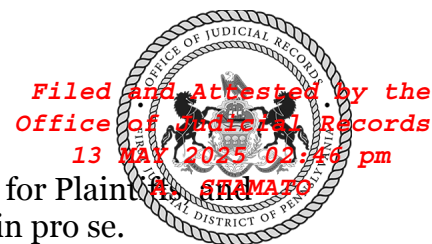


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Attorney for Plaintiff, and
plaintiff in pro se.

Jauregui Law Firm
Raul Jauregui, Esq., and
Daniel Boye,

Plaintiffs

VS.

Inside Higher Education
Johanna Alonso,
Dyller Solomon Law Firm, and
Barry Dyller, Esq

Defendants

**FIRST JUDICIAL DISTRICT
Court of Common Pleas for
Philadelphia County**

June TERM, 2024

NO. 240500990

Jury Demanded

Plaintiffs' Concise Statement of Matters Complained on Appeal

Plaintiffs Jauregui Law Firm, Raul Jauregui, and Daniel Boye complain on appeal and intend to challenge pursuant to PaRAP 1925(a)(4)(i) and (ii) the issues identified in this statement. Further, because the plaintiffs are unable to fully discern the basis for the Hon. Judge Lyris Younge's order of April 11, 2025 (Control No. 24100425), or of Judge Lyris Younge's order of May 6, 2025 (Control No. 25051035) clarifying that the defendants Inside Higher Education, and Johanna Alonso are dismissed from this case, (hereinafter collectively and individually called "Judge Younge's orders"), as allowed under PaRAP 1925(b)(4)(vi), the plaintiffs preserve on appeal the issues as to Judge Younge's orders that are identified hereby as errors only in general terms. The same is true as to Judge Younge's orders, if any, concerning the plaintiffs' motion for finality certification (Control No. 25052126), and for reconsideration (Control No. 25052249).

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Judge Younger's currently available docketed orders are attached as **Exhibit A** to this statement. As of this time Judge Younger has not entered any memorandum explaining her orders in **Exhibit A**. Should Judge Younger enter such a memorandum, plaintiffs reserve the right to respond to it with a supplemental statement of matters complained on appeal if necessary.

Introduction and General Statement of Issues Complained on Appeal

This is a defamation matter where defendants Inside Higher Education and Johanna Alonso (hereinafter the "IHE defendants") published an article (hereinafter the "Alonso Article") that falsely declares as fact that the plaintiffs Jauregui Law Firm and Raul Jauregui instructed a client to lie, and to lie about rape, and that the plaintiff Daniel Boye both raped and lied about being raped. This and other false statements in the Alonso Article constitute its defamatory gist which is identified in the Complaint ¶ 25. The Alonso Article also republishes statements from defendant Barry Dyller, Esq. who works for defendant Dyller Solomon, LLC (hereinafter the "attorney defendants"), that falsely declare as fact that the plaintiffs Jauregui Law Firm and Raul Jauregui instructed a client to lie, and to lie about rape, and that the plaintiff Daniel Boye both raped and lied about being raped. On December 11, 2024, Judge Cohen of this Court denied the attorney defendants' preliminary objections to the complaint.

It is plaintiffs' position on appeal that the Complaint not only states a perfect and good faith case of defamation, but also that the Complaint states how the IHE defendants waived any possible applicable privilege to the defamatory passages that compose the defamatory gist of the Alonso Article. The Complaint also states how the IHE defendants' republication of the attorney defendants' defamation makes them

liable. Overall, it is plaintiffs' position on appeal that Judge Younger's orders applied the JLF et al., v. IHE et al., Case No. 240500990
Plaintiffs' Stmt Matters Complained on Appeal

wrong legal standard and made mistakes of fact as it analyzed the IHE defendants' motion to dismiss. Likewise, it is plaintiffs' position that Judge Young's memorandums or opinions of law--should any exist--mistake both the law and the facts.

Thus, there is no reason to have granted the IHE defendants' motion to dismiss, to have denied the plaintiffs' motion for certification of finality, if that takes place, or the Plaintiffs' motion for reconsideration. As a result the plaintiffs will complain on appeal that Judge Young's orders include mistakes of law or mistakes of fact requiring the Superior Court to reverse and vacate them and to remand this case for trial.

