**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | |
|---|---|
| ROY DEN HOLLANDER,<br><br>Plaintiff,<br><br>-against-<br><br>TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED,<br><br>Defendants. | Index No. 152656/2014<br><br>**NOTICE OF MOTION**<br><br>**ORAL ARGUMENT REQUESTED** |

**PLEASE TAKE NOTICE** that, upon (i) the accompanying Memorandum of Law in Support of Defendants Tory Shepherd, Advertiser Newspapers, Amy McNeilage, and Fairfax Media's Motion to Dismiss the First Amended Complaint, (iii) the Affidavit of Tory Shepherd, (iv) the Affidavit of Amy McNeilage, (v) the Affidavit of Michael Cameron, (vi) the Affidavit of Richard Coleman, (vii) the Affirmation of Katherine Bolger, and the exhibits annexed thereto, and upon all the proceedings in this case to date, Defendants Tory Shepherd, Advertiser Newspapers, Amy McNeilage, and Fairfax Media will move this Court at the Motion Submission Part, 60 Centre Street, Courtroom 130, New York, New York 10007, on November 14, 2014 at 9:30 a.m., or as soon thereafter as counsel can be heard, for an order pursuant to Rules 3211(a)(1), (7) and (8) of the New York Civil Practice Law and Rules dismissing the First Amended Complaint in the above-captioned action in its entirety as against all Defendants' and granting such other and further relief (together with costs) as this Court deems appropriate, on the grounds that this Court lacks jurisdiction, the statements complained of do not appear in the article or are either true, opinion, not defamatory, or not "of and concerning" Plaintiff,

Defendants did not act with the sole purpose of harming Plaintiff, and Plaintiff has not pled liability as to each and every Defendant.

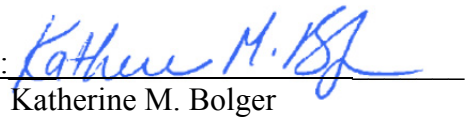
**PLEASE TAKE FURTHER NOTICE** that pursuant to CPLR 2214(b), answering affidavits, if any, are to be served on the undersigned so that they are received no later than seven days before the return date of this motion.

The Complaint in the above-entitled action is one for injurious falsehood, tortious interference with prospective economic advantage, libel and *prima facie* tort.

Dated: New York, New York
October 27, 2014

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: 
Katherine M. Bolger

321 West 44th Street, Suite 1000
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(T): 212-850-6129
(F): (212) 850-6299
Email: kbolger@lskslaw.com

*Counsel for Defendants*

TO:

Roy Den Hollander, Esq.
545 14th Street, 10 D
New York, NY 10009

Plaintiff *pro se*

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | |
|---|---|
| ROY DEN HOLLANDER,<br><br>Plaintiff,<br><br>-against-<br><br>TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED,<br><br>Defendants. | Index No. 152656/2014<br><br>**AFFIRMATION OF KATHERINE M. BOLGER**<br><br>Hon. Milton A. Tingling |

**KATHERINE M. BOLGER**, a duly admitted attorney at law, does hereby affirm that the following is true under penalty of perjury pursuant to CPLR 2106:

1. I am a member of Levine Sullivan Koch & Schulz, LLP, counsel to Tory Shepherd, Advertiser Newspapers Pty Ltd., Amy McNeilage, and Fairfax Media Publications Pty Limited, defendants in the above-captioned action. I submit this affirmation in support of Defendants' Motion to Dismiss the Complaint of Plaintiff Roy Den Hollander ("Hollander") pursuant to Rules 3211(a)(1), (7), and (8) of the New York Civil Practice Law and Rules. I make this statement upon my personal knowledge, and I would be competent to testify at trial to the facts set forth herein.

2. A true and correct copy of the Amended Complaint against Defendants is annexed hereto as **Exhibit 1**.[1]

[1] We have provided the exhibits in PDF-A format, as required by the Court. In the process of converting the exhibits from PDF to PDF-A, however, some exhibits have lost the ability to be searched. If the Court would like a searchable PDF copy of any exhibit, we will provide one.

3. Annexed hereto as **Exhibit 2** is a true and correct copy of the affidavit of Michael Cameron, sworn to on October 27, 2014 in Sydney, Australia.

4. Annexed hereto as **Exhibit 3** is a true and correct copy of the affidavit of Tory Shepherd, sworn to on October 24, 2014 in Adelaide, Australia.

5. Annexed hereto as **Exhibit 4** is a true and correct copy of the affidavit of Richard Coleman, sworn to on October 22, 2014.

6. Annexed hereto as **Exhibit 5** is a true and correct copy of the affidavit of Amy McNeilage, sworn to on October 22, 2014 before a solicitor in Sydney, Australia in the ordinary course of business.

7. On August 31, 2012, Hollander wrote an article for *A Voice for Men* article titled "Update on the Church of Feminism." A true and correct copy of the article available at http://www.avoiceformen.com/feminism/feminist-governance-feminism/update-on-the-church-of-feminism is annexed hereto as **Exhibit 6**.

8. On August 20, 2012, Hollander wrote an article for *A Voice for Men* titled "Hollander files human rights complaint in NYC" in which he described a complaint he had filed before the New York Human Rights Commission. A true and correct copy of the article available at http://www.avoiceformen.com/mens-rights/hollander-files-human-rights-complaint-in-nyc is annexed hereto as **Exhibit 7**.

9. Annexed hereto as **Exhibit 8** is a true and correct copy of Hollander's Copyright Complaint filed in *Hollander v. Swindells Donovan*, No. 08-4045 (E.D.N.Y. Oct. 3, 2008).

10. Annexed hereto as **Exhibit 9** is a true and correct copy of Hollander's Brief for Plaintiff-Appellant filed in *Hollander v. Copacabana Nightclub*, No. 08-5547-cv (2d Cir. Mar. 19, 2009).

11. Annexed hereto as **Exhibit 10** is a true and correct copy of Hollander's Brief for Plaintiffs-Appellants filed in *Hollander v. United States*, No. 08-6183-cv (2d Cir. Apr. 25, 2009).

12. On October 24, 2010, Hollander wrote an article for *A Voice for Men* titled "Why Can't the Men's Movement Get its Act Together?". A true and correct copy of the article available at http://www.avoiceformen.com/mens-rights/hollander-files-human-rights-complaint-in-nyc is annexed hereto as **Exhibit 11**.

13. Annexed hereto as **Exhibit 12** is a true and correct copy of Hollander's Memorandum of Law in Support of Named Plaintiff's Motion for Disqualification of Judge Cedarbaum filed in *Hollander v. Copacabana Nightclub*, No. 07-cv-5873(MGC) (S.D.N.Y. Oct. 9, 2007).

14. Annexed hereto as **Exhibit 13** is a true and correct copy of the Establishment Clause and Equal Protection Complaint filed in *Hollander v. Institute for Research on Women & Gender at Columbia University*, No. 08 Civ. 7286 (S.D.N.Y. Aug. 18, 2008).

15. Annexed hereto as **Exhibit 14** is a true and correct copy of a *Southern Poverty Law Center* article titled "Misogyny: The Sites" available at http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2012/spring/misogyny-the-sites.

16. Annexed hereto as **Exhibit 15** is a true and correct copy of Hollander's Complaint filed in *Hollander v. Norton*, No. 08-113595 (Sup. Ct. N.Y. Cnty. Oct. 7, 2008).

17. Annexed hereto as **Exhibit 16** is a true and correct copy of a cached screen shot of Hollander's website, http://www.roydenhollander.com, captured by an Internet archiving website. Hollander's website is no longer operable.

18. Annexed hereto as **Exhibit 17** is a true and correct copy of Hollander's Appeal and Complaint in *Hollander v. Velez*, No. M-P-A-11-1024266 (N.Y.C.H.R. Aug. 17, 2012).

19. Annexed hereto as **Exhibit 18** is a chart of the defamatory statements complained of in this case for the Court's convenience.

20. For the convenience of the Court and counsel for the parties, attached hereto as **Exhibit 19** is a true copy of a decision in *Grimaldi v. Ho*, No. 6909/2012 (Sup. Ct. Dutchess Cnty. Sept. 3, 2013) which is not readily available.

21. Annexed hereto as **Exhibit 20** is a true and correct copy of a *The New York Times*' article titled "Court Rejects Men's Studies Lawsuit" available at http://cityroom.blogs.nytimes.com/2009/04/27/court-rejects-mens-studies-lawsuit.

22. Annexed hereto as **Exhibit 21** is a true and correct copy of a *The Washington Free Beacon* article titled "Anti-Feminist Lawyer Plans Lawsuit to Force Women to Register for Draft: Has difficulty finding plaintiff" available at http://freebeacon.com/issues/anti-feminist-lawyer-plans-lawsuit-to-force-women-to-register-for-draft/.

23. Annexed hereto as **Exhibit 22** is a true and correct copy of a *Media Matters* article titled "Cavuto hosted ' anti-feminist attorney' Hollander, who advocated 'cut[ting] out the feminazi, feminist women's studies programs' at Columbia," available at http://mediamatters.org/research/2008/08/21/cavuto-hosted-anti-feminist-attorney-den-hollan/144512.

24. Annexed hereto as **Exhibit 23** is a true and correct copy of a *Ivy-Gate* article titled "Middle-Aged White Guy Sues Columbia for Discrimination; An Interview with Roy Hollander, Men's Rights Pioneer" available at http://www.ivygateblog.com/2008/08/middle-aged-white-guy-sues-columbia-for-discriminationan-interview-with-roy-hollander-mens-rights-pioneer.

25. Annexed hereto as **Exhibit 24** is a true and correct copy of a *The New Yorker* article title "Hey, La-a-a-dies!: Ladies' Night lawsuit" available at http://www.newyorker.com/magazine/2007/08/06/hey-la-a-a-dies.

26. A true and correct copy of a clip from the cable television show *The Colbert Report* titled "3/31/11 in :60 Seconds" available at, http://thecolbertreport.cc.com/videos/ypge4c/3-31-11-in--60-seconds. *See also* http://gothamist.com/2011/04/01/video_ladies_night_lawyer_gets_roas.php.

Dated: New York, New York
October 27, 2014

**KATHERINE M. BOLGER**

# EXHIBIT 2

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**AFFIDAVIT OF MICHAEL CAMERON IN SUPPORT OF**
**DEFENDANTS' MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

City of Sydney )
) ss.:
State of New South Wales, Australia )

MICHAEL CAMERON, being duly sworn, deposes and says:

1. I have personal knowledge of the facts stated in this affidavit and submit this affidavit in support of Defendants' Motion to Dismiss.

2. Since 2013 I have been employed as the National Editorial Counsel at News Limited (doing business as News Corp Australia). In that capacity I am responsible for oversight of the provision of legal advice for several newspapers and news websites across Australia.

3. Advertiser Newspapers Proprietary Limited ("Advertiser Newspapers") is organized under the laws of Australia.

4. Advertiser Newspapers is a wholly-owned subsidiary of News Corp Australia and publishes *The Advertiser*. News Corp Australia, in turn, is a wholly-owned subsidiary of News Corp, which is a Delaware Corporation with its principal place of business in New York.

5. Neither News Corp nor News Corp Australia run the day-to-day operations of Advertiser Newspapers, although News Corp does make broad policy decisions for Advertiser Newspapers.

6. *The Advertiser* is targeted to an Australian audience and particularly to people in Adelaide and South Australia. It is available at the URL: http://www.adelaidenow.com.au. The home page includes a weather icon listing the current temperature in Celsius in Adelaide, Australia and a section called "SA News." SA stands for South Australia. The publication contains local sports for the schools and regional teams in the Adelaide area as well as local news, restaurant reviews, and stories of local interest to individuals in Adelaide and South Australia.

7. Advertiser Newspapers does not publish in New York and does not directly sell any products in New York.

8. *The Advertiser* allows visitors to the website to subscribe to *The Advertiser*, but does not target subscribers in New York. Anyone with a computer and a credit card can subscribe.

9. Advertiser Newspapers does not target any New York audience or New York, generally.

10. Advertiser Newspapers does not have any business ventures in New York.

11. Advertiser Newspapers does not have office facilities, locations, employees, telephone listings and/or bank accounts in New York.

**WHEREFORE**, Defendants Tory Shepherd, Advertiser Newspapers Pty Ltd., Amy McNeilage and Fairfax Media Publications Pty Ltd. respectfully request that this Court grant their motion to dismiss the First Amended Complaint with prejudice in its entirety together with costs and such other relief as is appropriate.

MICHAEL CAMERON

Sworn to and subscribed before me
this 27th day of October, 2014.

Larina Mullins
Legal Practitioner
State of New South Wales
Australia

# EXHIBIT 3

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**AFFIDAVIT OF TORY SHEPHERD IN SUPPORT OF**
**DEFENDANTS' MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

City of Adelaide )
) ss.:
State of South Australia, Australia )

TORY SHEPHERD, being duly sworn, deposes and says:

1. I am a citizen of Australia and a resident of Adelaide, South Australia. I have personal knowledge of the facts stated in this affidavit and submit this affidavit in support of Defendants' Motion to Dismiss.

2. At all times relevant to this lawsuit, I was the Political Editor for *The Advertiser* in Adelaide, Australia.

3. As the Political Editor for *The Advertiser*, my responsibilities included researching, sourcing, and writing articles and commentary about politics in Australia, and, specifically, in South Australia.

A. Short 24/10/14

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

4. In my capacity as the Political Editor, I wrote articles regarding a prospective male studies course at the University of South Australia, one of which was dated January 12, 2014, two of which were dated January 14, 2014, and another which was dated June 18, 2014.

5. A true and correct copy of the article published on January 12, 2014 and given the headline "Lecturers in a world-first male studies course at the University of South Australia under scrutiny" is annexed hereto as Exhibit A. This article appears on *The Advertiser* website under the "South Australia" news section.

6. A true and correct copy of the article published on January 14, 2014 and given the headline "University of South Australia gives controversial Male Studies court the snip" is annexed hereto as Exhibit B. This article appears on *The Advertiser* website under the "South Australia" news section.

7. A true and correct copy of the article published on January 14, 2014 and given the headline "Tory Shepherd: Pathetic bid for victimhood by portraying women as villains" is annexed hereto as Exhibit C. This article appears on *The Advertiser* website under the "Opinion" subsection, which is within the "News" section.

8. A true and correct copy of the article published on June 18, 2014 and given the headline "Men's rights campaigner Roy Den Hollander attacks The Advertiser's Tory Shepherd in bizarre legal writ filed in New York County" is annexed hereto as Exhibit D. This article appears on *The Advertiser* website under the "Opinion" subsection, which is within the "News" section.

9. I wrote the articles because they related to a controversy taking place in Australia, and the articles were intended for publication in Australia and were directed at an Australian audience.

A. Short 24/10/14

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

10. By writing the articles, I did not intend to target the United States or the State of New York.

11. In researching the articles I sent one email to Roy Den Hollander requesting comment on the controversy, as Mr. Den Hollander was slated as one of the professors potentially teaching the male studies course.

12. After writing the January 12 article, I spoke briefly to Mr. Den Hollander by telephone about the controversy.

13. In my original affidavit in support of the Defendants' motion to dismiss the complaint, I erroneously stated that I had no other contact with anyone in New York besides the telephone call with Mr. Den Hollander. I regret this inadvertent error.

14. In fact, I also exchanged several emails with Miles Groth, a professor at a New York college. I did not purposefully omit this fact from my prior affidavit and did not intend to deceive the Court by accidently omitting this fact. I simply forgot to include it.

15. Besides the email exchanges with Mr. Groth, the email sent to Mr. Den Hollander, and the single telephone call with Mr. Den Hollander, I had no contact with anyone else in New York in preparing the articles.

16. I have never visited the State of New York or travelled through the State of New York.

17. I do not reside in New York and I do not own any property, real or personal, that is situated there.

18. I do not have and have never had office facilities, locations, employees, telephone listings and/or bank accounts in New York.

19. I have never voted or been registered to vote in New York.



A Short 24/10/14

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

20. I have never undertaken any business ventures involving New York properties or entities.

**WHEREFORE**, Defendants Tory Shepherd, Advertiser Newspapers Pty Ltd., Amy McNeilage and Fairfax Media Publications Pty Ltd. respectfully request that this Court grant their motion to dismiss the First Amended Complaint with prejudice in its entirety together with costs and such other relief as is appropriate.

TORY SHEPHERD

Sworn to and subscribed before me
this 24th day of October, 2014.

