely aware that Fitzgerald would never again be able to obtain a similar head coaching position with significant compensation. This emotional distress will undoubtedly extend for years.

128. Conduct by Defendants that contributed to this emotional distress, included but is not limited to the following:

(a) On July 8, Northwestern, by and through its agent, Schill, stated, “As the head coach of one of our athletics programs, [Fitzgerald] is not only responsible for what happens within the program but also must take great care to uphold our institutional commitment to the student experience and our priority to ensure all students – undergraduate and graduate – can thrive during their time at Northwestern. Clearly, he failed to uphold that commitment.” *See* Ex. D.

(b) On July 10, Northwestern, by and through its agent, Schill, also stated, “Since Friday, I have kept going back to what we should reasonably expect from our head coaches, our faculty and our campus leaders. And that is what led me to make this decision. The head coach is ultimately responsible for the culture of his team. The hazing we investigated was widespread and clearly not a secret within the program, providing Coach Fitzgerald with the opportunity to learn what was happening. Either way, the culture in Northwestern Football, while incredible in some ways, was broken in others.” *See* Ex. E.

(c) Also, on July 10, 2023, Northwestern wrongfully breached its oral contract with Fitzgerald when it intentionally and callously abandoned the oral contract it had just entered with Fitzgerald on July 6, terminating Fitzgerald’s employment with Northwestern “for-cause,” when no cause existed as defined in Fitzgerald’s written employment contract. For more detail about the July 10, 2023 breach of contract events, see paragraphs 96–100.

129. The statements Northwestern made about Fitzgerald on July 8 and July 10 were false and Northwestern’s decision to abandon its days-old oral contract with Fitzgerald and terminate him “for-cause” was extreme and outrageous. Fitzgerald had neither done anything

wrong nor failed to uphold any commitment to the Northwestern student experience, he was not responsible for a “broken culture” within the Northwestern football program, and there was no basis to state or imply that Fitzgerald was terminated “for-cause.”

130. Through their conduct, Defendants irreparably and permanently damaged Fitzgerald’s reputation and destroyed his ability to maintain the football coaching career he had spent his entire professional life creating and inflicted severe emotional distress on Fitzgerald and his family.

131. Defendants knew or recklessly disregarded that severe emotional harm was substantially certain to result from their extreme and outrageous conduct.

132. Defendants’ conduct was the actual and proximate cause of Fitzgerald’s and his family’s severe emotional distress.

133. As a result of Defendants’ conduct, Fitzgerald suffered substantial compensatory damages and is entitled to punitive damages.

WHEREFORE, Fitzgerald, by and through his attorneys, WINSTON & STRAWN LLP, demands judgment against Northwestern and Schill in an amount in excess of the jurisdictional minimum, together with the costs of this action and any and all further relief the Court deems fair and just.

**COUNT FOUR**  
**(Fitzgerald v. Northwestern and Schill)**  
**(Defamation and Defamation *Per Se*)**

134. Fitzgerald incorporates by reference all preceding paragraphs.

135. On July 8, 2023, Fitzgerald learned that Northwestern, by and through its agent, Schill, made false and defamatory statements about Fitzgerald to the local and national news media when he stated, “[a]s the head coach of one of our athletics programs, [Fitzgerald] is not only

responsible for what happens within the program but also must take great care to uphold our institutional commitment to the student experience and our priority to ensure all students – undergraduate and graduate – can thrive during their time at Northwestern. Clearly, he failed to uphold that commitment.” *See* Ex. D.

136. Beyond doubt, on July 8, Northwestern, through Schill, in a public statement published to millions of people, clearly and falsely stated that Fitzgerald had failed to carry out his Northwestern football coaching responsibilities by failing to uphold Northwestern’s institutional responsibility to provide its students with an environment they can thrive in.

137. Northwestern’s own internal documents prove, beyond all doubt, that its statements, made by and through its agent, Schill, that Fitzgerald failed to provide students with an environment they could thrive in were false. Fitzgerald’s personnel file is filled with documentary evidence that Northwestern believed that at all times as Fitzgerald carried out his football coaching responsibilities, he always provided students with an environment they can thrive and excel in. For more detail about Fitzgerald’s personnel file, see paragraphs 15, 19 and 55.