Statement of Matters Complained on Appeal

I. The Plaintiffs' Argument in Opposition to the IHE Defendants Motion to Dismiss Required Denial of the Motion.

Mistakes of law, or mistakes of fact, in Judge Young's orders concerning their analysis of the plaintiffs' opposition to the IHE defendants' motion to dismiss require the Superior Court to reverse and vacate these orders and to remand this case for trial. The plaintiffs extensively documented these arguments in their opposition to the IHE defendants' Motion to Dismiss and on the other pleadings and motions of record by the time Judge Young's orders' issued.

These mistakes include but are not limited to:

- Applying the wrong standard for analyzing motions to dismiss.
- Failing to draw inferences in plaintiffs' favor.
- Shifting burdens of proof onto the plaintiffs.
- Drawing inferences in favor of the non-moving parties, the defendants.
- Failing to analyze republication of defamation liability.
- Usurping the jury's role and deciding issues of fact.

- Failing to grant plaintiffs the opportunity to amend the Complaint.
- Failing to issue any memorandum or opinion in support of its orders.
- Failing to analyze the IHE defendants Motion to Dismiss in the context of Judge Cohen's order of December 11, 2024 overruling the attorney defendants' preliminary objections to the Complaint. "Pennsylvania inferior courts consistently apply the same analysis to both types of claims when the causes of action are based on the same set of underlying facts." *Krajewski v. Gusoff*, 53 A.3d 793, 809 (Pa. Super. 2012).

II. The Complaint Meets all the Elements of Defamation, False Light, and Commercial Disparagement with Facts.

Mistakes of law, or mistakes of fact, explain why Judge Younge's orders' analysis of the Complaint's averment of all the elements for the claims of defamation, false light, and commercial disparagement stated against the IHE defendants granted the motion.

The Complaint states the elements of defamation against the IHE defendants with specificity. (Comp. ¶ 25, 27, 34, 48, 73, 74, 161, 162, 166). Thus the Complaint states: a. The defamatory character of the communication; b. Its publication by the defendant; c. Its application to the plaintiff; d. The recipient's understanding of its defamatory meaning; e. The recipient's understanding of it as intended to be applied to the plaintiff; f. Special harm resulting to the plaintiff from its publication; g. Abuse of a conditionally privileged occasion. 42 Pa. Cons. Stat. § 8343.

The Complaint states the elements of false light against the IHE defendants with specificity (Comp. ¶ 24, 25, 133-142). In Pennsylvania, a party is subject to liability for false light if they publicize "a matter concerning another that places the other before the public in a false light," and if "the false light in which the other was placed would be

highly offensive to a reasonable person." *Coleman v. Ogden Newspapers, Inc.*, 142 A.3d 1142, 1152 (Pa. 2016).
 JLF et al., v. IHE et al., Case No. 240500990
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898, 905 (Pa. Super. 2016) (quoting Restatement (Second) of Torts § 652E (Am. L. Inst. 1977)). "The required standard of fault in a false light claim is . . . actual malice." *Rubin v. CBS Broadcasting Inc.*, 170 A.3d 560, 568 n.9 (Pa. Super. 2017).

The Complaint states the elements of commercial disparagement against the IHE defendants with specificity (Comp. ¶ 205-213). "Section 629 of the Restatement defines "disparagement" to be: "Matter which is intended by its publisher to be understood or which is reasonably understood to cast doubt upon the existence or extent of another's property in land, chattels or intangible things, or upon their quality, is disparaging thereto, if the matter is so understood by its recipient." *Menefee v. CBS*, 458 Pa. 46, 54 (1974). The plaintiffs extensively documented these arguments in their opposition to the IHE defendants' Motion to Dismiss and on the other pleadings and motions of record by the time Judge Younge's orders' issued. Given these averments and their dismissal at the Motion to Dismiss stage, the Superior Court must reverse and vacate Judge Younge's orders to then remand this case for trial.

These mistakes include but are not limited to deciding that:

- The Alonso Article does not defame the plaintiffs per se. "Statements imputing the commission of an indictable offense are capable of defamatory meaning as a matter of law." *Marcone v. Penthouse Intern. Magazine for Men*, 754 F.2d 1072, 1078 (3d Cir. 1985) (citing *Baird v. Dun & Bradstreet*, 285 A.2d 166, 171 (Pa. 1971)). It does.
- The Alonso Article does not lead an ordinary reader to reach defamatory conclusions about the plaintiffs. It does.
- The Alonso article does not lead an ordinary reader to reach defamatory inferences about the plaintiffs. It does.