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**This is the Exhibit marked 'Exhibit A' referred to in the Affidavit of Tory Shepherd sworn on** 24/10 **2014 before me:**

A Short

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

Exhibit A

THE ADVERTISER

NEWS

# Lecturers in world-first male studies course at University of South Australia under scrutiny


- POLITICAL EDITOR TORY SHEPHERD
- THE ADVERTISER

- JANUARY 12, 2014 8:08PM

**LECTURERS in a "world-first" male studies course at the University of South Australia have been linked to extreme views on men's rights and websites that rail against feminism.**

The lecturers' backgrounds are likely to spark controversy, but organisers of the predominantly online course, promoted as the first of its type in the world, insist they are not anti-feminist and "it's very difficult for anybody who has opposing views to get a word in".

Two lecturers have been published by prominent US anti-feminist siteA Voice for Men, a site which regularly refers to women as "bitches" and "whores" and has been described as a hate site by the civil rights organisation Southern Poverty Law Centre.

The US site specifically welcomed the UniSA course as a milestone, editor Paul Elam saying it marked the end of feminists' control of the agenda.

One American US lecturer - US attorney and self-professed "anti-feminist lawyer" Roy Den Hollander - has written that the men's movement might struggle to exercise influence but that "there is one remaining source of power in which men still have a near monopoly - firearms".

He also argues that feminists oppress men in today's world and refers to women's studies as "witches' studies".

Another, US psychology professor Miles Groth, says that date-rape awareness seminars might be deterring men from going to university.

Mr Den Hollander has tried to sue ladies' nights for discrimination against men. He has likened the position of men today to black people in America's south in the 1950s "sitting in the back of the bus", and blames feminists for oppressing men.

The course, which has no prerequisites, begins this year and will canvass subjects from men's health to gender bias.

Course founder Gary Misan, from UniSA's Centre for Rural Health and Community Development, said they were "not anti-women" and that lecturers were associated with a range of groups.

"I wouldn't say any of them are extreme or anti-feminist," Dr Misan said.

"The aim of the courses are to present a balanced view and to counter some of the negative rhetoric that exists in society in general and in some areas of academe about men.

"It's very difficult for anybody who has opposing views to get a word in. As soon as somebody mentions anything they perceive as being anti-feminist, they're pilloried, and in some cases almost persecuted."

Dr Misan also said that writing something for a specific website did not necessarily suggest an affiliation.

Dr Michael Flood, from the University of Wollongong's Centre for Research on Men and Masculinity, said these types of male studies "really represents the margins".

"It comes out of a backlash to feminism and feminist scholarship. The new male studies is an effort to legitimise, to give academic authority, to anti-feminist perspectives," he said.

Flinders University School of Education senior lecturer Ben Wadham, who has a specific interest in men's rights, said there was a big difference between formal masculinity studies and "populist" male studies.

He said there were groups that legitimately help men, and then the more extreme activists.

"That tends to manifest in a more hostile movement which is about 'women have had their turn, feminism's gone too far, men are now the victims, white men are now disempowered'," he said.

"I would argue that the kinds of masculinities which these populist movements represent are anathema to the vision of an equal and fair gendered world."

Dr Wadham said that universities needed to uphold research based traditions instead of the populist, partisan approach driven by some.

Men's Health Australia spokesman and Male Studies lecturer Greg Andresen is also the Australian correspondent for US-based site *National Coalition For Men*, which declares false rape accusations to be "psychological rape", argues that talking about violence against women makes men invisible.

Asked about his connection to NCFM, he said they were the longest-running organisation in the world to look at discrimination against men and boys.

"Certainly they don't shy away from touching issues like false rape allegations, domestic violence, some of those hot topics," he said.

"We have had 20 if not 30 or 40 years where the only study on gender has been from a feminist perspective ... that's why I think this course is so long overdue," he said.

UniSA's Provost and Chief Academic Officer, Professor Allan Evans, said the courses covered important men's health issues and would equip allied health professionals who deal with men's health.

"All new courses are reviewed thoroughly prior to being offered to ensure they are suitable and beneficial to our students," he said.

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**This is the Exhibit marked 'Exhibit B' referred to in the Affidavit of Tory Shepherd sworn on 24/10 2014 before me:**

A. Short

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

Exhibit B

HERALD SUN

NATIONAL NEWS

# University of South Australia gives controversial Male Studies course the snip


- TORY SHEPHERD POLITICAL EDITOR
- THE ADVERTISER

- JANUARY 14, 2014 11:15AM

**CONTROVERSIAL aspects of a Male Studies course will not go ahead, the University of South Australia says - though lecturers involved with it still believe that it will.**

*The Advertiser* revealed yesterday that some of the lecturers listed for the professional certificates had links to extreme men's rights organisations that believe men are oppressed, particularly by feminists.

The university yesterday said two short courses that would cover male health and health promotion programs targeting males had been approved, that "no other courses have been approved" and that only university staff would teach the courses.

Over the past two days, *The Advertiser* has spoken to several lecturers who believe the remainder of the proposed courses - on topics including gender bias and male power and privilege - are set to go ahead. An information sheet on the Male Studies course said it would be considered "if there is sufficient interest".

US "anti-feminist" lawyer Roy Den Hollander said yesterday that he was preparing a course that looked at how the law favours females when it comes to employment, crime, domestic relations, property, divorce and illegitimate children.

"The course is really looking back at 200 or 300 years of history and how the law treated guys and girls - and it treated girls more favourably than guys and it still does, maybe even more so.

Mr Den Hollander also stood by his claim that men's remaining source of power was "firearms". Asked whether he thought that was "extreme", he said that it was true that it was "really the only area that they control in society now".

He said that even where men dominate areas such as boards and politics, they are still enforcing the belief system of feminism.

However, Mr Den Hollander is unlikely to be able to tell Adelaide students about similarities he sees between the men's rights movement and the civil rights movement, as the university says the subject he is down to teach was never approved.

A statement from the university issued yesterday said only UniSA staff would develop and teach courses, and that the university did not "endorse or support the controversial comments on gender issues" revealed in yesterday's *Advertiser*.

Yesterday men's rights activists attacked criticism of the course as lies, corruption and fascism.

"As we know, feminist ideologues are well placed with the luxury of great control. But while this is clearly an exercise in their power, it is an exercise in power that is waning," Paul Elam, editor of the anti-feminist site A Voice For Men wrote, adding the "only way forward" was "straight through them".

National Union of Students president Deana Taylor said a course like that proposed for the university provided "a dangerous platform for anti-women views".

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**This is the Exhibit marked 'Exhibit C' referred to in the Affidavit of Tory Shepherd sworn on** 24/10 **2014 before me:**

A. Short

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

Exhibit C

# NEWS
# Tory Shepherd: Pathetic bid for victimhood by portraying women as villains

TORY SHEPHERD THE ADVERTISER JANUARY 14, 2014 11:04PM

**IF you accuse a bunch of men's rights extremists of calling women whores and bitches, be prepared for them to deny they call women whores and bitches.**

And then prepare for them to call you a whore and a ... well, worse.

Which is no big drama - I learned long ago what happens if you cross these guys. Besides, last week I was called ShortHairLargeArse and ButchHairBargeBum. Far more accurate insults, although my hair has really grown quite long lately.

But I'm pretty keen to go over some of the ground that's been covered this week after uncovering plans to have a Male Studies course at the University of South Australia.

Most of the courses now won't go ahead - the uni says they were never approved, while other materials they say were pending sufficient interest, and a swag of proposed lecturers seemed to think they were locked in.

**READ MORE:** Gillard 'treatment' a political turnoff

Big ups to UniSA for having the sense to reject anything linked to those at the very fringe of the men's rights spectrum, and instead focus on men's health, taught by their own lecturers, not overseas ring ins.

You'd think I'd shut up now the plans are off the table, but it's really important to get across the bigger picture. See, most people probably think that the men's rights guys I was talking about - the ones who habitually call women names, argue that they routinely make up rape, and put it about that women either incite their own domestic violence or are the abusers themselves - are just circle-jerk misogynists.

They are - misogynists, I mean. And we're talking old-school misogyny - the hatred of women - as well as the new-school misogyny - entrenched prejudice against women.

Not just harmless condescension or unthinking stereotypes, but some serious anger.

The problem is, the circle is no longer closed, no longer just a bunch of angry guys in a basement. They're trying to get up the stairs and into the light.

They want to play outside with legitimate experts in men's issues and male disadvantage.

It's a classic tactic, used by pseudoscientific fraudsters. Adopt the language of the actual scientists. Find odd reports and old stories, random statistics and shocking anecdotes, and stitch them into a Hannibal Lecter-style creation that mimics valid inquiry.

Try to sound like the real deal, and look enough like them to fool some people, some of the time.

The good news is most of them struggle to keep up the farce. Paul Elam, editor of *A Voice For Men*, which is the global hub of men's rights delirium, popped up on FiveAA yesterday and said it was a lie that his site referred to women as bitches. That is, in turn, a lie. Any doubters should just Google it.

I suspect that Mr Elam's defence, as it is entirely clear that he loves to call women names, that he thinks women sometimes are "begging" to be raped, that he scoffs at domestic violence and seems to think women deliberately provoke violence against themselves to somehow get at men, is rather piss weak.

Maybe he just uses those words to describe feminists. He may even follow his managing editor's line of logic. Dean Esmay, talking about *The Advertiser* story on how their site likes to call women whores and bitches, said yesterday:

"We do not regularly call women as a class whores or c**ts... we will on occasion call a woman, like Tory Shepherd or a man like (University of Wollongong lecturer) Michael Flood a whore, a c**t, or a bitch... yes, we use heated rhetoric."

Yes, they do use heated rhetoric, and they do bang on interminably about how hard done-by men are.

Not in the important areas of health, where men are behind, or even education, where the same thing is happening. Or suicide.

No, not because of that, but because they keep getting ripped off and attacked by crazy bitches and feminazis out to oppress them.

Poor boys, trying desperately to claim the mantle of victimhood. It would be pathetic if it wasn't for the fact that they are trying to make women into villains at the same time.

It could be dismissed if they weren't trying to creep in where they are not needed, or wanted. If they weren't trying to lobby for law changes or to brainwash people into thinking black is white.

The shades of grey, of course, are that sometimes men are victims - of domestic violence, of false rape accusations, of gold diggers.

But these guys drown out any real discussion with their endless angry spittle. And that's the real bitch.

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**This is the Exhibit marked 'Exhibit D' referred to in the Affidavit of Tory Shepherd sworn on 24/10 2014 before me:**

A Short

Andrew David Short
A Commissioner for taking
Affidavits in the Supreme Court
of South Australia

Exhibit D

# NEWS
# Men's rights campaigner Roy Den Hollander attacks The Advertiser's Tory Shepherd in bizarre legal writ filed in New York County

TORY SHEPHERD THE ADVERTISER JUNE 18, 2014 2:15PM

**ROY Den Hollander calls me a female-dog-in-heat reporter and a harpy, and says if feminists are hot, they can walk all over him in their stilettos.**

Which isn't all that interesting in and of itself, except this is the guy who wanted to teach the men of South Australia about their position in the world.

After *The Advertiser* revealed UniSA was planning a course in men's studies that included men with links to US men's rights extremists, the course was canned.

Well, according to the university it was never formally approved, although there was a course list in existence and certainly Mr Den Hollander thinks he was in line to be paid $1250 to lecture.

His subject was going to be about how the law discriminates again men and in favour or women.

See, Mr Den Hollander is a proudly "anti-feminist" lawyer with a fairly unsuccessful track record.

Most famously, he lost a court case where he tried to sue nightclubs for hosting ladies' nights – alleging they discriminated against men by giving women cheaper or free drinks or entry.

Now Mr Den Hollander is suing me (as the political editor of the "online newspaper The-Advertiser-Sunday-Mail-Messenger) and Fairfax journalist Amy McNeilage from his home base of New York County.

■ WATCH: THE COLBERT REPORT ON ROY DEN HOLLANDER

So this is now the subject of legal action – from the land where free speech is in the Constitution.

So I probably can't bang on too much. But Mr Den Hollander, representing himself, has penned a legal document (handed over to *The Advertiser* by a sheriff – who knew we had sheriffs?) that cannot remain between me and my lawyer. It's gold and genius like this should be shared.

So with no further ado, here are some lessons from Mr Den Hollander, who will not be paid to give lessons at UniSA:

**Lesson 1: How to censor a journalist by accusing them of censorship.**

"Two modern-day, book-burning, Bacchae reporters from down-under authored and published false and misleading information concerning Plaintiff (Den Hollander) with the intent and result of harming his economic interests and interfering with a prospective economic advantage by causing the University of SA to incinerate the section of a proposed male studies course that Plaintiff would have taught," he writes. But wait.

**Lesson 2: How to personally attack a journalist by accusing them of personal attacks.**

"The two reporters, Tory Shepherd, AKA "Tory the Torch" for *The Advertiser* and Amy McNeilage, AKA "Amy McNeuter" for *The Sydney Morning Herald*, used their power as reporters to do what weak-minded ideologues have done throughout history — employ personal attacks to prevent the spread of knowledge and ideas that they disagreed with."

**Lesson 3: How to prove you are not an extremist by sounding like an extremist.**

"If these two feminist book-burners had not jumped on their broomsticks and scared the bejesus out of the administrators of the University of SA, students there would have had an opportunity to acquire information and consider views not available anywhere else in higher education."

Brilliant, no?

Mr Den Hollander goes on to argue that the "psychological-bacchanalian frenzy" was "yellow, female-dog-in-heat reporting" that somehow created the impression that he was "evil and should figuratively, if not literally, have his tongue cut out". And questions where I "ever uttered a disparaging word about men when going through the trouble of maintaining blonde hair at (my) age". Whatever that means.

"Thank goodness for Australians that Tory was not around for Australia's battle against the Japanese. Her anti-gun advocacy for men might have even resulted in her and Amy ending up as Japanese 'comfort girls'," he writes.

He also talks of his concern that "alien wives and girlfriends" are making up phony abuse cases against men, and that men are being targeted by feminists because they were trying to escape said feminists by going overseas for girlfriends.

Guys don't get off scot-free, though – he also has a crack at "girlie-guys". In the men's rights vernacular, "girlie-guys" are usually known as "manginas". The terms refer to males who

believe in equality for women – in Mr Den Hollander's words: "girlie-guys who hope that by being sycophants, they can avoid being hexed by the feminists".

It's at about this point that I start to wonder: Why on Earth give such a man more publicity?

But it's important, I think, to remain aware and wary of people like Mr Den Hollander.

I suspect the people at UniSA who flirted with the idea of bringing him over to teach may not have really understood his philosophy.

I also wanted to use this opportunity to put on the public record that I may be a harpy, and somewhat bacchanalian, but I never, ever wear stilettoes.

# EXHIBIT 4

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**AFFIDAVIT OF RICHARD COLEMAN IN SUPPORT OF**
**DEFENDANTS' MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

City of Sydney )
) ss.:
State of New South Wales, Australia )

RICHARD COLEMAN, being duly sworn, deposes and says:

I am an employee of Fairfax Limited of which Fairfax Media Publications Pty Limited ("Fairfax Media") is a subsidiary. I have personal knowledge of the facts stated in this affidavit and submit this affidavit in support of Defendants' Motion to Dismiss.

1. Since 1993, I have been employed as the Solicitor of Fairfax Media. In that capacity I am responsible for prepublication advice to a range of publications of Fairfax Media and other subsidiaries of Fairfax Media Limited.

2. Fairfax Media is organized under the laws of Australia.

3. *The Sydney Morning Herald* is published by Fairfax Media.

4. Fairfax Media and *The Sydney Morning Herald* do not directly publish in New York and do not sell any products in New York.



R. Coleman

5. Pursuant to a contract with Fairfax Media, Press Reader, an independent company, prints copies of *The Sydney Morning Herald* to be distributed in the United States, but neither Fairfax Media nor *The Sydney Morning Herald* has any control over whether copies printed by Press Reader are distributed in New York.

6. Fairfax Media and *The Sydney Morning Herald* do not target any New York audience, although readers of *The Sydney Morning Herald* are able to subscribe to the online version of *The Sydney Morning Herald* via its website. It is available at the URL: http:// www.smh.com.au/. Like other local news websites, the homepage includes a weather icon for Sydney, Australia noting the temperature in Celsius and also has a link for live updates on traffic conditions in Sydney. It also has a section specific to "New South Wales" and articles tagged with "NSW," which stands for "New South Wales."

