



# Lawsuit Dismissed against Columbia for “Mattress Performance”; Meanwhile the Artist Moves On

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by Pat Rogers

U.S. District Judge Gregory Woods in Manhattan dismissed a lawsuit on March 11, 2016 brought by Paul Nungesser against Columbia University, its president Lee Bollinger and art professor Jon Kessler for their respective roles relating to the endurance performance art piece *Mattress Performance (Carry That Weight)*, according to [Reuters](#).

The suit alleges the parties violated [Title IX](#) when they allowed Columbia University student Emma Sulkowicz to execute, on campus and for college credit, *Mattress Performance (Carry That Weight)*, an endurance performance piece that was part protest and part expression of trauma stemming from an alleged rape by Nungesser, a German student and classmate at Columbia, according to [Art Forum](#). The piece protested Columbia’s handling and response to her reporting of the alleged attack. Nungesser was found “not responsible” in 2013 in a university inquiry into the allegations, according to [Reuters](#).



Emma Sulkowicz’s “Carry That Weight.” Photo courtesy YouTube.

Woods ruled that Nungesser failed to show that Columbia discriminated against him based on his gender by allowing and condoning conduct during the 2014-2015 academic year by his accuser, Emma Sulkowicz, reported [Reuters](#).

Sulkowicz’s 2014-15 endurance performance art piece drew national attention and debate on the role of art, truth, narrative, grievance-oriented feminism, the rights of accusers and those accused and cleared, and the roles colleges play when alleged violence is reported and the ways it is investigated. It also spawned a nationwide series of [rallies on college campuses](#) against sexually based violence.

*Mattress Performance (Carry That Weight)* (2014-15) featured Sulkowicz carrying a 50-lb mattress around campus to protest Columbia University’s decision to allow Nungesser to remain enrolled at the college. She pledged her art performance piece would continue until Nungesser, whom she accused of raping her in her dorm room in 2012, was expelled or left the university. Sulkowicz

carried the mattress throughout her senior year and to her graduation ceremony in May 2015.

Nungesser contends Sulkowicz's accusations were "untrue and unfounded" and her art piece constituted an act of bullying and harassment. In 2015, Nungesser filed a lawsuit alleging the named parties subjected him to gender-based harassment by allowing *Mattress Performance* to take place on campus as a sanctioned Columbia thesis project, according to [Reuters](#). He also contends the college would not have approved the art performance piece if the genders in the rape allegation had been reversed.

Judge Woods ruled that Nungesser's suit would "stretch Title IX too far" and could open the door for any student accused of sexual assault to sue their school if the school "...knew of the allegations and failed to silence the accusers", reported *Art Forum*. Nungesser can replead his Title IX claim and others claims within 30 days; otherwise the dismissal stands and becomes final, reported Reuters.

Title IX bans gender discrimination by schools that receive federal money.

For an in-depth look at the issues raised by the circumstances and the art piece, read "[Have We Learned Anything From The Columbia Rape Case?](#)" by Emily Bazelon for *The New York Times Magazine*, published May 29, 2015.

In a coincidence born of happenstance, Emma Sulkowicz's first solo show since graduation is currently on view in Los Angeles at [Coagula Curatorial](#). "Emma Sulkowicz: Self-Portrait", presented from February 27 - April 3, 2016, included a performance art piece by Sulkowicz that was presented daily through March 18, 2016. *Self-Portrait: Performance with Object* included a Marina Abramovic-esque performance in which Sulkowicz and a hyperrealism cast mold sculpture of herself were positioned atop parallel white pedestals. Visitors could step up onto their own white pedestal and ask whatever was on their mind. If Sulkowicz didn't care to answer questions that were too frequently asked and answered, her stand-in, *Emmatron*, would take over the exchange.

As may be expected, questions relating to *Mattress Performance (Carry That Weight)* fell in that category and were referred to *Emmatron*, reported the [Los Angeles Times](#). *Emmatron* conversed through an iPad app containing pre-programmed questions and answers for repetitious exchanges that Sulkowicz no longer wants to take part in, according to art critic Sharon Mizota who [reviewed the show](#) for the *Los Angeles Times*.

With *Emmatron* acting as counterpart to a friendly (and live) Emma, Mizota concluded that the "...piece pointedly asks us to navigate the difference between engaging with someone as a peer and engaging with them as a thing."

The show also featured *In-Action Figure*, 14-inch replicas of the artist made with a 3D printer, according to [CulturePop](#). *In-Action Figure* reflects the widespread commodification and flattening of Sulkowicz's image reproduced in the news as well as the viral internet dissemination of *Mattress Performance*, reflecting Sulkowicz's experience with the media, according to an [exhibition statement](#).

"If anyone wants to mention anything about campus rape, they'll invoke my name even if I'm only

marginally related to what they're talking about," [Sulkowicz](#) said to [CulturePop](#). "My image has sort of become this currency that you use if you want to talk about anything related to these topics."

According to [Cogaula Curatorial](#), the exhibition is intended as an investigation of identity explored live in real time. "Emma Sulkowicz: Self-Portrait" is meant to push the limits and meaning of the self-portrait as a contemporary concept, according to a gallery statement.

The show may also be a way of discovering, for the artist herself, a way to continue to rise and move beyond notoriety and trauma to make art that continues to matter.

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