- The Alonso article does not defame the plaintiffs by implication. *Menkowitz v. Peerless Publications, Inc.*, 176 A.3d 968, 982 (Pa. Super. 2017) ("The legal test to be applied to determine whether a statement is defamatory by implication is whether the challenged language can fairly and reasonably be construed to imply the defamatory meaning alleged by a plaintiff." It does.
- The defendants' interpretation of the Alonso article is the only possible interpretation, rather than establishing that plaintiffs interpretation of the defamatory gist is a reasonable one. (Comp. ¶ 25, 92, 179).
- The Alonso article contains merely an opinion or opinions. It does not. Pennsylvania courts "distinguish[] a statement of fact from a statement of opinion by whether [the statement] can be `objectively determined.'" *Meyers v. Certified Guar. Co., LLC*, 221 A.3d 662, 670 (Pa. Super. 1970) (citing Restatement (Second) of Torts, § 566 cmt. a (Am. L. Inst. 1977)). The Alonso Article drips with falsely stated facts. (Comp. ¶ 25, 31, 44B, E, N, 54A(ii), 106).
- Even if the Alonso article contained merely an opinion or opinions (and it does not), it is a mistake of law to decide that these opinions are not defamatory given that the Complaint alleges that they "...contain[ed] a [demonstrably] false factual connotation." *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 21 (1990). (Comp. ¶ 43, 47).
- Deciding as a matter of law that the statement "And that's what they did. They made false allegations [that] she raped him" as republished in the Alonso Article is not republication of per se defamation. There are several other instances of defamatory republication in the Alonso Article that the Court ignored. (Comp. ¶ 119 - 132).
- Deciding that as a matter of law the statement in the Alonso Article that "The report draws on Title IX regulations that went into effect in 2020, which guarantee due

process for students accused of sexual misconduct on campus according to a standard that aligns with traditional civil or criminal cases" is true or does not defame the plaintiffs given that it exactly contradicts the law at publication time which is also today's law. (Comp. ¶ 108).

- Deciding as a matter of law that the Complaint did not state actual malice from the IHE defendants' conduct related to the Alonso Article's composition and publication. Plaintiffs must plead facts supporting the conclusion that "the defendant acted with knowledge of the falsity of the statement or in reckless disregard as to truth or falsity." *Krajewski*, 53 A.3d at 807-08 (citing *Time, Inc. v. Hill*, 385 U.S. 374, 389 (1967)). The Complaint pleads that at ¶ 10, 27, 34, 44(c), 63, 128.
- Deciding as a matter of law that the Alonso Article did not injure the plaintiffs in their respective communities, a factual matter for the jury. The Complaint avers the exact opposite: injury in the plaintiffs' communities. (Comp. ¶ 13, 15, 181, 183).
- Deciding as Motion to Dismiss whether or not the recipient of the Alonso Article's defamatory gist (Comp. ¶ 25, 36, 38, 54, 56, 57) understood its "defamatory meaning." 42 Pa. Cons. Stat. § 8343(a)(4). That question cannot be determined on a Motion to Dismiss, because "determin[ing] if the defamatory meaning was understood by the recipient," is a question that "must proceed to a jury." *Pace v. Baker-White*, 432 F. Supp.3d 495, 509 (E.D. Pa. 2020) (citing 42 Pa. Cons. Stat. § 8343(a)).

III. There is no Privilege that Excuses the IHE Defendants' Conduct.

Mistakes of law, or mistakes of fact, in Judge Younge's orders concerning their analysis of any privilege, in particular the Fair Report Privilege, that the IHE defendants invoked to dismiss require the Superior Court to reverse and vacate these orders to then remand this case for trial. The Complaint clearly alleges that the IHE defendants

abused any privilege, including the Fair Report Privilege, (Comp. ¶ 71, 72, 73, 184), that there is falsity in the Alonso Report (Comp. ¶ 11, 27, Sec. VII, 134), and that there is malice in the Alonso Report (Comp. ¶ 10, 27, 34, 44(c), 63, 128). The plaintiffs extensively documented these arguments in their opposition to the IHE defendants' Motion to Dismiss and on the other pleadings and motions of record by the time Judge Young's orders' issued. The orders, however, ignored this.