7. Fairfax Media and *The Sydney Morning Herald* do not have any business ventures in New York.

8. Fairfax Media and *The Sydney Morning Herald* do not have office facilities, locations, employees, telephone listings and/or bank accounts in New York. *The Sydney Morning Herald* formerly had correspondents located in New York City, but has not done so since 2012, almost two years before the Article was published.

**WHEREFORE**, Defendants Tory Shepherd, Advertiser Newspapers Pty Ltd., Amy McNeilage and Fairfax Media Publications Pty Ltd. respectfully request that this Court grant their motion to dismiss the First Amended Complaint with prejudice in its entirety together with costs and such other relief as is appropriate.

R. Coleman

Richard Coleman

Sworn to and subscribed before me
this 22 day of October, 2014.

Notary Public



R. Coleman

# EXHIBIT 5

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER, | : | |
| | : | Index No. 152656/2014 |
| Plaintiff, | : | |
| -against- | : | |
| TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, | : | |
| Defendants. | : | |

**AFFIDAVIT OF AMY McNEILAGE IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

City of Sydney )
) ss.:
State of New South Wales, Australia )

AMY McNEILAGE, being duly sworn, deposes and says:

1. I am a defendant in this matter. I am a citizen of Australia and a resident of Newtown, Australia. I have personal knowledge of the facts stated in this affidavit and submit this affidavit in support of Defendants' Motion to Dismiss.

2. At all times relevant to this lawsuit, I was a reporter for *The Sydney Morning Herald National* in Sydney, Australia.

3. As a reporter for *The Sydney Morning Herald National*, my responsibilities included research, sourcing, and writing articles about general interest news in Australia, and, specifically, in New South Wales.

4. In my capacity as a reporter, I wrote one article dated January 14 regarding a prospective male studies course at the University of South Australia. A true and correct copy

of that article, which was given the headline "University of South Australia distances itself from males studies proposal" (the "Article"), is annexed hereto as Exhibit A. The Article appeared online under *The Sydney Morning Herald*'s "Education" subsection, which is under the "National" section.

5. I wrote the Article because it related to a controversy taking place in Australia, and the Article was intended for publication in Australia and was directed at an Australian audience.

6. By writing the Article, I did not intend to target the United States or the State of New York.

7. I made no contact with anyone in the United States or New York in the process of reporting on the controversy.

8. I did not attempt to contact Roy Den Hollander in the process of writing the Article and did not otherwise have any contact with Mr. Den Hollander.

9. I have never visited the State of New York or travelled through the State of New York.

10. I have only visited the United States once, and my travel at that time was limited to the west coast.

11. I do not reside in New York and I do not own any property, real or personal, that is situated there.

12. I do not have and have never had office facilities, locations, employees, telephone listings and/or bank accounts in New York.

13. I have never voted or been registered to vote in New York.



22/10/19

14. I have never undertaken any business ventures involving New York properties or entities.

**WHEREFORE**, Defendants Tory Shepherd, Advertiser Newspapers Pty Ltd., Amy McNeilage and Fairfax Media Publications Pty Ltd. respectfully request that this Court grant their motion to dismiss the First Amended Complaint with prejudice in its entirety together with costs and such other relief as is appropriate.

Amy McNeilage

Sworn to and subscribed before me
this 22 day of October, 2014.

R. Coleman

Notary Public
Solicitor of Supreme Court
of NSW

# EXHIBIT 17

# APPEAL AND COMPLAINT

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS
----------X
ROY DEN HOLLANDER,

Appellant-Complainant,

Case No.: M-P-A-11-1024266

-against-

CARLOS VELEZ, Executive Director, Law Enforcement Bureau, N.Y.C. Commission on Human Rights,

Respondent,

AMNESIA J.V. LLC, and David "L.N.U.,"

Appellees-Respondents.
----------X

## CARLOS VELEZ'S INTENTIONAL DISCRIMINATION

This is a complaint against Carlos Velez ("Velez"), attorney and Executive Director of Law Enforcement for the City of New York Commission on Human Rights ("City HR"), for illegally discriminating against attorney Roy Den Hollander, a Euro-American. Then again, maybe Velez discriminated against Den Hollander for being an African-America. After all, everyone's ancestors originated in Africa. Anyway, Velez, in his capacity as the City HR's Executive Director for Law Enforcement, intentionally discriminated against Roy Den Hollander ("Den Hollander") in investigating and issuing a Determination and Order ("*Order*") motivated by Velez's prejudice, in part, against Euro-Americans.

This is also an appeal of that July 27, 2012, *Order*. The City HR calls such an appeal a Notice of Application for Review under 47 RCNY 1-22(f).[1]

[1] If the City HR prefers two separate documents: a complaint against Velez and an appeal of his Order, then Den Hollander will of course comply.

Velez's *Order* dismissed Den Hollander's age discrimination complaint against the Manhattan nightclub Amnesia based on various extra-legal and bigoted reasons that expose a discriminatory intent by Velez in investigating, writing, and issuing the *Order*. Bureaucratic bias, even against Euro-Americans, has no placed among civilized men.

> "Discrimination itself, by perpetuating 'archaic and stereotypic notions' or by stigmatizing members of the disfavored group as 'innately inferior' and therefore as less worthy participants in the political community, … can cause serious noneconomic injuries to those persons who are personally denied equal treatment…." *Heckler v. Mathews*, 465 U.S. 728, 739-740 (1984).

The age discrimination complaint was filed with the City HR after the New York State Division of Human Rights concluded that the nightclub Amnesia did not discriminate against Den Hollander and his male attorney friend based on their sex but probably their age—middle age. The State Human Rights Division, however, does not have jurisdiction over age discrimination by nightclubs, so Den Hollander immediately contacted the City HR, which does have jurisdiction, to initiate the process for filing a complaint based on age discrimination against Amnesia.

Right from the beginning, Velez, who under the law is suppose to act as a neutral fact-finder, demonstrated his prejudice toward Den Hollander on multiple levels—some of it illegal under the City's Administrative Code and some of it not.

On October 15, 2010, at an appointment with the City HR, Velez initially would not allow Den Hollander to file an age discrimination complaint against Amnesia. Amnesia had refused to allow Den Hollander and one of his attorney friends, both of them male and middle age, to enter the club unless they paid $350 for a bottle of watered-down, no-brand vodka once inside while others in their twenties and thirties were admitted without having to buy a bottle.

Velez responded through one of the City HR's attorneys that there was no discrimination because had Den Hollander and his friend agreed to buy a $350 bottle, they could have entered.

Years ago in Montgomery, Alabama, people with relatively darker skin color could enter a public bus, but they would have to sit in the back. By Velez's looney-tune reasoning, such conduct was not discriminatory because those with a different skin complexion were not barred from entering and riding the buses as long as they sat in the back. The U.S. Supreme Court disagreed in *Browder v. Gayle*, 352 U.S. 903 (1956), which found that allowing blacks to enter a bus, but requiring them to sit in the back was unconstitutional discrimination. In a different case, the U.S. Supreme Court also ruled that a discrimination injury can be the existence of a "barrier [read $350 bottle of vodka] that makes it more difficult for members of one group [read older guys] to obtain a benefit [read chasing young ladies] than it is for members of another group [read younger guys]." *Northeastern Fla. Chapter, Associated Gen. Contractors of America v. Jacksonville*, 508 U.S. 656, 666 (1993).

So, contrary to the U.S. Supreme Court but in accordance with Velez's own brand of law, since Den Hollander and his friend could enter the club [get on the bus] but once inside, they would have to buy a bottle [sit in the back], there was no discrimination. There is nothing comical about this type of rationalization used by Velez and many residents of the Deep South in another century. It makes clear a mindset driven by prejudices, which in Velez's case are directed toward Den Hollander and people like him.

A letter by Den Hollander to the City HR's Commissioner touching on the above arguments forced Velez to accept the case but didn't reign in his prejudice that colored his investigation, decision making, and *Order*.

Under New York City's Human Rights Law, Admin. Code Title 8, discrimination based on national origin, color, sex, and marital status are all illegal. Discrimination against ancestry is also illegal, since it is included under national origin. N.Y.C. Admin. Code § 8-102(7).

The name "Den Hollander," which means "the Dutchman," and photographs of him on his website, www.roydenhollander.com, which Velez refers to in his *Order*, Ex. A at p. Tres, brand Den Hollander as belonging to that currently disfavored group—Euro-American males. (For some reason, Velez failed to put page numbers on his *Order*, so Den Hollander has supplied them for citation purposes, *see* Ex. A, *Order*). Den Hollander's ancestry is obviously Dutch and almost as obviously protestant, specifically Huguenot protestant.

In the 16th and 17th centuries, 200,000 to a million Huguenots fled Catholic France to places such as the Dutch Republic and later New Amsterdam, now New York City, because Roman Catholic bureaucrats and rulers deprived Huguenots of the rights allowed others and targeted them for massacres. The most infamous occurred over two months called the St. Bartholomew's Day massacre in which 25,000 Huguenots in Paris[2] and thousands more in the countryside were butchered. The government subsequently granted amnesty to the butchers.

Velez's prejudices against the likes of Den Hollander—Euro-American, protestant ancestry, divorced male, in part, drove him to dismiss the complaint against Amnesia. On information and belief, Velez is Latin-American and Catholic. As often happens when members of previously disfavored groups in America, such as Hispanics and Catholics, achieve a modicum of power, some of those members abuse that power to vent revenge for discrimination they suffered—both real and imagined. Velez likely believes that white-Saxon-protestant-males have discriminated against him; therefore, he is justified in settling the score by using his power

[2] Paris' population at the time was just over 600,000.

against a member of that group. Even if Velez's career was hampered by discrimination, it was not Den Hollander who did such. More importantly, however, two wrongs don't make a right.

Den Hollander also considered accusing Velez of illegally discriminating based on color, since Den Hollander is "white," when not using the tanning salon, and Velez of a darker complexion, according to his Internet photo, assuming the f-stop was correct. But since Den Hollander lives in one of the few remaining communist territories on the planet—Manhattan, and most of the judges here are lefties, feminists, and political correctionalists who will use any Orwellian argument to further their ideology, he assumed it not so far-fetch that they would rule "white" not a color but an absence of color, so no illegal discrimination based on the superficial characteristic of color.

Den Hollander is also obviously a male and as Velez criticizes in his *Order*, "a self-professed advocate for men's rights who identifies himself as an 'anti-feminist lawyer' on his website, www.roydenhollander.com. He has filed a number of lawsuits against bars and clubs that have 'Ladies Nights,' . . . ." (Ex. A, *Order* at p. Tres). Such, however, does not indicate that Velez illegally discriminated against Den Hollander based on sex, but it is discrimination based on Den Hollander exercising his First Amendment rights, which include the right to file lawsuits to fight for the rights he foolishly thought the U.S. Constitution guaranteed him, N.A.A.C.P. *v. Button*, 371 U.S. 415, 429 (1963), to believe as he chooses, and to communicate those beliefs. This type of discrimination is not illegal under the City's Human Rights Law, but is the same tactic so commonly used throughout history by small minded conformists and totalitarians: justify violating human rights because the individual does not believe, speak, and act as "right minded" people do, or in this case "left minded," and therefore he belongs to a disfavored group.

In my case, the last remaining 200 men in America willing to fight the feminists and political correctionalists who are trying to impose their own brand of totalitarianism.[3]

While Velez's disapproval of Den Hollander's jihada against the Feminists (that's jihad with an "a"—wouldn't want to be accused of gender insensitivity) is irrelevant to the age discrimination complaint filed with the City HR, it makes clear that Velez's discrimination is also driven by his effort to curry favor with the Feminist Establishment,[4] a.k.a. "Feminarchy America," by adding to his reasons for ruling against Den Hollander the classification that Den Hollander is an "anti-feminist."

When the City HR dismisses a complaint for "no probable cause," it is required to issue a written order listing the reasons. 47 RCNY § 1-52. Velez included the paragraph describing Den Hollander's anti-feminist activities in his Order; therefore, Den Hollander's beliefs, speech, and lawsuits concerning such are a reason for the dismissal. Otherwise, why include the remarks.

Velez's *Order* demonstrates that he, like so many self-righteous government officials today, believes America is now a country like the former Soviet Union where legal decisions should be made based on whether a person subscribes to the popular, trendy ideology of the time. Those who dissent are not disserving of the rule of law because they are so inferior to the "in crowd," or the effete, Eastern, intellectual, white-trash elite, that they have no rights for the law to protect. Today, all that is needed to justify the stripping of a man's rights is to label him an

[3] Whoa, "totalitarianism" is a strong term. But according to Howard Zinn, "To exalt as an absolute is the mark of totalitarianism, and it is possible to have an atmosphere of totalitarianism in a society that has many of the attributes of democracy." Believing that a particular political ideology is "correct" is as nuts as believing a particular religion is the "true" religion—look at the carnage that has caused.

[4] The Establishment today is a Feminist Establishment—a unitary belief system held by enough influential persons so that it dominates over other beliefs in this society, such as the principles of the Declaration of Independence and the Constitution.

"advocate for men's rights" or "anti-feminist." (Ex. A, *Order* at p. Tres). In the 1950s, the label was "fellow traveler."

Justice is supposed to be blind, not just to race, creed, color, national origin, age, gender, disability, marital status, partnership status, sexual orientation, alienage or citizenship status, but to a person's beliefs. In this democracy, legal decisions are not supposed to be determined by the popularity of such beliefs.

Velez also based his dismissal on Den Hollander's "marital status," which is prohibited under the City's Human Rights Law. Velez writes, "[Den Hollander] admits in several online publications that he is 'bitter' from an ex-wife who used him for his US citizenship and money." (Ex. A, *Order* at p. Tres). That's an understatement. The ex-wife—a Russian mafia prostitute, former mistress to a Chechen warlord, self-proclaimed black-magic witch, and devotee of the anti-Christ—secretly fed Den Hollander drugs so that he would believe the euphoria he experienced in her presence was the delusion of love—that's as a noun not a verb. Thanks to the perversion of state domestic relations laws by the Feminists, the Queens Family Court issued a temporary order of protection against Den Hollander, which resulted in U.S. Customs detaining him when he entered the country after the order was dismissed. Also, thanks to the Feminists' creation of the Violence Against Women's Act, Homeland Security made findings of fact that Den Hollander, who had no opportunity to oppose or refute its findings, committed "battery," or "extreme cruelty" or "an overall pattern of violence" against his alien ex-wife.

Okay, so Velez got something right, Den Hollander is "bitter" toward his ex-wife and her feminist allies, but what does that have to do with an age discrimination complaint against a New York City nightclub? According to Velez, "[Den Hollander's] description of himself [an anti-feminist] is consistent with his pattern of filing several gender discrimination suits." (Ex, A,

*Order* at p. Tres). Den Hollander pleads guilty, but so what? Is Velez actually saying that any person and organization that sues in court for human rights guaranteed by the U.S. Constitution can be summarily discriminated against because they brought prior suits? By that reasoning, had Velez been on the U.S. Supreme Court in 1954, he would have ruled against the NAACP in *Brown v. Board of Education*, 347 U.S. 483, because the NAACP had a history of fighting in the courts for human rights. Would he rule the same way on actions brought by the National Council of LaRaza? Not likely, but consistency rather than arbitrary decision making driven by prejudices would required that LaRaza lose before Judge Velez.

**CARLOS VELEZ'S FAULTY LEGAL REASONING FOR DISMISSING THE COMPLAINT AGAINST AMNESIA**

Velez dismissed the age discrimination complaint against the nightclub Amnesia by finding "there is NO PROBABLE CAUSE to believe that [Amnesia] engaged in the unlawful discriminatory practices alleged." (Ex. A, *Order* at p. Uno). That's age discrimination.

"Probable Cause" for the City HR means "where a reasonable person, looking at the evidence as a whole, could reach the conclusion that it is more likely than not that the unlawful discriminatory practice was committed." 47 RCNY 1-03. There are two important points to note about this definition.

