

# Litigation Politics:

## Countermovement Activity in Campus Sexual Assault Litigation



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# Context: 2011 Obama DCL

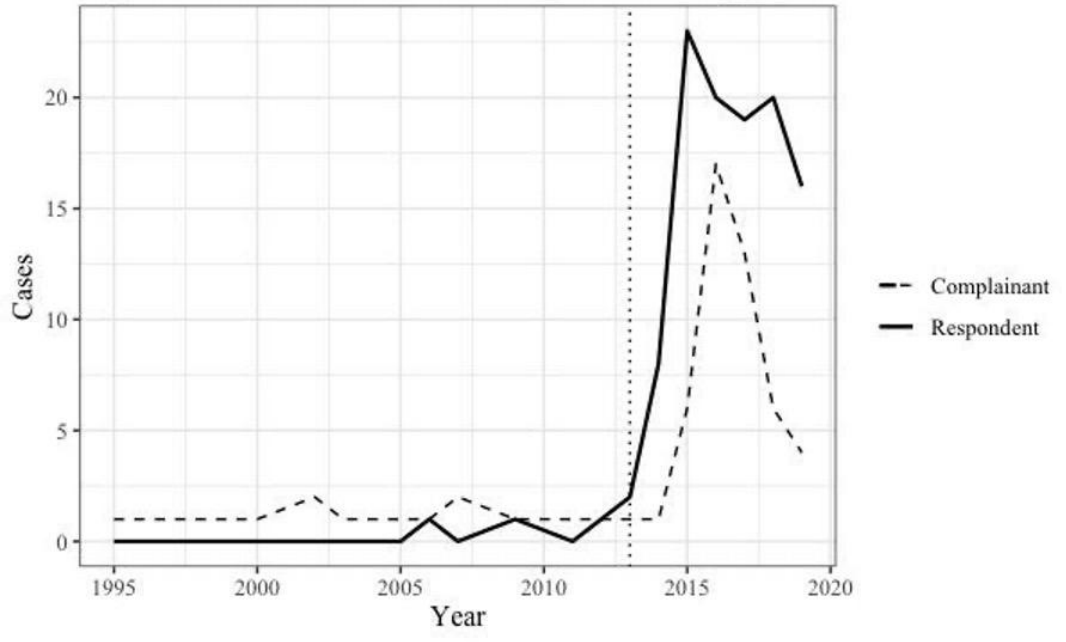
- Highly visible activism and media coverage around campus sexual assault in the 2000s and 2010s
- Obama administration's DCL recommended prompt and equitable handling on campus

# Overcorrection Narrative

- DCL "overcorrected" and infringed upon rights of the accused
- Evidenced by the rise in lawsuits since 2011
- Cited by DeVos in repeal



**Figure 1. Number of Lawsuits by Plaintiff Type, 1992 - 2019**



**Both complainant and respondent lawsuits increased, but only respondent lawsuits were narrativized.**

# Private Litigation as Movement Activity

- Existing literature attends largely to litigation by *organized* actors
  - Impact litigation (McCann 1994; Rosenberg 1991)
  - Radiating effect on SMOs (Galanter 1983)
  - Cause lawyering (Scheingold & Sarat 2004)
- Private litigation as movement framing
  - Tort tales (Haltom & McCann 2004)

# Methods

1. Texts of lawsuits against a representative sample of colleges and universities
2. Interviews with repeat player attorneys and advocates
3. Media coverage of lawsuits and other texts associated with attorneys and advocates (websites, public comments, etc)

# Finding 1:

Legal complaints as  
narrative texts for the  
media

Gratuitous references to DCL  
embedded in filings to facilitate  
circulation in media

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# Finding 2:

**Repeat player and  
narrative amplification**

Repeat playing becomes standing and  
expertise

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# Finding 3:

## Quantification and narrativization of lawsuits

1. Links to advocates and advocacy organizations that are doing the counting
  2. Participation in lobbying and other political activity
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# Contributions

- Litigation as movement framing
- Private litigation as implying underlying activities

# Questions and Feedback