These mistakes include but are not limited to deciding that:

- The Alonso Article is a complete, or accurate report of the single relevant legal opinion, Magistrate Carson's report of June 2, 2023; ignoring the exactly opposite averments of the complaint, many of which are factual. (Comp. ¶ 44(a)-(p)).
- The Alonso Article's use of Magistrate Carlson's report of June 2, 2023, was not defamatory, in contradiction of the fact that Magistrate Carlson's report had been objected to and appealed prior to the Alonso Article's publication. (Comp. ¶ 64, 69).
- The defamatory gist of the Alonso Article stems only from its reports, inferences, or citations to Magistrate Carlson's report of June 2, 2023. It does not. As the Complaint states the defamatory gist stems from the Alonso Article's use as falsely stated fact, of private discipline at Kings College (Comp. ¶ 28, 44I, P, 54), an interview with defendant Dyler (Comp. ¶ 30, 32, 44D, E, 119), and of interviews with unidentified experts and lawyers (Comp. ¶ 53, 54F).
- The Alonso Article, even if limited to its reports and abridgements of the public federal record which contains the Carlson Report, used them in an accurate manner, free from distortion. The Complaint avers the opposite, that the Alonso Article did not accurately report that docket. (Comp. ¶ FN 9, 44A, E, 68, 107, 178).

- The Alonso Article does not contain embellishments and other distortions of Magistrate Carlson's report of June 2, 2023. The Complaint identifies these embellishments and distortions with facts (Comp. ¶ 43, 44, 107).
- The Alonso Article does not show that the IHE defendants abused and thus waived any claim to the Fair Report Privilege as it is recognized in Pennsylvania. In contrast, the Complaint avers this waiver with granularity. (Comp. ¶ 72, 73, 74, 76).
- The Complaint does not state the falsity in the Alonso Article. It does so, specifically. (Comp. ¶ 11, 27, Sec. VII, 134).
- The Complaint does not plausibly state the Alonso Article's falsity. To plausibly plead actual malice, plaintiffs must plead facts supporting the conclusion that "the defendant acted with knowledge of the falsity of the statement or in reckless disregard as to truth or falsity." *Krajewski*, 53 A.3d at 807-08. The Complaint states that conduct against the IHE defendants at ¶ 5, Sec. VII, 138, 140, 198 and 214.
- The Complaint states that the matters referenced in the Alonso Article are only about public proceedings. The Complaint avers exactly the opposite, that these matters include reports on private proceedings, and thus not subject to the Fair Report Privilege. (Comp. ¶ 71, 76, 81, 108).
- The Complaint states that the matters reported about the plaintiffs in the Alonso Article are in the public interest. The Complaint states the opposite as there is no public interest in learning of lies about private parties like the plaintiffs or of lies about confidential proceedings. (Comp. ¶ 12, 13, 15, 28, 109).
- The plaintiffs were not entitled to treatment as private persons for defamation liability analysis. Yet, the Complaint identified the plaintiffs as private persons. (Comp. ¶ 12, 13, 15).

- Assuming that defendant Johanna Alonso is in fact entitled to claim protection by invoking Pennsylvania's Fair Report Privilege as if she were credentialed or qualified to do so. The Complaint granularly avers how Alonso's background and conduct question her ability to invoke any press-related privilege. (Comp. ¶ 4, 5, 17 and FN 2, 3).
- The Alonso Article did not introduce extraneous matter to its citations and references to Magistrate Carlson's report. The Complaint states that it did so with ample citations to reports in the Alonso Article of events or falsely reported facts completely outside the judicial proceeding. (Comp. ¶ 30, 54F, 115).
- The Alonso Article did not fail to employ reasonable care and diligence. The Complaint avers that it did. (Comp. ¶ 44, 58, FN 20).
- The Alonso Article did not splice together disconnected, and often false events, so as to make the whole seem the continuous occurrence that defames the plaintiffs. Yet the Complaint states the opposite. (Comp. ¶ 25, 26).
- The Alonso Article's publication of a judicial proceeding, specifically Magistrate Carlson's report, is made in an "accurate and complete" manner or in a "fair abridgment of the proceedings." The Complaint states exactly the opposite. (Comp. ¶ 64, 178).
- The Alonso Article's publication of a judicial proceeding, specifically Magistrate Carlson's report, is the "substantial truth" of it. The Complaint states this is not the "substantial truth." (Comp. ¶ 138, 141, 142).
- The IHE defendants' substantial truth affirmative defense in their motion to dismiss could be granted because it was warranted on the face of the complaint. It is not. "Truth is an affirmative defense under Pennsylvania law." *Tucker v. Fischbein*, 237 F.3d 275, 287 (3d Cir. 2001). When an affirmative defense is raised, as the IHE defendants did here on their Motion to Dismiss, only those matters that are "apparent on the face of