First, it does <u>not</u> require ongoing practices of discrimination, such as, Amnesia regularly requires gray-haired men to pay $350 for admission while allowing younger folk in for $20, unless they are hot girls, then it's free. All that is needed is a onetime act of discrimination: Den Hollander and his buddy, both middle-aged guys, show up at Amnesia on January 9, 2010, at around 11 pm and are barred from entering unless they agree to buy a bottle for $350 while young folk aren't. The legal authorities that a single instance of discrimination is good enough to show probable cause are the cases *Silver Dragon Restaurant v. City Commission on Human*

*Rights*, N.Y.L.J., March 31, 2004, p. 24, col. 3 (Sup. Ct. Kings Co.)(on one occasion a black lady was required to pay for food before it was served while others who were white were served and then paid) and *Joseph v. N.Y. Yankees Partnership*, N.Y.L.J., October 24, 2000, p. 35, col. 5 (S.D.N.Y.)(on one occasion a black lady was refused admission to the Stadium Club unless she changed attire, which she did, but inside saw that white ladies did not have to wear the same type of attire). Velez arbitrarily ratchets up the standard by requiring multiple "discriminatory practices," Ex. A, *Order* at p. Uno, or continuing discrimination in order vent his ill will by dismissing a complaint filed by a divorced, men's rights advocate of Euro-American and protestant ancestry.

The second important point to keep in mind is that a decision as to whether probable cause exists has to rely on "evidence." Velez can't ferret up untrustworthy, unauthentic, and unreliable information and claim it is evidence good enough to base his decision on. For information to be used as evidence means:

> [The] [e]ssential attributes are relevance and probative nature. Such evidence is marked by substance and the ability to inspire confidence. It does not arise from bare surmise, conjecture, speculation or rumor.

*300 Gramatan Ave. Associates v. State Div. of Human Rights*, 45 N.Y.2d 176, 180 (1978)(citations omitted). Also, evidence for establishing facts can only be alleged by a person in a position to know the facts. *Penn Troy Mach. Co., Inc. v. Dept. Gen. Services*, OATH Index No. 478/93 (March 2, 1993).

Information in which one person tells another and that second person tells the City HR or one person writes something and the City HR only has the written document is called hearsay and is treated skeptically. *Triborough Bridge and Tunnel Auth. v. Simms*, OATH Index No. 1303/97 (May 30, 1997). The reason is that the person making the original statement or writing

the document does not present himself to the City HR for assessment of his demeanor and credibility, does not submit to cross examination by the City HR in which the certainty of his perceptions, his motivations, and biases, the reliability of his memory, and his character may be tested by one with a motive to test vigorously. *Triborough Bridge*, OATH Index No. 1303/97.

The City HR is charged with eliminating and preventing discrimination; therefore, it has a motive to "test vigorously" information it relies on for a finding. Not so its head of law enforcement when discrimination is against persons he considers lacking in human rights.

Velez relies, in part, on two Internet blogs he considers sufficient evidence to prove that Amnesia also requires younger folk to buy a $350 bottle in order to enter. (Ex. A, *Order* at p. Cuatro). There are two problems with Velez's reliance: (1) the blogs are not only hearsay but unreliable, unauthenticated, and untrustworthy and (2) he's using the blogs to prove something that is irrelevant.

First, how does Velez know these two people are who they say they are, were sober enough that their perceptions and memories were accurate, were actually at Amnesia when they claimed, and that the first blogger cited was not allowed in without buying bottles not because of her youth but because she was with gray haired guys? He doesn't. Also as to the second blogger, that blogger doesn't even mention bottles, just that younger folk were "lining up at the downstairs bar," which is inside the club. How does Velez know these clubbers were lining up to buy bottles? He doesn't and his assumption that they were is wrong. People in clubs who buy bottles place their orders while sitting at tables because waitresses are the ones who serve the bottles along with cantors of mixer and glasses—customers don't line up at bars for bottles but individual drinks.

What's inexcusable in Velez relying on these blogs is that the City HR has subpoena power to gather testimony, affidavits, documents, and other evidence. Did Velez subpoena these bloggers or even try to contact them? Noooo.

The second and more important problem with Velez's Internet dependence is that the blogs do not purport to represent the events that occurred to Den Hollander and his friend on January 9, 2010. Remember the black lady who suffered a single instance of discrimination by a restaurant and the black lady who had to change clothes to enter a club. The Office of Administrative Trials and Hearings (OATH) didn't say there was no discrimination because some bloggers alleged that white ladies suffered a similar fate at some different point in time—the single instance that occurred to those ladies when it occurred was enough for OATH to find discrimination.

More on the evidence front, Velez tries to absolve Amnesia of its responsibility for discriminating against Den Hollander and his buddy by claiming "upon information and belief," which means Velez is speculating, that the doorman who required a bottle purchase for the two to enter was an independent contractor. (Ex. A, *Order* at p. Uno). Let's assume he was. Amnesia can then be liable for discrimination by the doorman if in carrying out his duties, the doorman discriminated. N.Y.C. Admin. Code § 8-107(13)(c). No problem there, the guy hired by Amnesia as gatekeeper for its bacchanal refused to let the two in without agreeing to buy a $350 bottle. But there's more, Amnesia also had to know that the doorman was discriminating. Velez provides no information or evidence one way or the other because he again failed to use the City HR power to gather evidence. Looks like there's a pattern here of shortcuts and nonfeasance by this bureaucrat.

There are three people who know exactly what happened on January 9, 2010, when Den Hollander and his buddy tried to gain admission to Amnesia: Den Hollander, his friend, and the doorman, David L.N.U. Velez has Den Hollander's sworn statement but he never bothered to contact Den Hollander's friend, and, apparently, never tracked down the doorman. Doesn't it seem strange that of the three persons with firsthand knowledge, Velez ignores two of them and disses the third?

The likely reason Velez did not contact Den Hollander's buddy is that Velez would not have been able to discredit him as he tried with Den Hollander. Den Hollander's friend graduated Yale Law School, is a one per center, and very liberal having been a Democratic State Committeeman on the Upper Westside for decades. No, Velez could not use the same tactics against him as he did Den Hollander. As for the doorman, perhaps Velez never contacted him out of sloth, or he did contact him and the doorman confirmed Den Hollander's accusation—who knows?

Velez, as is typical in these non-Truman days, also tries to pass the buck to Den Hollander for the unavailability of what Velez considers the key evidence of what occurred on the night in question—Amnesia's alleged video surveillance of the club on the outside. Velez blames Den Hollander for the absence of this video because he did not file his complaint within 30 days of the incident which would have prevented the self-erasing of the video "every 30 days." (Ex. A, *Order* at p. Cuatro). The City's Human Rights law requires that any complaint be filed within three years of when the discrimination occurred. *Alimo v. Off Track Betting Corp*. 685 N.Y.S.2d 180 (A.D. 1 Dept. 1999). Velez, however, has unilaterally reduced that to 30 days or however long a nightclub's surveillance tape lasts.

In one case, *Dept. of Correction v. Whitehead*, OATH Index No. 1152/97 (October 10, 1997), no adverse inference was drawn because complainant was responsible for loss of interview tapes of witnesses, since the witnesses were still available. All three witnesses to the discrimination in this case are available, but Velez chooses to ignore two in favor of a non-existent silent video. Velez's argument is simply an excuse to rule against a person that he stereotypically classifies into groups for which he harbors animosity.

Let's assume, however, that this alleged surveillance tape could trump the eyewitness testimonies of Den Hollander, his friend, and the doorman. What would the tape show at night outside by Amnesia's front door? Two young people approach the doorman, there's some discussion and he looks at something they give him, which he gives back to them, and they enter the door. Did the doorman require them to buy a bottle and they agreed? Don't know because there's no audio. Den Hollander and his friend approach the doorman, there's some discussion and the two step out of line. Were they told to step out of line because the doorman required them to buy a bottle and they refused? Don't know because there's no audio. Then two young people approach the doorman, there's some discussion and he looks at something they give him, which he gives back to them, and they enter the door. Did the doorman require them to buy a bottle and they agreed? Don't know because we're in the silent era. Not much good for determining what actually occurred, but Velez doesn't care, since he reached his conclusion the day Den Hollander visited the City HR to request it do what it is supposed to.

Velez not only ignores the evidentiary requirements that must be met in the City HR's investigations of discrimination, but he plays fast and loose with the truth. Velez intentionally misrepresents that in the complaint filed with the New York State Division of Human Rights, Den Hollander "submitted a sworn statement that he was denied access to Respondent Amnesia

unless he purchased a bottle of alcohol, and **the reason for the denial was because he was a male.**" (Ex. A, *Order* at p. Dos (emphasis added)). That is intentionally misleading. The complaint says "I **believe** I was discriminated against because of my: sex." (Ex. B, *State Human Rights Complaint*, at p. 4 (emphasis added)). Hey, that's a big difference, and as it turns out Den Hollander's belief was wrong. In addition, if age discrimination by nightclubs was not outside the State Human Rights Division's jurisdiction, Den Hollander would have been able to amend his complaint to include age discrimination.

Velez, unlike any court or administrative agency, requires that once pleadings are submitted and regardless of jurisdiction, the pleadings are written in stone and can never be amended no matter what facts are subsequently revealed. That is contrary to the very purpose of courts and administrative agencies liberally allowing amendments to complaints in order to further justice. Velez's argument harkens back to the 19th century when "the pretrial functions of notice-giving, issue formulation, and fact revelation were performed primarily, and inadequately, by the pleadings," *Hickman v. Taylor*, 329 U.S. 495, 500 (1947), and "pleading was a game of skill in which one misstep by counsel may be decisive to the outcome," *Conley v. Gibson*, 355 U.S. 41, 48 (1957).

While the State Human Rights Division found that Den Hollander and his friend were not discriminated against because of their sex—which is rather surprising given Amnesia's approval for the nightclub's promoter to advertise that ladies are admitted free until 1 am while gentlemen must pay, a violation of N.Y.C. Admin. Code § 8-107(4), Ex. C, Amnesia Advertisements—the State made clear that Den Hollander and his friend were discriminated against probably because of their age. (Ex. D. *State Determination and Order After Investigation* at p. 2).

Among the requirements of the State Human Rights Division's Investigative Procedure are that "[t]he investigation of the complaint is to be objective" and "[r]esolve issues of questionable jurisdiction." (Ex. E, *Information for Complaints* at pp. 1-2). So the State made an objective investigation that concluded the State could not do anything because age discrimination in public accommodations was outside its jurisdiction:

> "Based on observations made during the field visit, the vast majority of the patrons of the nightclub [Amnesia] appeared to be under the age of 30 years. Respondent [Amnesia] asserts that, when the nightclub is crowded, respondent employs an admissions strategy to limit the number of individuals, male and female, who do not have the appearance respondent desires to maintain the image of the nightclub. A photo on complainant's website suggests that he is significantly older than respondent's patrons, and age discrimination is beyond the jurisdiction of the Division with regards to public accommodation."

(Ex. D, *State Determination and Order After Investigation* at p. 2, second full paragraph).

In order to discredit this finding by another human rights agency, Velez unilaterally rules that the State Human Rights Division limited its investigation to "observation[s] on the patrons who were actually inside the club, and not those who were waiting outside [in] the club's line and denied entrance." (Ex. A, *Order* at p. Dos). That is false. The State specifically states that its investigation included observing the people in line as well as inside the club. (Ex. D, *State Determination and Order After Investigation* at p. 2).

Relying on this misrepresentation, Velez is able to say, "Because [Den Hollander's] allegations specifically refer to those waiting on line [Velez prevaricates here by leaving out those who "enter the club," Ex. F, Verified Complaint ¶ 4], the [State's] observation of the customers inside the club have relatively little weight." (Ex. A, *Order* at p. Dos).

So what Clintonesque tactic is Velez using here? Here's a couple of analogies that might make it clear.

Suppose you're black and try to get into a club in the South, but the bouncers won't let you in. The following weekend, your best buddy, an Aryan white, gets into the club no problem and later tells you the only people inside were those eligible for membership in the Hitler youth. What would you think? Would it be reasonable—yes, especially in light of the facts that you were denied admission and the South has a reputation for discrimination. Velez would rule your inference illogical.

Here's another analogy. You and your buddy stumble out of the Copacabana at three in the morning. He's going uptown and you're heading south. He's black, you're white. He tries to hail a cab but can't. The vacant cabs keep zipping by. You step out into the uptown lane, raise your hand and a cab immediately stops. So, why did the other cabs pass your buddy by? According to Velez, it was just coincidence.

Velez also intentionally misrepresents when he wrote, "If in fact [Den Hollander] believed he was also being discriminated against because of his age, [he] could have come to" the City HR immediately. (Ex. A, *Order* at p. Dos). No, Den Hollander did not initially believe Amnesia had discriminated against him over age. Den Hollander made it clear during the initial interview with a City HR attorney that he never thought about age discrimination until he read the State's decision.

In addition to Velez's manifest prejudice, falsehoods, prevarications, and dissembling, he does actually make a legal argument that the City HR is jurisdictionally barred from handling the complaint of age discrimination against Amnesia. He's wrong, of course, but the reasons require some preliminary explanations.

The City's Human Rights Law says that "[a]ny person **aggrieved** by an unlawful

discriminatory practice" can file a complaint. N.Y.C. Admin. Code § 8-109(a)(emphasis added). An unlawful discriminatory practice means subjecting a person to different treatment that denies him the advantages, privileges, and facilities of a public accommodation because of his race, creed, color, national origin, age, gender, disability, marital status, partnership status, sexual orientation **or** alienage or citizenship status . . . ." N.Y.C. Admin. Code § 8-107(4)(a)(emphasis added).

The "or" means that discriminating against a person for say "alienage," is one unlawful discriminatory practice and discriminating against a person for say "color" is another separate unlawful discriminatory practice. The person discriminated against because of his alienage is "aggrieved," he is wronged, which means he has a grievance, usually referred to legally as a "cause of action" because he was denied something others weren't due to his alienage. A person discriminated against because of his color also has a grievance, a cause of action, because he was denied something due to his skin hue. The two grievances, causes of action, are not the same. One was motivated by ill will toward a person's alienage while the other was motivated by ill will toward a person's color. Now it gets really complicated, at least for Velez. What if the same person is discriminated against for both his alienage and color on the same occasion at the same time? Does he have one grievance, one cause of action, or two?

Every first year law student knows the answer—the person has two causes of action or two grievances stemming from the one incident. For Velez's sake, perhaps an example will help. Velez steps into a British telephone booth and ends up in Atlanta, Georgia in front of the Pickrick Restaurant in 1964. Velez tries to enter the restaurant but is met by Lester Maddox brandishing a handgun and axe handle. Maddox, an avowed bigot toward people with darker skin color and apparent aliens refuses to admit Velez. Does Velez have one cause of action, one

grievance, against Maddox or two? He has two because Maddox discriminated against him on the basis of color and alienage.

According to Black's Law Dictionary, "grievance" means "an injury, injustice, or wrong that gives ground for a complaint." Without the violation of a right there is no wrong and no complaint, so the violation of a right, no matter what the factual circumstances, is the requirement. The U.S. Supreme Court ruled "[a] cause of action does not consist of facts, but of the unlawful violation of a right which the facts show." *Baltimore S.S. Co. v. Phillips*, 274 U.S. 316, 321 (1927). When the "violations of two individual rights have occurred," even though "both violations spring from a common fact, a single occurrence" there are two injuries, not one. *Herrmann v. Braniff Airways, Inc.*, 308 F.Supp. 1094, 1099-1100 (S.D.N.Y. 1969).

Velez, however, believes he has only one cause of action, or grievance, because only one incident occurred. Maddox kept him out of the restaurant with the threat of violence only once, although Maddox violated the law twice in doing so—color discrimination and alienage discrimination. Velez used this mistaken view, and used it in an intentionally deceptive manner, to rule that because Den Hollander had filed a complaint with the State Human Rights Division on a cause of action for what was believed to be sex discrimination, he could not file a complaint with the City HR based on age discrimination.

Here's how Velez carried out his deception. He used N.Y. Executive Law § 279(9) and the following cases: *Emil v. Dewey*, 49 N.Y.2d 968 (1980); *Bhagalia v. State*, 644 N.Y.S.2d 398 (A.D. 3 Dept. 1996); *Benjamin v. N.Y.C. Dept. of Health*, 2007 WL 3226958 at *5 (A.D. 2 Dept. 1994); *Rosario v. N.Y.C. Dept. of Education*, 2011 U.S. Dist LEXIS 41177 at *4 (S.D.N.Y. 2011). (Ex. A, *Order* at p. Tres). N.Y. Executive Law § 279(9) and these cases say that a person

alleging discrimination has a choice: he can either go to court or file a complaint with a human rights agency, but not both.