138. On July 10, Fitzgerald learned that Northwestern, by and through its agent, Schill, made false and defamatory statements about Fitzgerald to the local and national news media when Schill stated, “[s]ince Friday, I have kept going back to what we should reasonably expect from our head coaches, our faculty and our campus leaders. And that is what led me to make this decision. The head coach is ultimately responsible for the culture of his team. The hazing we investigated was widespread and clearly not a secret within the program, providing Coach Fitzgerald with the opportunity to learn what was happening. Either way, the culture in Northwestern Football, while incredible in some ways, was broken in others.” *See* Ex. E.

139. Beyond doubt, on July 10, Northwestern, through Schill, in a public statement published to millions of people, clearly and falsely stated that Fitzgerald had failed to carry out his Northwestern football coaching responsibilities by allowing widespread hazing to occur within Northwestern's football program.

140. The evidence is overwhelming that Northwestern itself had admitted that Fitzgerald never knowingly allowed hazing to occur in Northwestern's football program. Some of these occasions include:

(a) Northwestern's July 7 press release stating that "[the Hickey] investigation did not discover evidence that coaching staff knew about ongoing hazing." *See* Ex. A.

(b) Northwestern's July 7 Executive Summary of the Hickey Report stating that "the investigation team did not discover sufficient evidence to believe that coaching staff knew about the ongoing hazing conduct." *See* Ex. B.

(c) Schill's July 8 announcement stating that "there was no direct evidence that Coach Fitzgerald was aware of the hazing." *See* Ex. D.

(d) Schill's July 10 announcement stating that "the investigator [ArentFox] failed to find any credible evidence that Coach Fitzgerald himself knew about [the hazing]." *See* Ex. E.

(e) Schill's July 24 interview stating that "The report concluded that there was insufficient evidence to indicate that Coach Pat Fitzgerald knew about what was going on." *See* Ex. F.

141. In addition, Northwestern's statement that Fitzgerald was terminated because he presided over a broken culture implies that Northwestern terminated Fitzgerald "for-cause." In fact, Northwestern's General Counsel, Graham, on July 10, told Fitzgerald that he was being fired

“for-cause.” This statement is false because Northwestern has not pointed and cannot point to a single subparagraph in the **Termination for Cause** section of Fitzgerald’s employment contract to which that applies. For more detail about Fitzgerald’s employment contract, see paragraphs 102–109.

142. Defendants knew or recklessly disregarded the truth or falsity of their statements because they previously admitted, among other things, that Fitzgerald had no knowledge of hazing within the Northwestern football program, and that they had uncovered no evidence pointing to specific misconduct by any individual football player or coach.

143. The false and defamatory statements pleaded in paragraphs 135, 138, and 141, are not only defamation but are defamatory *per se* under the law because they state or imply that Fitzgerald was unable to perform his employment duties at Northwestern or because they state or imply that Fitzgerald performed his employment duties at Northwestern with a lack of integrity.

144. As a result of Defendants’ false statements, Fitzgerald has been unable to obtain a position as a head coach for a major collegiate football program or on the coaching staff of a professional football program. Fitzgerald invested nearly thirty years of his life to coaching and playing football at Northwestern and planned to coach for at least ten years beyond the 2031 end date of his contract with Northwestern.

145. Because of Defendants’ defamatory statements, Fitzgerald has sustained substantial compensatory damages and is entitled to punitive damages.

WHEREFORE, Fitzgerald, by and through his attorneys, WINSTON & STRAWN LLP, demands judgment against Northwestern and Schill in an amount in excess of the jurisdictional minimum, together with the costs of this action and any and all further relief the Court deems fair and just.

**COUNT FIVE**  
**(Fitzgerald v. Northwestern and Schill)**  
**(False Light)**

146. Fitzgerald incorporates by reference all preceding paragraphs.

147. Northwestern, by and through its agent, Schill, made false statements about Fitzgerald.

148. On July 8, 2023, Northwestern, by and through its agent, Schill, stated, “As the head coach of one of our athletics programs, [Fitzgerald] is not only responsible for what happens within the program but also must take great care to uphold our institutional commitment to the student experience and our priority to ensure all students – undergraduate and graduate – can thrive during their time at Northwestern. Clearly, he failed to uphold that commitment.” *See* Ex. D.