the complaint" may be considered in evaluating whether the statements are substantially true. *Schmidt v. Skolas*, 770 F.3d 241, 249 (3d Cir. 2014) (quoting *Robinson v. Johnson*, 313 F.3d 128, 134-35 (3d Cir. 2002)). The matters apparent on the Complaint's face aver lack of substantial truth in the Alonso Article. (Comp. ¶ 26, 44, 54, 72-74, 106, 108, 111, 115, 158).

- The IHE defendants had some defense to reporting that either a school disciplinary process is substantially similar to a trial, (those proceedings are not similar to trials, Comp. ¶ 25, 28, 43, 54C, 108), or to reporting that the appealed recommendations of Magistrate Carlson's report were substantially similar to a factual finding that Mr. Boye claimed he was raped by Ms. McCarthy, (he never claimed that, Comp. ¶ 73, 74, FN 21, Ex. E), and that Mr. Jauregui and the Jauregui Law Firm advised him to state that falsehood which he never stated in the first place, (they never did this. Comp. ¶ 26). *Purcell v. Westinghouse Broad. Co.*, 191 A.2d 662 (Pa. 1963).
- The Alonso Article's publication of either the private disciplinary process at Kings College, or the public report from Magistrate Carlson, as a finding of rape, and of advising to lie about rape, was clarified as being legally void. Yet this reality should have been clarified, and it was not. (Comp. ¶ 64- 68).
- The Alonso Article use of opinion is not based on facts that are either "incorrect or incomplete." Yet the Complaint carefully avers that it is so based. (Comp. ¶ 43, 44, 107). *Meyers*, 221 A.3d at 671 .
- The Alonso Article is opinion that does not defame. Yet the Complaint avers that any of its "statement[s]" are still "defamatory because they "contain[ed] a [demonstrably] false factual connotation.'" *Meyers*, Id. at 670 n. 10. (Comp. ¶ 26, 105 - 107).

IV. The Plaintiffs Meet all the Elements for Finality Certification

The Plaintiffs, in their motion for finality certification (Control No. 25052126) have stated with granular detail facts relevant to each and every one of the averments that official Note to Pa.R.A.P. 341 – Subdivision (c) - Determination of finality requires for certification requires for the Court to grant this certification. The motion also lists additional hardship for good cause to certify and thus there is no reason to deny the appeal of this matter at this time.

Judge Younge had not ruled on this motion by the time of filing this appeal and this statement of matters complained on appeal. That the motion should be deemed denied if not granted, and subject to appellate review, is an issue preserved here.

V. The Motion for Reconsideration Should have been Granted.

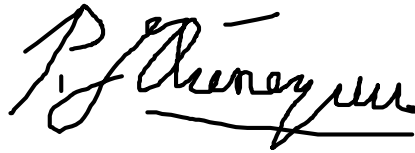
The Plaintiffs, in their motion for reconsideration (Control No. 25052249) have argued to Judge Younge's discretion that reconsideration is warranted. Judge Younge had not ruled on this reconsideration motion by the time of filing this appeal and this statement of matters complained on appeal. That the motion should have been granted, and subject to appellate review, is an issue preserved here.

The IHE defendants, in their own reconsideration, raised the issue of whether Pennsylvania's Uniform Public Expression Protection Act, otherwise known as Pennsylvania's Anti-Strategic Lawsuits Against Public Participation ("Anti-SLAPP") Statute, 42 Pa. Cons. Stat. § 8340.11, et seq., embodies a policy that should have been considered in reconsideration for this matter. The plaintiffs object to that argument because this case pre-dates approval of 42 Pa. Cons. Stat. § 8340.11, et seq., and thus any reference to it is speculative. Thus, that issue is also preserved for appeal.