Den Hollander initially filed a complaint with the State Human Rights Division, but when its decision pointed out the discrimination was likely based on age, over which it had no jurisdiction; Den Hollander immediately made an appointment with the City HR to begin the procedure of bringing a complaint for age discrimination. There has been no court involvement in this matter, so the statute and cases relied on by Velez do not apply. Court proceedings and administrative law proceedings are not the same in America, perhaps in Switzerland, but not here. As a former drug prosecutor Velez clearly knows the difference, so why did he try to hide it—bigotry.

Administrative and judicial remedies are mutually exclusive. *Benjamin v. N.Y.C. Dept. of Health*, 2002 WL 485731*4 (S.D.N.Y.). The law doesn't allow a person to first file a discriminatory complaint with a government agency and then file a similar complaint with a court based on the same fact situation by bringing a plenary action because it's a waste of government resources. It makes no sense to have an administrative agency working on a complaint and then a court working on basically the same complaint. This is especially true, since the decision of the administrative agency can always be appealed to a court of law, so there's still an avenue to the courts when a person chooses to start with an agency.

The situation here is fundamentally different. Den Hollander did not first complain to the State Human Rights Division then start a plenary action in a court of law. He'll get there soon enough once the City HR denies this appeal. Den Hollander proceeded from the State Human Rights Division to the City HR because the City has jurisdiction over age discrimination by a public accommodation while the State does not. If Velez's argument is allowed to stand that

Exec. Law § 279(9) also prevents different causes of actions stemming from the same fact situation to be filed with the City HR, then when a person's complaint is dismissed because the State lacks jurisdiction, he is left without any recourse and the bigots win. He cannot go to the City HR, which has jurisdiction, because he already filed a complaint with the State. He cannot go to court because of Exec. Law§ 279(9), and an appeal of the lack of jurisdiction decision would go nowhere because the court would uphold such a decision.

There are certain situations in which the person discriminated against is caught without a remedy by Velez's invented rule. A person complains to the State about discrimination by a public accommodation because of race, creed, color, national origin, sex, disability, marital status, sexual orientation, or military status, but the State dismisses the complaint because it finds the discrimination was based on age, partnership status, alienage, or citizenship and the State has no jurisdiction over those. N.Y. Exec. Law § 296(2)(a). Or a person complains to the City HR about discrimination by a public accommodation because of race, creed, color, national origin, age, sex, disability, marital status, partnership status, sexual orientation, alienage, or citizenship, but the City dismisses the complaint because it finds the discrimination was based on military status and the City HR has no jurisdiction over that. N.Y.C. Admin. Code 8-107(4).

Velez next slips in his own definition for "grievance" as not meaning an unlawful discriminatory practice but the actual incident, the fact situation, that gave rise to the discrimination. He has to change the legal meaning of grievance, or cause of action, in order to rely on a section of the City's Human Rights Law. N.Y.C. Admin. Code §8-109(f)(iii) says that after the State Human Rights Division makes a decision on a "grievance," the City HR cannot make a decision on the "same grievance."

Back to Lester Maddox. If Georgia had the same laws as New York and Velez files a complaint for color discrimination with that state's Human Rights Division and it dismisses the complaint but indicates the discrimination was based on alienage instead, over which it has no jurisdiction, under Velez's invented definition for "grievance" as the fact situation itself rather than a cause of action, he could not file a complaint with Atlanta's Human Rights Commission. He's out of luck and the bigots win—again.

Fortunately that's not the law, or is it for those members of currently disfavored groups? So when Amnesia refused to let Den Hollander and his friend enter the club unless they paid $350 for a bottle, that occurrence gave rise to two potential injuries, injustices, or wrongs: unlawful sex and unlawful age discrimination. The State Human Rights Division made a final determination only on the sex discrimination grievance, which left the age discrimination grievance undecided.

The City HR, therefore, has jurisdiction over the age discrimination cause of action because Velez was wrong in ruling that once a complaint is filed with an agency concerning a fact situation, no other complaint alleging different grievances, or different causes of action, can ever be filed concerning the same fact situation with another government agency, even when the first agency did not have jurisdiction over the new grievance, or the new cause of action.

New York City Administrative Code §§ 8-109(f)(iii) does not bar the Complaint because it deals with the same act and/or occurrence, in fact, § 8-109(f)(iii) does not say anything about the same act and/or occurrence.

**REMEDIES**

Den Hollander requests that the New York City Commission on Human Rights implement in its operations anti-discrimination policies that prevent unlawful discriminatory acts

by its employees against Euro-Americans of protestant ancestry, divorced husbands, and any man who chooses to fight for his rights by suing and petitioning the government for a redress of grievances. In addition, the Executive Director for Law Enforcement of the City HR be required to undergo sensitivity training to mitigate or at least enable him to control his prejudice toward Euro-Americans of protestant ancestry, divorced husbands, and men who choose not to meekly submit to feminist and political correctionalist ideology. Finally, the Commission make available to Den Hollander the factual documentation in its investigatory file concerning this case pursuant to 47 RCNY § 1-34 and reverse the Executive Director's finding of "no probable cause." A notice of claim has been filed with the N.Y.C. Corporation Counsel.

**CONCLUSION**

The City Commission on Human Rights exists because "there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences . . . ." N.Y.C. Admin. Code § 8-101. Rather than lessening that danger, the Executive Director for Law Enforcement of the City HR has stoked the ambers.

Dated: August 17, 2012
New York, N.Y.

/S/

Roy Den Hollander
Appellant-Complainant
545 East 14 St., 10D
New York, NY 10009
(917) 687 0652

# Exhibit A

DETERMINATION AND ORDER AFTER INVESTIGATION

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

In the Matter of the Complaint of:

ROY DEN HOLLANDER,

Complainant,

-against- Complaint No: M-P-A-11-1024266

AMNESIA J.V. LLC, and DAVID "L.N.U.,"

Respondents.

On October 22, 2010, Roy Den Hollander ("Complainant") filed a Verified Complaint ("Complaint") with the New York City Commission on Human Rights ("Commission") charging Amnesia J.V. LLC ("Amnesia"), and David "L.N.U." (collectively, "Respondents") with discriminatory practices, in violation of Title 8 of the Administrative Code of the City of New York ("Code").

Respondents deny the allegations of discrimination.

After investigation, the Commission has determined that there is NO PROBABLE CAUSE to believe that Respondents engaged in the unlawful discriminatory practices alleged.

**Complaint**

Complainant, who is 63 years old, alleges that Respondents discriminated against him based upon his age by subjecting him to disparate treatment, and thus denying him the advantages, privileges and facilities of a public accommodation. Respondent Amnesia is a nightclub in New York City. Upon information and belief, Respondent David "L.N.U." was not employed by Respondent Amnesia, and instead was hired by a different company as a Promoter.

Complainant alleges that on or about January 9, 2010, at approximately 11:05 PM, he and his friend, who is in his 60's, stood on a line in front of Respondent Amnesia in order to gain access into its nightclub. Complainant further alleges that he and his friend witnessed two individuals in front of them, who appeared to be in their 20's and/or 30's, approach Respondent David "L.N.U.," who checked their identification and then allowed them to enter the club. Complainant alleges that when he and his friend approached Respondent David "L.N.U.," Respondent David "L.N.U." told them that they must agree to buy a bottle of alcohol for $350 in order to enter the club.

Complainant further alleges that he and his friend declined and stepped out of the line. Complainant further alleges that he and his friend then witnessed another pair of individuals, who appeared to be in their 20's and/or 30's, enter the club without having to buy a bottle of alcohol for $350.

**Discussion**

New York State Division of Human Rights Complaint

Complainant filed a gender discrimination complaint shortly after his visit to Respondent Amnesia on January 9, 2010, with the New York State Division of Human Rights ("NYSDHR"). Specifically, he submitted a sworn statement that he was denied access to Respondent Amnesia unless he purchased a bottle of alcohol, and the reason for the denial was because he was male. Specifically, in his NYSDHR complaint, Complainant stated that he stood online with his male friend, and that the two women in front of them were allowed to enter the club without agreeing to purchase a bottle of alcohol for $350, yet he and his male friend were required to buy a bottle as a condition of entry.

After its investigation, the NYSDHR found no probable cause to believe discrimination occurred by Respondent on the basis of Complainant's gender. In its decision, the NYSDHR wrote, however, that "Based on the observations made during the field visit, the vast majority of the patrons of the nightclub appeared to be under the age of 30 years. Respondent asserts that, when the nightclub is crowded, respondent employs an admissions strategy to limit the number of individuals, male and female, who do not have the appearance respondent desires to maintain the image of the nightclub." The NYSDHR appears to base this observation on the patrons who were actually inside the club, and not those who were waiting outside the club's line and denied entrance. The investigator from the NYSDHR does not state any observations in his determination regarding the ages of the patrons waiting on line to gain admission. Because Complainant's allegations specifically refer to those waiting on line, the NYSDHR's observations of the customers inside the club have relatively little weight.

Although the NYSDHR expressed these observations, the statements had no effect on its decision, because New York State's Executive Law does not cover age discrimination in public accommodations.

New York City Commission on Human Rights Complaint

After receiving the NYSDHR decision indicating that the majority of admitted patrons on the date of their visit "appeared to be under the age of 30 years," Complainant decided to come to the Commission to file a complaint of discrimination based upon age on October 22, 2010. Complainant's allegations in the NYSDHR case and in the instant Complaint are virtually identical, only substituting the reason for his denial of entrance from gender to age. If in fact Complainant believed he was also being discriminated against because of his age, Complainant could have come to the Commission instead of the NYSDHR immediately after the initial denial of entry.

Election of Remedies

Complainant is jurisdictionally barred from bringing the Complaint because of his prior filing with the NYSDHR on the same facts and circumstances as the instant matter. New York Executive Law § 297(9) states that any person with a discrimination complaint has a cause of action "in any court of appropriate jurisdiction for damages and such other remedies as may be appropriate, *unless* such person has filed a complaint" with the NYSDHR (emphasis added). The New York Court of Appeals interpreted New York Executive Law § 297(9) as precluding a subsequent action that is "based upon the same incident" as the Agency complaint. Emil v. Dewey, 49 N.Y. 2d 968, 968 (1980). The NYSDHR's only statutory exception to this election of remedies jurisdictional bar is when the State Human Rights Law claim is dismissed on the grounds of "administrative convenience," "untimeliness" or when the "election of remedies is annulled." N.Y. Exec. L. § 297(9).

Similarly, Section 8-109(f)(iii) of the Administrative Code of the City of New York specifies that the Commission does not have jurisdiction where, "The complainant has previously filed a complaint with the State Division of Human Rights alleging an unlawful discriminatory practice... with respect to the *same grievance which is the subject of the complaint* under this chapter and a final determination has been made thereon" (emphasis added). A Complainant cannot avoid the election of remedies bar by changing the legal theory of relief relied upon, or split claims, if they all arise out of the same course of conduct. Bhagalia v. State, 228 A.D.2d 882, 883 (N.Y. App. Div., 3rd Dept., 1996); *see also* Benjamin v. New York City Dept. of Health, 2007 WL 3226958 at *5 (N.Y. App. Div., 2nd Dept. 1994); Rosario v. New York City Dept. of Education, 2011 U.S. Dist. LEXIS 41177 at * 4 (S.D.N.Y. 2011).

In this case, Complainant previously filed a complaint with the NYSDHR alleging gender discrimination because a nightclub refused him entry unless he purchase bottle service, and the NYSDHR issued a "no probable cause" final determination in the matter. Complainant then came to the Commission and filed an age discrimination complaint on the exact same facts. The Commission, therefore, does not have jurisdiction in this matter because Complainant already elected his remedy with the NYSDHR.

The Commission's Investigation

Complainant is a self-professed advocate for men's rights who identifies himself as an "anti-feminist lawyer" on his website, www.roydenhollander.com. He has filed a number of lawsuits against bars and clubs that have "Ladies Nights," and admits in several online publications that he is "bitter" from an ex-wife who used him for his US citizenship and money. Complainant's description of himself is consistent with his pattern of filing several gender discrimination suits.

Complainant's delay in filing the Complaint with the Commission rendered the Commission unable to secure tape surveillance of the night in question. It is the Commission's practice in these types of cases to seek video surveillance when aggrieved individuals come to the Commission almost immediately after the alleged discriminatory conduct, just as

Complainant did in filing his initial gender discrimination case with the NYSDHR on January 9, 2010. Complainant filed the Commission Complaint over nine months after the incident occurred, thereby effectively denying the Commission the ability to compel Respondents to preserve its surveillance video, which Respondents state self-erases every 30 days.

Notwithstanding the above, circumstantial evidence exists to show that Respondent Amnesia also required younger individuals to purchase a bottle of alcohol in or around the date Complainant visited the club on January 9, 2010. Patrons of Respondent Amnesia can post reviews of its club on yelp.com, a website that provides reviews for restaurants, bars, and other establishments in New York City and other locations in the country.[1] On April 25, 2010, just over three months after Complainant visited the club, an alleged patron of Respondent Amnesia, whom based on her posted picture appears to be in her 20's or 30's, expressed her frustration on yelp.com about the difficulty in gaining entry into the club, stating, "... of course the only way to get in was if we bought bottles." This comment was posted four months after Complainant filed his NYSDHR case, which was dismissed, and five months before he filed his case with the Commission.

Another reviewer and alleged patron, who also appears to be in her 20's or 30's based on her posted picture, stated on yelp.com on December 11, 2009, "Different groups were dancing and lining up at the downstairs bar, people in their 20's, 30's, 40's. Interesting and eclectic crowd..." Based on the above-described comments regarding younger people being asked to purchase bottle service, it is more probable than not that Respondents did not discriminate against Complainant based upon his age.

As noted above, the Commission is barred from making a determination this case because Complainant filed a prior discrimination complaint concerning the same incident with the NYSDHR. Irrespective of this conclusion, because Commission was unable to obtain the surveillance video of the incident in question, and online postings from club patrons who appear to be in their 20's and 30's state that were required to buy bottle service in order to gain entry around the date Complainant visited Respondent Amnesia, the Commission cannot establish by a preponderance of the evidence that Respondents required Complainant to purchase bottle service to gain access to the club due to his age. The Complaint, therefore, is hereby dismissed.

**NO FURTHER TEXT ON THIS PAGE**

[1] The Commission realizes that it could not interview any of these individuals but nevertheless finds the postings probative.

Complainant may apply for review by filing a request in writing within thirty (30) days after the date of the mailing of this order. The application should be addressed to the Office of the Chairperson, New York City Commission on Human Rights, 40 Rector Street, 10th Floor, New York, NY 10006, Attn: NPC Appeals. Please state reasons for applying for review.

DATED: New York, New York
July 27, 2012

CITY COMMISSION ON HUMAN RIGHTS

BY: _____

Carlos Velez
Executive Director
Law Enforcement Bureau

NOTICE TO:

Roy Den Hollander
545 East 14th Street, Apt .10D
New York, NY 10009

Counsel for Respondents:
Roger Griesmeyer
LaSasso Griesmeyer Law Group PLLC
80 Maiden Lane, Suite 2205
New York, NY 10038

# Exhibit B

7009 1680 0002 1601 7882

# New York State Division of Human Rights
# Complaint Form

## *CONTACT INFORMATION*

**My contact information:**

Name: Ray Den Hollander

Address: 545 East 14 St Apt or Floor #: 10 D

City: NY State: NY Zip: 10009

## *REGULATED AREAS*

**I believe I was discriminated against in the area of:**

- ☐ Employment
- ☐ Education
- ☐ Volunteer firefighting
- ☐ Apprentice Training
- ☐ Boycotting/Blacklisting
- ☐ Credit
- ☒ Public Accommodations *(Restaurants, stores, hotels, movie theaters amusement parks, etc.)*
- ☐ Housing
- ☐ Commercial Space
- ☐ Labor Union, Employment Agencies

**I am filing a complaint against:**

Company or Other Name: Amnesia JV LLC

Address: 609 W 29 St

City: NY State: NY Zip: 10001

Telephone Number: 212 (area code) 725 1005

Individual people who discriminated against me:

Name: David Name: _____

Title: Door monitor Title: _____

## *DATE OF DISCRIMINATION*

**The most recent act of discrimination happened on:** 1 (month) 9 (day) 10 (year)

## *BASIS OF DISCRIMINATION*

*Please tell us why you were discriminated against by checking one or more of the boxes below.*


You do not need to provide information for every type of discrimination on this list. Before you check a box, make sure you are checking it only if you believe it was a reason for the discrimination. Please look at the list on Page 1 for an explanation of each type of discrimination.