149. On July 10, Northwestern, by and through its agent, Schill, stated, “Since Friday, I have kept going back to what we should reasonably expect from our head coaches, our faculty and our campus leaders. And that is what led me to make this decision. The head coach is ultimately responsible for the culture of his team. The hazing we investigated was widespread and clearly not a secret within the program, providing Coach Fitzgerald with the opportunity to learn what was happening. Either way, the culture in Northwestern Football, while incredible in some ways, was broken in others.” *See* Ex. E.

150. These statements are false as set forth above in paragraphs 135–141.

151. Northwestern, by and through its agents, knowingly published these false statements about Fitzgerald to the world.

152. Northwestern and its agent, Schill, knew or recklessly disregarded the truth or falsity of their statements because they previously admitted, among other things, that Fitzgerald had no knowledge of hazing within the Northwestern football program and that they uncovered no evidence pointing to specific misconduct by any individual football player or coach.

153. The false statements Northwestern and Schill knowingly or recklessly published to the world were statements that a reasonable person would find highly offensive.

154. As a result of this publication, Fitzgerald has been unable to obtain a position as head coach of a major collegiate football program or on the coaching staff of a professional football program.

155. As a result of Defendants' conduct, Fitzgerald has sustained substantial compensatory damages and is entitled to punitive damages.

WHEREFORE, Fitzgerald, by and through his attorneys, WINSTON & STRAWN LLP, demands judgment against Northwestern and Schill in an amount in excess of the jurisdictional minimum, together with the costs of this action and any and all further relief the Court deems fair and just.

**COUNT SIX**  
**(Fitzgerald v. Schill)**  
**(Interference with a Business Expectancy)**

156. Fitzgerald incorporates by reference all preceding paragraphs.

157. No later than July 7, 2023, Fitzgerald had an oral contract with Northwestern.

158. Fitzgerald reasonably relied on his oral contract that if he accepted a two-week unpaid suspension without legal challenge and released a statement supportive of Northwestern's football program, Northwestern would agree that would constitute the full extent of any discipline related to the Hickey Report and the hazing subject matter investigated and Fitzgerald would remain the head coach of Northwestern's football program.

159. Schill knew of Fitzgerald's reasonable expectation to remain in a business relationship with Northwestern as Northwestern's head football coach through at least 2031.

160. On July 8, Schill purposefully interfered with Fitzgerald's reasonable business expectancy by publishing false statements about Fitzgerald that stated that he had done something wrong as the head football coach at Northwestern.

161. Northwestern terminated its oral contract with Fitzgerald due to Schill's purposeful interference.

162. Northwestern would not have terminated Fitzgerald's employment absent Schill's purposeful interference.

163. Fitzgerald has lost his job with Northwestern due to Schill's actions and has not been able to find alternate employment.

164. Because of Schill's purposeful interference, Fitzgerald has sustained substantial compensatory damages and is entitled to punitive damages.

WHEREFORE, Fitzgerald, by and through his attorneys, WINSTON & STRAWN LLP, demands judgment against Northwestern and Schill in an amount in excess of the jurisdictional minimum, together with the costs of this action and any and all further relief the Court deems fair and just.

#### **PRAYER FOR RELIEF**

WHEREFORE, Fitzgerald, by and through his attorneys, WINSTON & STRAWN LLP, demands judgment against Northwestern and Schill in an amount in excess of the jurisdictional minimum as follows:

A. Compensatory damages to Fitzgerald that will represent compensation for the loss of Fitzgerald's Northwestern employment contract through 2031, the expiration date on his employment contract. In addition, compensatory damages for his lost ability to obtain similar

employment during the prime of his professional coaching career after 2031 for a reasonable period of time. This amount will exceed \$130,000,000; and

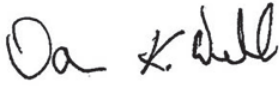
B. In addition to the above, compensatory damages for emotional distress suffered by Fitzgerald and his family because of Defendants' conduct; and

C. Separate and apart from compensatory damages, punitive damages based on Defendants' intentional or willful and wanton conduct described in paragraphs 125–164 in this Complaint; and

D. Fitzgerald's costs and disbursements incurred in connection with this litigation with such other relief as the Court may deem fair and appropriate.

Respectfully submitted,

WINSTON & STRAWN LLP

By:  \_\_\_\_\_

Dan K. Webb  
Matthew R. Carter  
Elizabeth E. Grden  
Leigh A. Frederick  
WINSTON & STRAWN LLP  
35 West Wacker Drive  
Chicago, IL 60601  
Tel.: (312) 558-5600  
Fax: (312) 558-5700