Conclusion

The Complaint states sufficient facts to notice the IHE defendants of the claims and defenses involved in this action. The plaintiffs argued as much in opposition to the IHE defendants motion to dismiss, in their motion for reconsideration, and in their motion for certification of finality. Had the Court properly analyzed the motion to dismiss in the first place, using the relevant legal standard, and acknowledging that the complaint states an actionable case of defamation because it states abuse and waiver of the Fair Report Privilege, the IHE defendants would not have been dismissed from this action. As a result, Judge Young's orders must be reversed and vacated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Jauregui', written over a horizontal line.

Raul Jauregui

May 12, 2025

Jauregui Law Firm

BY: RAUL JAUREGUI, ESQUIRE

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plaintiff in pro se.

Jauregui Law Firm

Raul Jauregui, Esq., and

Daniel Boye,

Plaintiffs

VS.

Inside Higher Education

Johanna Alonso,

Dyller Solomon Law Firm, and

Barry Dyller, Esq

Defendants

**FIRST JUDICIAL DISTRICT
Court of Common Pleas for
Philadelphia County**

June TERM, 2024

NO. 240500990

Jury Demanded

Certificate of Compliance

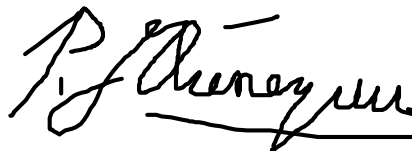
I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania, Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Certificate of Service

I certify that I served this Statement of Matters Complained on Appeal on the defendants via this Court's electronic filing presented to the Office of Judicial Records on May 12, 2025.

I certify that I served this Statement of Matters Complained on Appeal on Judge Lyris Younge via Certified US Mail, Certificate No. 7020-3160-0001-9293-9923 addressed to her Chambers, Philadelphia Court of Common Pleas, Philadelphia, PA 19107.

Respectfully submitted,



Raul Jauregui

EXHIBIT A

FILED

EXHIBIT A

FILED

05 MAY 2025 10:32 am

Civil Administration

T. BARRETT

JAUREGUI LAW FIRM, RAUL
JAUREGUI, ESQ., and DANIEL BOYE,

Plaintiffs,

v.

INSIDE HIGHER ED, JOHANNA
ALONSO, DYLLER SOLOMON LAW
FIRM and
BARRY DYLLER, ESQ.,

Defendants.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

CIVIL DIVISION
NO. 240500990

AND NOW, this 6th day of May, 2025, upon consideration of the
Motion for Clarification and Reconsideration filed by Defendants Inside Higher Ed
and Johanna Alonso, and any response thereto, it is hereby ordered that the Motion
is GRANTED and JUDGMENT IS ENTERED in favor of Defendants Inside Higher
Ed and Johanna Alonso and against Plaintiffs.

SO ORDERED:

J.

ORDER-Jauregui Law Firm Etal Vs Inside Higher Education [CMF]



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Control # 25051035
Case ID 240500990

Case ID: 240500990

FILED
01 OCT 2024 04:21 pm
Civil Administration
A. MALONIS

JAUREGUI LAW FIRM, RAUL
JAUREGUI, ESQ., and DANIEL BOYE,

Plaintiffs,

v.

INSIDE HIGHER ED, JOHANNA
ALONSO, DYLLER SOLOMON LAW
FIRM and
BARRY DYLLER, ESQ.,

Defendants.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

CIVIL DIVISION
NO. 240500990

ORDER

AND NOW, this 24th day of March, 2025, upon consideration of the

Motion for Judgment on the Pleadings filed by Defendants Inside Higher Ed and
Johanna Alonso, and any response thereto, it is hereby ordered that the Motion is
~~GRANTED and JUDGMENT IS ENTERED~~ in favor of Defendants Inside Higher
Ed and Johanna Alonso and against Plaintiffs.

Denied.

SO ORDERED:

[Signature]

J.

RECEIVED
APR 11 2025
N. ERICKSON
MAJOR JURY

ORDER-Jauregui Law Firm Etal Vs Inside Higher Education [FJB]



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