**Please note**: Some types of discrimination on this list do not apply to all of the regulated areas listed on Page 3. (For example, Conviction Record applies only to Employment and Credit complaints, and Familial Status is a basis only in Housing and Credit complaints). These exceptions are listed next to the types of discrimination below.

**I believe I was discriminated against because of my:**

| | |
|---|---|
| ☐ **Age** *(Does not apply to Public Accommodations)*<br>Date of Birth: | ☐ **Genetic Predisposition** *(Employment only)*<br>Please specify: |
| ☐ **Arrest Record** *(Only for Employment, Licensing, and Credit)*<br>Please specify: | ☐ **Marital Status**<br>Please specify: |
| ☐ **Conviction Record** *(Employment and Credit only)*<br>Please specify: | ☐ **Military Status:**<br>Please specify: |
| ☐ **Creed / Religion**<br>Please specify: | ☐ **National Origin**<br>Please specify: |
| ☐ **Disability**<br>Please specify: | ☐ **Race/Color or Ethnicity**<br>Please specify: |
| ☐ **Domestic Violence Victim Status:** *(Employment only)*<br>Please specify: | ☒ **Sex**<br>Please specify: ☐ **Female** ☒ **Male**<br>☐ **Pregnancy**<br>☐ **Sexual Harassment** |
| ☐ **Familial Status** *(Housing and Credit only)*<br>Please specify: | ☐ **Sexual Orientation**<br>Please specify: |
| ☐ **Retaliation**<br>Please specify: | |


Before you turn to the next page, please check this list to make sure that you provided information ***only*** for the type of discrimination that relates to your complaint.

***DESCRIPTION OF DISCRIMINATION*** - for all complaints *(Public Accommodation, Employment, Education, Housing, and all other regulated areas listed on Page 3)*
***Please tell us more about each act of discrimination that you provided information about on Pages 3 and 4. Please include dates, names of people involved, and explain why you think it was discriminatory. PLEASE TYPE OR PRINT CLEARLY.***

On Saturday, January 9, 2010, at approximately 11:05 PM, a friend and I, both males, tried to enter the nightclub called Amnesia but were refused admittance unless we bought a bottle for $350.

We had been standing in a line with two ladies in front of us. The ladies were allowed to enter without agreeing to purchase a bottle inside for $350. We, however, were told by an individual named David that to enter the club, we would have to buy a bottle inside for $350. We declined, and he told us to step out of the line, which we did. We stood on the side of the line as a couple of groups of ladies entered without having to agree to buy a bottle for $350.

## *NOTARIZATION OF THE COMPLAINT*

Based on the information contained in this form, I charge the above-named Respondent with an unlawful discriminatory practice, in violation of the New York State Human Rights Law.

By filing this complaint, I understand that I am also filing my employment complaint with the United States Equal Employment Opportunity Commission under the Americans With Disabilities Act (covers disability related to employment), Title VII of the Civil Rights Act of 1964, as amended (covers race, color, religion, national origin, sex relating to employment), and/or the Age Discrimination in Employment Act, as amended (covers ages 40 years of age or older in employment), or filing my housing/credit complaint with HUD under Title VIII of the Federal Fair Housing Act, as amended (covers acts of discrimination in housing),as applicable. This complaint will protect your rights under Federal Law.

I hereby authorize the New York State Division of Human Rights to accept this complaint on behalf of the U.S. Equal Employment Opportunity Commission, subject to the statutory limitations contained in the aforementioned law and/or to accept this complaint on behalf of the U.S. Department of Housing and Urban Development for review and additional filing by them, subject to the statutory limitations contained the in aforementioned law.

I have not filed any other civil action, nor do I have an action pending before any administrative agency, under any state or local law, based upon this same unlawful discriminatory practice.

I swear under penalty of perjury that I am the complainant herein; that I have read (or have had read to me) the foregoing complaint and know the contents of this complaint; and that the foregoing is true and correct, based on my current knowledge, information, and belief.

Roy Dan Holder

Sign your full legal name

BETHLEHEM BELATCHEW
Notary Public - State of New York
NO. 01BE6186825
Qualified in Queens County
My Commission Expires 5-12-12

Subscribed and sworn before me
This 10 day of JANUARY, 2010

Bethlehem B.

Signature of Notary Public

County: Queens Commission expires: 5-12-12

***Please note: Once this form is notarized and returned to the Division, it becomes a legal document and an official complaint with the Division of Human rights. After the Division accepts your complaint, this form will be sent to the company or person(s) whom you are accusing of discrimination.***

# Exhibit C

## Ladies Free til 1am this Friday at Amnesia


*Amnesia 609 W 29th St Between 11th & 12 Av*

## This Friday August 3 at Amnesia

- Dj: **ENUFF / QUIZ** Playing the best in Top 40s & Hip Hop & latin
- Doors open 11pm / 21 & Over Event
- Dress code: -Casual but Trendy
- **Ladies Free til 1am** on the Pace Guest list
- **Gents Reduce til 1am** on the Pace Guest list
- To get on the Pace Guest list for Amnesia Click Here

## PACE PARTIES THIS WEEKEND - JULY, 2012

### Glow Stick Party this Friday at Amnesia

*Amnesia 609 W 29th St Between 11th & 12 Av*

### This Friday July 20 at Amnesia

- Dj: **BIG BEN & BRINKA** Playing the best in Top 40s & Hip Hop & latin
- Doors open 11pm / 21 & Over Event
- Dress code: -Casual but Trendy
- **Ladies Free til 1am** on the Pace Guest list
- **Gents Reduce til 1am** on the Pace Guest list
- To get on the Pace Guest list for Amnesia Click Here

# Exhibit D

DAVID A. PATERSON
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

| | |
|---|---|
| NEW YORK STATE DIVISION OF HUMAN RIGHTS on the Complaint of<br><br>ROY DEN HOLLANDER, ESQ.,<br>Complainant,<br>v.<br><br>AMNESIA J.V. LLC,<br>Respondent. | DETERMINATION AND ORDER AFTER INVESTIGATION<br><br>Case No. 10138862 |

On 1/13/2010, Roy Den Hollander, Esq. filed a verified complaint with the New York State Division of Human Rights ("Division") charging the above-named respondent with an unlawful discriminatory practice relating to public accommodation because of sex in violation of N.Y. Exec. Law, art. 15 (Human Rights Law).

After investigation, and following opportunity for review of related information and evidence by the named parties, the Division has determined that there is NO PROBABLE CAUSE to believe that the respondent has engaged in or is engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

The record is not supportive of complainant's allegations of sex discrimination.

Complainant, who is male, alleges that he was required to purchase a $350.00 bottle of alcohol in order to gain entry into respondent's nightclub, while women were not required to make this purchase to enter.

The record suggests, however, that respondent required complainant to purchase a bottle for the non-discriminatory reasons of limited space and the goal of furthering the image of

respondent's establishment. There is a lack of evidence that respondent's treatment of complainant was based on his sex.

During the course of the investigation, a field visit to respondent's nightclub was made by a male Division investigator accompanied by a male. Both males and females were observed gaining admission to respondent's nightclub in approximately equal proportion. The investigator did not observe respondent's staff asking males or females to purchase bottles of alcohol to gain admission, despite the fact that there were long lines for admission to the club. Although respondent required the male investigator to pay a $30 cover charge, the investigator observed one of respondent's employees informing others, including females, that they would have to pay the $30 cover charge to gain admission. Once inside the nightclub, the investigator observed males and females in roughly equal proportion. Although there were several tables for individual bottle service throughout the nightclub, the investigator did not see any patrons, male or female, sitting at these tables.

Based on observations made during the field visit, the vast majority of the patrons of the nightclub appeared to be under the age of 30 years. Respondent asserts that, when the nightclub is crowded, respondent employs an admissions strategy to limit the number of individuals, male and female, who do not have the appearance respondent desires to maintain the image of the nightclub. A photo on complainant's website suggests that he is significantly older than respondent's patrons, and age discrimination is beyond the jurisdiction of the Division with regards to public accommodation.

Our investigation failed to uncover sufficient evidence to establish a causal nexus between respondent's treatment of complainant and his sex. The record does not support a determination of probable cause in this case.

The complaint is therefore ordered dismissed and the file is closed.

PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx,

New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

Dated: SEP 16 2010
New York, New York

STATE DIVISION OF HUMAN RIGHTS

By: _____
Leon C. Dimaya
Regional Director

# Exhibit E

NEW YORK STATE
**DIVISION OF HUMAN RIGHTS**
20 EXCHANGE PLACE, 2ND FLOOR
NEW YORK, NEW YORK 10005

(212) 480-2522
Fax: (212) 480-0143
www.dhr.state.ny.us

DAVID A. PATERSON
GOVERNOR

GALEN D. KIRKLAND
COMMISSIONER

# INFORMATION FOR COMPLAINANTS

## CONCERNING COMPLAINT PROCEDURES OF NEW YORK STATE DIVISION OF HUMAN RIGHTS

The New York State Division of Human Rights is a State agency mandated to receive, investigate and resolve complaints of discrimination under N.Y. Executive Law, Article 15 ("Human Rights Law"). The Division's role is to fairly and thoroughly investigate the allegations in light of all evidence gathered.

## YOUR RIGHTS AND RESPONSIBILITIES AS A COMPLAINANT

You have a right to obtain a private attorney at any time, but you are not required to do so.

- If you experience any further conduct by the Respondent that you believe is discriminatory, or is in retaliation for filing your complaint, you should immediately report it to the Division of Human Rights.
- You must notify the Division of any change in your address or telephone number. If the Division cannot contact you, we may not be able to proceed with your case. Inability to locate you will result in the eventual administrative dismissal of your case.

  Your complaint may voluntarily be withdrawn in writing by you at any time. The withdrawal form must be signed by you or your attorney (original or fax will be accepted). A withdrawal form may be obtained from the Division.
- Conciliation or settlement is possible at all points in the proceeding, and the Division may provide assistance with conciliation or settlement at the request of any party.
- You, or your attorney, may review the Division's file in this matter, and may copy by hand any material in the file, or obtain photocopies at a nominal charge. The Respondent in this matter has the same right to review the file.

## WHAT IS THE INVESTIGATIVE PROCEDURE?

The Division represents neither the Complainant nor the Respondent. The Division pursues the State's interest in the proper resolution of the matter in accordance with the Human Rights Law. Upon receipt of a complaint, the regional office will:

- Notify the Respondent(s). (A Respondent is a person or entity about whose action the Complainant complains.)
- Resolve issues of questionable jurisdiction.

- Forward a copy of the complaint to the U.S. Equal Employment Opportunity Commission (EEOC) or the U.S. Department of Housing and Urban Development (HUD), where applicable. Such federal filing creates a complaint separate and apart from the complaint filed with the Division, and protects your rights under federal law, although in most cases only one investigation is conducted pursuant to work-sharing agreements with these federal agencies.
- Investigate the complaint through appropriate methods (written inquiry, field investigation, witness interviews, requests for documents, investigatory conference, etc.), in the discretion of the Regional Director. The investigation of the complaint is to be objective.
- Allow the parties to settle the matter by reaching agreement on terms acceptable to the Complainant, Respondent and the Division. The Division will allow settlement from the time of filing until the matter reaches a final resolution.
- Determine whether or not there is probable cause to believe that an act of discrimination has occurred, if the matter cannot be settled prior to that Determination. The Division will notify the Complainant and Respondent in writing of the Determination.

## WHAT IS THE DIVISION'S POLICY ON ADJOURNMENTS AND EXTENSIONS?

It is the Division's policy to investigate all cases promptly and expeditiously. Therefore, you are expected to cooperate with the investigation fully and promptly. No deadlines will be extended at any time during the investigation, unless good cause is shown in a written application submitted at least five (5) calendar days prior to the original deadline.

## WHAT IS THE PROCEDURE FOLLOWING THE INVESTIGATION?

If there is a Determination of no probable cause, lack of jurisdiction, or any other type of dismissal of the case, the Complainant may appeal to the State Supreme Court within 60 days.

If the Determination is one of probable cause, there is no appeal to court. The case then proceeds to public hearing before an Administrative Law Judge. Under Rule 465.20 (9 N.Y.C.R.R. § 465.20), the Respondent may ask the Commissioner of Human Rights within 60 days of the finding of probable cause to review the finding of probable cause.

## WHAT IS A PUBLIC HEARING?

A public hearing, pursuant to the Human Rights Law, is a trial-like proceeding at which relevant evidence is placed in the hearing record. It is a hearing de novo, which means that the Commissioner's final decision on the case is based solely on the content of the hearing record. The public hearing is presided over by an Administrative Law Judge, and a verbatim transcript is made of the proceedings.

The hearing may last one or more days, not always consecutive. Parties are notified of all hearing sessions in advance, and the case may be adjourned to a later date only for good cause.

The Complainant can retain private counsel for the hearing, but is not required to do so. If Complainant is not represented by private counsel, the Division's counsel prosecutes the case in support of the complaint. Respondent can retain private counsel for the hearing, and, if Respondent is a corporation, is required to be represented by legal counsel. Attorneys for the parties or for the Division may issue subpoenas for documents and to compel the presence of witnesses.

At the conclusion of the hearing sessions, a proposed Order is prepared by the Administrative Law Judge and is sent to the parties for comment.

A final Order is issued by the Commissioner. The Commissioner either dismisses the complaint or finds discrimination. If discrimination is found, Respondent will be ordered to cease and desist and take appropriate action, such as reinstatement, training of staff, or provision of reasonable accommodation of disability. The Division may award money damages to Complainant, including back pay and compensatory damages for mental pain and suffering, and in the case of housing discrimination, punitive damages, attorney's fees and civil fines and penalties. A Commissioner's Order may be appealed by either party to the State Supreme Court within 60 days. Orders after hearing are transferred by the lower court to the Appellate Division for review.

## WHAT IS A COMPLIANCE INVESTIGATION?

The compliance investigation unit verifies whether the Respondent has complied with the provisions of the Commissioner's Order. If the Respondent has not complied, enforcement proceedings in court may be brought by the Division.

## NOTICE PURSUANT TO PERSONAL PRIVACY PROTECTION LAW

Pursuant to the Human Rights Law, the Division collects certain personal information from individuals filing complaints and from those against whom a complaint has been filed. The information is necessary to conduct a proper investigation; failure to provide such information could impair the Division's ability to properly investigate the matter. This information is maintained in a computerized Case Management System maintained by the Division's Director of Information Technology, who is located at One Fordham Plaza, Bronx, New York, (718) 741-8365.

## GENERAL INFORMATION

For a more detailed explanation of the process, see the Division's Rules of Practice (9 N.Y.C.R.R. § 465) available on our website www.dhr.state.ny.us. If you have any additional questions about the process, the investigator assigned to the case will be available to answer most questions.

# Exhibit F

CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS

Complaint No:
M-P-A-11-1024266

In the Matter of the Complaint of:

ROY DEN HOLLANDER,

Complainant,

- against -

AMNESIA J.V. LLC, and David "L.N.U.,"

Respondents.

Verified Complaint

Roy Den Hollander, complaining of Respondents, alleges as follows:

1. Complainant Roy Den Hollander is 63 years old. His address is 545 East 14th Street, Apt. 10D, New York, New York 10009.

2. Respondent Amnesia J.V. LLC ("Amnesia") is a place or provider of a public accommodation as defined by Section 8-102 of the Administrative Code of the City of New York. Its address is Attn: Legal Department, 609 West 29th Street, New York, New York 10001.

3. Respondent David "L.N.U." is employed by Respondent Amnesia as a Security Guard. His address is c/o Amnesia J.V. LLC, Attn: Legal Department, 609 West 29th Street, New York, New York 10001.

4. On or about January 9, 2010, at approximately 11:05 PM, Complainant and his friend, who is in his 60's, stood on a line in front of Respondent Amnesia in order to gain access into its nightclub. Complainant and his friend witnessed two individuals in front of them, who appeared to be in their 20's and/or 30's, approach Respondent David "L.N.U.," who checked their identification and then allowed them to enter the club. When Complainant and his friend approached Respondent David "L.N.U.," Respondent David "L.N.U." told them that they must agree to buy a bottle of alcohol for $350 in order to enter the club. Complainant and his friend declined and stepped out of the line. Complainant and his friend then witnessed another pair of individuals, who appeared to be in their 20's and/or 30's, enter the club without having to agree to buy a bottle of alcohol for $350.

5. Complainant charges that Respondents discriminated against him based upon his age by subjecting him to disparate treatment in the advantages, facilities and privileges of a public accommodation, in violation of Section 8-107 of the Administrative Code of the City of New York.

STATE OF NEW YORK )

Roy Den Hollander, being duly sworn, deposes and says: that I am the complainant herein; I have read (or had read to me) the foregoing complaint and know the content thereof; that the same is true of my own knowledge except as to the matters therein stated on information and belief; and that as to those matters, I believe the same to be true.

Roy Den Hollander
(Signature of Complainant)

STATE OF NEW YORK )
) ss.:
COUNTY OF NEW YORK )

On the 22nd day of October in the year 2010 before me, the undersigned personally appeared Roy Den Hollander, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.

Notary Public

LAURA FLYER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02FL6176753
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES NOVEMBER 5, 2011

**THE CITY OF NEW YORK**
**COMMISSION ON HUMAN RIGHTS**

----------x

In The Matter of the Complaint of

**ROY DEN HOLLANDER,**

Complainant,

- against -

**AMNESIA J.V. LLC., and DAVID "L.N.U.",**

Respondents.

----------x

**DETERMINATION AND ORDER AFTER REVIEW**

Complainant No.: M-P-A-11-1024266
GC No.: 12-901N

Complainant requests review of the Administrative Closure dismissing the above-captioned complaint.

In considering complainant's request, I have reviewed the following: the complaint; the answer; comments from all parties (if submitted); the Notice of Administrative Closure; and complainant's request for review.

Upon review of these materials, I hereby affirm the Administrative Closure dismissing the complaint.

Pursuant to Section 8-123(h) of Title 8 of the Administrative Code of the City of New York, complainant has thirty (30) days after service of this Order to seek review in the New York State Supreme Court.

Dated: New York, New York
January 17, 2013

**IT IS SO ORDERED**
**NEW YORK CITY COMMISSION**
**ON HUMAN RIGHTS**

**PATRICIA L. GATLING**
Commissioner/Chair

To:

Roy Den Hollander
Attorney at Law
545 East 14th Street, #10D
New York, New York 10009

Roger Griesmeyer
LaSasso Griesmeyer Law Group PLLC
80 Maiden Lane, Suite 2205
New York, New York 10038

Carlos Velez
Managing Attorney
Law Enforcement Bureau
New York City Commission on Human Rights
40 Rector Street – 10th Floor
New York, New York 10006

# EXHIBIT 20

The New York Times

# Court Rejects Men's Studies Lawsuit

By Corey Kilgannon

April 27, 2009 2:15 pm

Remember the lawyer who sued Columbia University for failing to offer classes in men's studies? His contention was that Columbia was being biased against men, since the university offers women's studies.

The lawyer, Roy Den Hollander, contended that he was trying to save the men of the world, one chauvinistic lawsuit at a time. But he'll have to do better next time, because his suit against Columbia was thrown out on April 23 by Judge Lewis A. Kaplan of United States District Court in Manhattan.

In his decision, now released, the judge noted that Mr. Den Hollander claimed Columbia was violating the first amendment because "his central claim is that feminism is a religion."

"Feminism is no more a religion than physics," the judge wrote, "and at least the core of the complaint therefore is frivolous."

The judge also disagreed Mr. Den Hollander's claim that the judge should have recused himself from the suit because he attended Columbia.

Mr. Den Hollander, who had claimed that offering a course of study about one gender violated Title IX and the Constitution, assailed the judge as a feminist and said, "The only thing frivolous and absurd is men looking for justice in the courts of America."

"When it comes to men's rights, judges act with an arrogance of power, ignorance of the law, and fear of the feminists," he said.

# EXHIBIT 21

- Washington Free Beacon - http://freebeacon.com -

# Anti-Feminist Lawyer Plans Lawsuit to Force Women to Register for Draft

Posted By CJ Ciaramella On September 24, 2014 @ 4:10 pm In Issues | No Comments

At age 18, every American man gets a card in the mail from the federal government notifying him of the requirement to sign up for the Selective Service—commonly known as "the draft." Women have always been excluded from this rite of passage, but New York lawyer Roy den Hollander is on a mission to change that.

Hollander, a self-described "anti-feminist" lawyer, is planning a class-action lawsuit to force the federal government to include women in mandatory draft registration.

The only problem is that Hollander can't find any women to join his lawsuit. For the past year, Hollander has been trying to find a female plaintiff between ages 18 and 25 to act as the lead representative of his case.

"It's kind of like dating," he explained in an interview. "First they say yes, then no, then maybe, then no."

In response to a reporter's observation that women's groups do not seem to like him very much, Hollander responded, "I think that might be the problem."

Hollander has made headlines by filing challenges to things such as ladies' nights at bars, arguing they amount to gender discrimination.

"There's no justice for guys in this day and age," Hollander, 67, said after a court threw out his case alleging age and gender discrimination because a New York nightclub forced him to buy bottle service to enter while allowing young women to walk in for free.

An appeals court threw out two of his other lawsuits to halt federal funding of Columbia University's feminist studies program. Hollander argued that feminism constitutes a "modern-day religion."

In a follow-up email to the *Washington Free Beacon*, Hollander sent along a list of the kinds of women he has attempted—and failed—to recruit for his case. The extensive catalogue included entries such as "Girl rugby players," "Sororities," and "Prof. Camille Paglia."

"Even [novelist] Erica Jong dissed my efforts," Hollander wrote.

In 1981, the Supreme Court ruled the federal government could require only males to register for the draft. The court based its ruling partly on Pentagon policy barring women from combat roles.

Hollander argues that "since then, the statutes have been repealed and the Pentagon's policy has changed, so the court's reasoning no longer applies." He says exempting women from draft registration amounts to a violation of their equal protection rights under the Constitution.

Hollander notes that the National Organization of Women filed an amicus brief in the 1981 Supreme Court case.

NOW also testified before Congress that "omission from the registration and draft ultimately robs women of the right to first-class citizenship. ... Because men exclude women here, they justify excluding women from the decision-making of our nation."

Rep. Charlie Rangel (D., N.Y.) has repeatedly introduced bills to reinstate the draft, including for women.

Hollander's previous quixotic quest to end ladies' nights at bars has ostensible allies as well. Two University of North Carolina students have begun a campaign to end them, calling the practice "inherently sexist."

# EXHIBIT 22

# Cavuto hosted "anti-feminist attorney" Den Hollander, who advocated "cut[ting] out the feminazi, feminist women's studies programs" at Columbia

Research **August 21, 2008 5:36 PM EDT ››› MATTHEW BIEDLINGMAIER**

Fox News' Neil Cavuto interviewed "anti-feminist attorney" Roy Den Hollander, who discussed his lawsuit against Columbia University for offering a women's studies program "but not a men's studies program." Den Hollander said: "[C]ut out the feminazi, feminist women's studies programs and bring back varsity sports, and you're going to do a lot better for the university." Den Hollander later said that women "are a suspect class. Every time they open their mouths, I begin to suspect something."

On the August 20 edition of Fox News' *Your World*, host Neil Cavuto interviewed "anti-feminist attorney" Roy Den Hollander, who discussed his lawsuit against Columbia University for offering a women's studies program "but not a men's studies program." During the segment, after referring to the previous segment's guest, Fox Business Network host Dave Ramsey, who discussed the high costs of today's colleges and universities, Den Hollander said: "[C]ut out the feminazi, feminist women's studies programs and bring back varsity sports, and you're going to do a lot better for the university." Den Hollander also stated, "If a guy takes a women's studies course, what's going to happen to him? The girls in the class are basically going to walk all over them in their stiletto heels, which may not be too bad," and later said that women "are a suspect class. Every time they open their

mouths, I begin to suspect something." As *Media Matters for America* has documented, Den Hollander is only the latest guest to make overtly sexist comments on Cavuto's program.

Indeed, on the April 10 edition of *Your World*, Cavuto and Marc Rudov, radio host and author of *The Man's No-Nonsense Guide to Women: How to Succeed in Romance on Planet Earth* (MHR Enterprises, 2004) and *Under the Clitoral Hood: How to Crank Her Engine Without Cash, Booze, or Jumper Cables* (MHR Enterprises, 2007), discussed comments by Sir Elton John at an April 9 fundraiser for Sen. Hillary Clinton during which John stated that he was "amazed by the misogynistic attitudes of some of the people in this country." Rudov stated, "Hillary Clinton, who's living by the gender sword, is going to be dying by the gender sword. She sends in Elton John to do her hissing when she's having a catfight with America." Rudov further stated, "This is a gynocracy. ... The reason that Hillary is losing is because people don't like her. That's all it is." Fox News legal analyst and University of Washington associate professor of law Lis Wiehl responded: "It's the old thing, Marc, of if a woman is aggressive, then she's, again, the B-word. If a man is aggressive, he's just assertive and claiming his own." Rudov later said: "The woman is not called a B-word because she's assertive and aggressive; she's called a B-word because she acts like one."

On his website, Den Hollander explains that the purpose of his lawsuit against Columbia University is "to find the Columbia University Women's Studies program unconstitutional for using government aid to preach the religious belief system 'Feminism' and for discriminating against men." Also on his website, Den Hollander describes the Violence Against Women Act as the "Female Fraud Act."

From the August 20 edition of Fox News' *Your World with Neil Cavuto:*

> CAVUTO: All right, so are women's studies courses spreading prejudice and bigotry toward men? Well, my next guest thinks so -- so much so that he is suing Columbia University. He's anti-feminist attorney Roy Den Hollander. Why Columbia?
>
> DEN HOLLANDER: 'Cause I went there. I graduated there, and so that gives me standing. But going back to what your past guest said, **cut out the feminazi, feminist women's studies programs and bring back varsity sports, and you're going to do a lot better for the university.**
>
> CAVUTO: But what is Columbia doing that ticks you off?
>
> DEN HOLLANDER: Well, what Columbia is doing is it's presenting a women's studies program but not a men's studies program. So what the complaint charges is that women's studies is really -- which teaches feminism, they state that they're teaching feminism -- and so the teaching of feminism -- I'm arguing that feminism is a religion. Now, religion doesn't require a god.
>
> CAVUTO: And what have they told you? Where is this going?
>
> DEN HOLLANDER: Well, it hasn't -- it just started. I just filed the case, so --
>
> CAVUTO: You want to cancel that course?
>
> DEN HOLLANDER: Well, it's appropriate --

CAVUTO: What if there's a sort of 'men-ism' course? You be OK with it?

DEN HOLLANDER: No, it's a program. It's not just courses, you understand, it's a program --

CAVUTO: Oh, it's part of a whole mindset --

DEN HOLLANDER: It's a network situation. It's a way for girls to acquire jobs, it's a training [unintelligible] --

CAVUTO: We should say we tried to get a statement from Columbia on this, and we couldn't get one from them. But your point is that it's showing an inherent kind of a bias.

DEN HOLLANDER: A definite bias. Because girls can benefit from women's studies, but guys aren't going to benefit. **If a guy takes a women's studies course, what's going to happen to him? The girls in the class are gonna basically walk all over him in their stiletto heels, which may not be too bad** --

CAVUTO: Stop, stop, stop. All right, so you're saying that it's unfair for women who, you know, for years and even up to now, have not earned as much or gotten ahead as much, to get a little bit more exposure in school, that's too bad?

DEN HOLLANDER: That's not -- no, that's not -- what you're talking about is affirmative action. **And what legally, that says that girls are a suspect class. And yes, they are a suspect class. Every time they open their mouths, I begin to suspect something.** The point is --

CAVUTO: You have issues, don't you?

DEN HOLLANDER: No, the point is, if you look at equal pay per unit of time, or equal pay, or pay per unit of risk, girls are making more than guys.

CAVUTO: Are they really?

DEN HOLLANDER: Girls control nearly 60 percent of the wealth in this country. And if you want to look at the real oppressors, you look at who lives longer, who -- on whom most of the health dollars are spent --

CAVUTO: Roy, you're angry. You're very angry.

DEN HOLLANDER: -- and who eats more. Oh, absolutely. But only against the feminists.

CAVUTO: All right. And Columbia. All right, Roy, thank you. I want to keep track of this, my friend. Thank you very much.

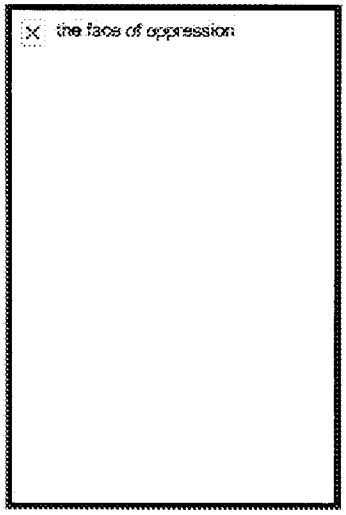
DEN HOLLANDER: I'll keep you up to date. Thank you.

# EXHIBIT 23

# Middle-Aged White Guy Sues Columbia for Discrimination

## *An Interview with Roy Hollander, Men's Rights Pioneer*

by Maureen O'Connor | August 22, 2008 at 3:28 pm




Roy Den Hollander — Columbia B-school grad and self-described "anti-feminist" — took aim this week at his alma mater's Institute for Research on Women and Gender. In a lawsuit charging sexual discrimination, Hollander calls the institute "a bastion of bigotry against men." Using Title IX as an "analogy," Hollander adds the Columbia suit to a growing stable of "Men's Rights" crusades, including a lawsuit protesting Ladies' Nights at bars, and another against VAWA, the Violence Against Women Act.

In an hour-long phone interview, Hollander waxes poetic on physical desire, his background as a draft-dodger, and the best places in New York for middle-aged dudes seeking jail-bait booty (dance class). As for Women's Studies at CU:

> The whole program is about benefiting females and teaching that guys are evil and that guys are responsible for all the world's evils.

He also told me about his "Russian mafia prostitute stripper" "mistress to a Chechen warlord" ex-wife, and how she used VAWA to persecute him and/or attain US citizenship.

Roy is surprisingly interesting for a guy who spends 90% of his waking life plotting the destruction of feminism, and the other 10% trying to get laid. Our epic conversation, after the jump.

*Interview edited for clarity and space. Also, to remove the part where we do a word association game that I thought would be funny, but was actually horrifying and awkward.*

**Tell me about your case against Columbia.**
What you have at Columbia University is, you have a Women's Studies program. Guys can take classes in it, guys can study it, but they won't benefit it. The whole program is about benefiting females and teaching that guys are evil and that guys are responsible for all the world's evils. And it isn't so much the courses, but the program itself is a networking system for these women. It helps girls get jobs afterwards. It allows them get a degree in Women's Studies, allows them to get fellowships and scholarships, allows them to become professors. In the odd case if a guy tries to get a job through the network, he's already not going to get a job because feminists hire girls instead of guys. They're too scared to hire a guy. The overall benefit weighs heavily on the side of girls.

**What about college alumni networks? Before the 70's, Princeton (where I went to school) was all dudes. Shouldn't that skew the benefits of networking?**

This goes to [the fact that] America today has become what I call "Feminarchy America." If you go back forty years ago, guys had an advantage in that area [networking], though there were a lot of other problems, like getting drafted and going to Vietnam, so that sort of balances it out. But what I'm talking about is that today, when girls get out of college, they have an advantage. 51-60% of students in college are women.

**So you would support an affirmative action program for men?**
Well, my own personal view is that this country should become a meritocracy, not what feminists advocate, which is quota-ocracy. The person best able should always get the job, should always get in. But with my legal cases, I'm saying is, if feminists want a quota-ocracy, then along with the 51% of the best of society, they should be getting 51% of the worst of society, too. They talk about the glass ceiling but never the tombstone basement. Did you know, of the 25 most dangerous occupations in America, 90% of them are held by guys? You never hear feminists fighting for those jobs. You never hear about them fighting to get ladies into the tombstone basement.

**Right now high school girls have higher SAT scores and better grades than their male peers. A meritocracy would mean fewer men in upper education.**
Yes, but the meritocracy should go all the way down to the beginning. According to the high school teachers I talk to, high schools have changed their grading systems to benefit girls instead of boys. Boys are good at competition, at cramming for tests and that sort of thing. Girls are better at doing their homework consistently, and that skews the grades.

Are you familiar with Title IX?

**Yes, I am.**
Title IX says that if Columbia University has varsity sports for men, it has to provide equal varsity sports for women. So I'm using that varsity sports analogy by saying the Women's Studies is the varsity sport of college co -education. Therefore, Columbia University has to provide a Men's Studies program if they want to be equal.

There's two aspects to that suit. The first one, the equal protection aspect, has a fair chance on the law. On the law, I think I should win the equal protection argument. But then you have to factor in politics, which has influence in the courts. If I lose equal protection, it will be because of politics. As I said, our country is set up in a way that benefits women. In last 40 years, feminists have acquired significant influence in the legislative branches.

The other aspect of the Columbia lawsuit is religion, which what Women's Studies is there to teach. They teach feminism, it says so on their website, and that's a religion. That argument is a harder sell, on the legal basis, but there's a possibility there if you look at case law. ... Part of my motivation in bringing the case is that, if the Supreme Court finds feminism to be a religion, then all the financing that the government provides to feminist organizations will have to stop. Around 800 million dollars a year goes to feminist organizations. We're talking grants, fellowships, legal counsel, legal advice to alien wives...

**I read that you were once married to a Russian stripper. Is that true?**
Actually, she was a Russian mafia prostitute stripper. As a teenager she was mistress to a Chechen warlord. I found this out because I worked at Kroll Associates. Are you familiar with them?

**Foreign intelligence?**
Yes. And through my contacts from them, what I learned from Russian military intelligence, is that she and her mother were and are connected with the Chechen Special Islamic Regiment.

**So what happened to the marriage?**
We got a divorce. I went through all the standard divorce horror: Restraining orders, she went to the police–

Yes. If you're an alien wife, and you want to become a citizen, you need a papertrail using VAWA.

[ *VAWA is the Violence Against Women Act. Hollander contested it in his first Men's Rights lawsuit.*]

She said, "My husband showed me a knife, my husband bruised me," and then she got a temporary restraining order. The order was later dismissed. She filed a complaint with the police that I tried to extort her but she never went forward with the complaint because she never had to. All she needed was the documents, which you can use in immigration proceedings.

**So the allegations were untrue?**
Well, yes, basically. She came at me twice with a knife, but since I know martial arts, it wasn't a problem. I probably did bruise her arm. But she, you know she twisted it around, the thing about the knife, and she got the restraining order. But what matters is that the court dismissed it.

**Allow me to now read a quote you gave to another jo**
Now all I am looking for is superficial temporary escapades with pretty young ladies... It's harder than it was when I was younger. I only go after girls who are in their athletic prime.
**rejection complex.**
"Late teens or twenties," is what I actually said. And, you know, I understand, this is exactly what my ex-wife did. See, she was a ho. I know this because she wrote about prostitution in her diary. She was a prostitute then, and for all I know, she's a prostitute now. She did drugs without my knowledge, and she transferred the euphoria of the drugs to me. Now, I expect that from a pretty young lady who wants something. What I didn't expect was the reaction of the government. She violated my rights, she violated the law, there's a sense of justice involved, but the government didn't care because it was me, a man, asking for justice against her, a woman, who was using VAWA.

But back to my preference. All I can say is, I do what mother nature tells me. I walk into a club, I'm standing there with my buddy looking for girls to hit on try to go out with them. If I see a girl, I'm going to go up and talk to her. I see a girl and I'm attracted to her, who knows what the reason is — there is a French poet who said "For men, love goes through the eyes" — and I talk to her, and she may look at me, and if she doesn't want me to talk to her, she'll make it clear. I can read demeanor. But I'm just going after who I'm attracted to. For instance, I take this hip-hop class, and sometimes a middle-aged lady comes to take it, but I'm not attracted to her.

**Hip-hop? You mean, like, dance classes?**
Yeah, I take it at Broadway Dance Center. This is a great class, especially for guys. Once I went and there were 80 girls, and a few gay guys, and I was the only hetero man in the class.

All my life I was in sports. Most recently it was martial arts, but I got to the point where I'm not as fast as I used to be, I would get cracked ribs, so I moved to doing dance to keep my cholesterol low.... So I started doing salsa. Now that is a real sexy dance. If you want– do you live in New York?

**Yes, I do.**
Learn salsa. You'll have a great time. Anyway, a friend took me to hip-hop class and there was no competition. And then, it's all that adrenaline, and endorphins, and, what's it called, one of those other drugs that make you feel good. And all these young ladies — teens, mid twenties — they get friendlier as the class goes on. At the old place [where we took classes] there was no air conditioning, so they were all wet. Just watching those beads of sweat roll down those curves... [trails off] I'm a guy. That's what I'm attracted to.

**its emphasis on de-stigmatizing female sexuality and**
**and promoting sex-positive ideology?**
No. I mean, you're right in some ways. I've met guys who say they want to use feminism to get into a girl's pants. I call them feminist opportunists. I can't do it. I just can't. Something just stops me.

**You draw the line at feminism.**
I'm a libra. I can't do phony opportunism just to get into a girl's pants. My friends say, tell the girls you've got money, but the truth is, after my jihada [ *Hollander refers to his crusade for Men's Rights as a "jihada, a Seven Years' War"*], I've got no money, so I'm not going to say that. I just can't. I never cheated on my ex-wife, and what a fool I was, she was out there ho-ing it the whole time.

**Did you have any children?**
No, thank goodness. Imagine if I'd had a son. How could I tell my kid his mom was a Russian prostitute? She was definitely a prostitute. I have affidavits.

**How do the female members of your family feel about your work?**
I have an older brother and that's the last of the family, so I don't really have any female family, per se. As far as the girls in my life, before divorce I had a handful of ladies in my life I considered friends. But when I saw what happened, what the feminists had done, and I saw what their reactions were [his lady friends'] and they said get on with your life, go earn some money– well, I cut them all out of my life. The relationships I'm going after now are superficial.

**Will you marry again?**
I will never marry again, in this life or the next life, if there is one.

No. This has been the best part of my life. I'm broke, I'm not making any money, I dont know where I'm going to make any money to go to a club this weekend, but for me this is fun beecause I'm fighting for something I believe in. It's the same reason I was against the war [Vietnam]. I was in SDS. I campaigned for Robert F. Kennedy.

**Did feminism irk you back then, too?**
I've always been opposed to feminists and feminism, except for maybe for 10 minutes many years ago, when I was hitting on a pretty young feminist. ... This gets me to the point of aging myself. I won't tell people how old I am. I look much younger than I am, and for some young ladies of a certain age I've already ruined myself [because] the *New Yorker* did an article on me, after which I was doomed. ... But I was a member of SDS, I didn't want to go to Vietnam, I was a draft-dodger.

**Did you go to Canada?**
No, I went to Boston University. A lucky incident occurred. I had an old lacrosse knee injury and I re-injured it. A doctor had a son in same position that I was in, and he wrote me a note, and I got out of the draft.

**You hurt your knee on purpose, to get out of the war?**
No. You don't get that kind of injury on purpose. [laughs] What you'd do on purpose is what a friend of mine did. He put a 22-bullet through his foot.

**Is that why you hate feminists? Because, during the war, men were losing their rights and getting drafted, while women were becoming feminists and getting more?**
No. What I cared about was what applied to guys. Feminism started picking up steam in the early 70's. Now, a guy's born, and let's say he has the draft. He's susceptible. He has that, and then he has the benefit of above-the-glass [ceiling] jobs. The feminist movement says, we want 51% of benefits. ... I don't think women should have less. I think it should be equal.

**As a woman, is there anything I**
You can go to my website and send me a donation. I've gotten 500, 600 dollars so far. But you bring up a good point: Outside of that, there isn't a place that guys can go. If you want to be a feminist and you want to help the feminist movement, you can go to NOW, which has 5000 members and contacts all over the place. ... There aren't many organizations doing that for men.

**Why is that?**
I dont know. I cant figure it out for myself.

No.

Roy just e-mailed me some follow-up thoughts:

Maureen,
Thanks for your time, you ask good questions. The one I believe I danced around was on Affirmative Action. Here's a quote that communicates my view:
"When was the last time a female was lynched, shot dead on the front stoop of her home, or on the balcony of the motel she was staying in. There's no comparison between blacks and females. For the past four centuries, the institutions of this nation have had their boot heels on the back of the necks of blacks. Over that same period white females and feminists have received nothing but preferential treatment."
Thanks again. I'll probably vote for O'Bama

Roy

45 Comments

Read more: Columbia, interview, lawsuits, roy den hollander

# EXHIBIT 24

ON THE DOCKET | **AUGUST 6, 2007 ISSUE**

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# HEY, LA-A-A-DIES!

*Ladies' Nights lawsuit*

**BY LAUREN COLLINS**

"Girls, y'all got one, a night that's special everywhere, from New York to Hollywood," Kool & the Gang sang, in 1979, and every year thereafter. Ladies' nights, however, are lately in peril (and with them, presumably, sales of coconut rum and Coty Wild Musk). In June, Roy Den Hollander, a Manhattan attorney, filed a federal lawsuit alleging that ladies' nights constitute a violation of the Fourteenth Amendment. Citing invidious discrimination, he named as defendants the night clubs A.E.R., Lotus, Sol, China Club, and the Copacabana—which charged lower admission fees for women at, respectively, their Remix Thursdays, Velvet List Wednesdays, Models and Bottles Fridays, Metropolis Fridays, and College Party Thursdays.

*Roy Den Hollander*
TOM BACHTELL

The other night—nite?—Den Hollander was maneuvering his way past a maroon rope that marked the entrance to LQ, a dance club in midtown. It was a Salsa Wednesday: five bucks for ladies, ten for gents. Den

Hollander shelled out and went inside, where he cruised the pink-lit periphery of a dance floor, sparsely populated with wrinkled couples practicing twirls. "Last time I was here for an after-work, you had younger people," he said. "Problem is, the music's so loud. When I hit on a girl, I need to be able to talk to her." Forgoing a complimentary buffet, he made his way to the bar, where he ordered an Absolut vodka gimlet. "I tend to be attracted to black and Latin chicks, and Asian chicks," he said, citing the influence of the twelfth-century Provençal troubadour Guiraut de Bornelh. "He said, 'For a man, attraction goes through the eyes.' " Den Hollander was unfazed by the notion that, as a hound dog, his fight to defeminize clubs was perhaps counter to his self-interest.

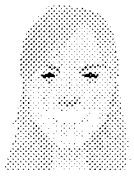
Den Hollander likes to keep his age a secret. He was wearing a greenish double-breasted suit and, judging from his gray buzz cut, rubbery grin, and Hypnotiq-blue eyes (courtesy of contacts), seemed to be about forty-five. His frequent references to the Vietnam era, however, put him slightly earlier. "I look around," he said, recalling his college years, "and there are all these girls walking around in see-through skirts and having sex whenever they want to, and there I am, dodging the draft."

He reached into his pocket and produced a typed forty-one-point list headed "Discrimination against men in America." (Sample gripes: child-custody laws, circumcision, "5% of females have borderline personality disorder.") "What I'm trying to do now in my later years is fight everybody who violates my rights," he continued, bringing to mind a combination of Leon Phelps, Che Guevara, and Travis Bickle.

Den Hollander's latest litigative quest (there have been many: defamation suits, a nuisance complaint against neighbors) began in earnest about seven years ago. A former associate at Cravath, Swain & Moore, he had moved to Russia to work as a private investigator. There he met a woman, with whom he returned to New York. They were married in March, 2000, and separated by December. (In *Den Hollander v. Flash Dancers Topless Club et al.*, Den Hollander sued his ex-wife and her employer under the auspices of a civil RICO statute. The suit was dismissed.) "So what happened was, my best buddy in town called and said, 'You've got to get back in the social life,' " Den Hollander recalled. "We'd say, 'Hey, the Copa looks good tonight,' but we wouldn't go, because they're charging double for guys and maybe we didn't have the cash."

The club was filling up as Den Hollander held forth on Title IX ("Sports isn't a big thing to girls, but it's a big thing to guys"), pickup tactics ("You sort of cut the person you're after from the herd"), his personal finances ("Have you heard of the dot-com bubble?"), and his belief that "the Feminazis have infiltrated institutions, and there's been a transfer of rights from guys to girls." Too bad, it was suggested, that his lawsuit is set to be heard by Judge Miriam Goldman Cedarbaum, herself a known female. But Den Hollander was not deterred. "What I think will happen," he said, "is that clubs will reduce the price for guys and increase it for girls. Every guy will have ten or fifteen more dollars in his pocket, which the girls will then manipulate into getting more drinks out of him. If they drink more, they'll have more fun, and so will us guys. And then when she wakes up in the morning she'll be able to do what she always does: blame the man."

In his lawsuit, Den Hollander invokes a precedent: *Seidenberg and DeCrow v. McSorley's Old Ale House* (1970), in which female patrons gained the right to drink alongside the menfolk. Reached last week, Karen DeCrow, an attorney and the vice-president of the Greater Syracuse chapter of the National Organization for Women, reacted evenly to news of Den Hollander and his unlikely alignment. "It probably wouldn't be very fun to go out to dinner with him," she said, "but, insofar as you've told me about his theory, I agree with it." Since winning the McSorley's case, DeCrow hasn't returned to the bar. "It would be fun to go back and have a glass of ale," she said, "but in the past twenty-five years it hasn't seemed urgent." ♦



Lauren Collins began working at *The New Yorker* in 2003 and became a staff writer in 2008.

**SUPREME COURT OF THE STATE OF NEW YORK**
**COUNTY OF NEW YORK**

| | | |
|---|---|---|
| ROY DEN HOLLANDER,<br><br>Plaintiff,<br><br>-against-<br><br>TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED,<br><br>Defendants. | : | Index No. 152656/2014<br><br>Hon. Milton A. Tingling |

**MEMORANDUM OF LAW OF DEFENDANTS TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY MCNEILAGE, AND FAIRFAX MEDIA PUBLICATIONS PTY LIMITED IN SUPPORT OF THEIR MOTION TO DISMISS THE FIRST AMENDED COMPLAINT**

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Defendants Tory Shepherd, Advertiser Newspapers Pty Ltd. ("Advertiser Newspapers" or "*The Advertiser*"), Amy McNeilage, and Fairfax Media Publications Pty Limited ("Fairfax Media" or "*The Herald*"), by and through their undersigned attorneys, submit this memorandum of law in support of their motion to dismiss the First Amended Complaint ("Complaint" or "FAC") of Plaintiff Roy Den Hollander ("Plaintiff" or "Hollander") pursuant to Rules 3211(a)(1), (7), and (8) of the New York Civil Practice Law and Rules ("CPLR").[1]

## PRELIMINARY STATEMENT

This case does not belong in this Court. The Defendants are two Australian newspapers and two Australian reporters that wrote and published news articles and opinion columns about a proposed men's studies course that was to take place at the University of South Australia. The articles, which were targeted to the Australian readers of the newspaper, discussed the fact that Plaintiff, an anti-feminist men's rights advocate, was to be a lecturer in the course. Plaintiff now seeks damages in a New York court for the publication of these articles in Australia. The only possible connection Defendants have to the State of New York is the fact that the articles at issue here were published on the newspapers' websites and those websites are accessible by anyone with a computer throughout the world – including in New York. The New York Court of Appeals, however, has held that mere Internet publication is insufficient to constitute the transaction of business within the State of New York. *SPCA of Upstate N.Y., Inc. v. Am. Working Collie Ass'n*, 18 N.Y.3d 400, 405 (2012). This Court should dismiss Plaintiff's claims on this basis alone.

[1] The documentary evidence on which Defendants rely is annexed as exhibits to the accompanying affirmation of Katherine M. Bolger, sworn to the 27th day of October 2014, and the affidavits of Michael Cameron, Richard Coleman, Tory Shepherd, and Amy McNeilage, and the exhibits attached thereto.

There is a second, alternative reason to dismiss Plaintiff's Complaint – all of Plaintiff's claims fail as a matter of New York law. Even a cursory review of Plaintiff's overwrought Complaint in which, among other things, he calls the reporters here "witches," "harp[ies]," and "bigots," FAC ¶¶ 14, 123, 9, makes it clear that this case is about the Plaintiff's deeply held dislike of "feminists" and those who oppose the "men's studies" courses he wants to teach. Plaintiff is within his rights to hold those opinions. The First Amendment to the United States Constitution, however, prohibits him from seeking damages from those who disagree with him in the absence of the publication by Defendants of a knowingly false and defamatory statement of fact. And there are no false facts at issue here – in fact, Plaintiff pleads the truth of almost of all the allegedly false statements in the Complaint. In addition, many of the statements complained of contain constitutionally protected statements of opinion. As a result, all of Plaintiff's claim fail as a matter of law.

## FACTUAL BACKGROUND

### A. The Defendants

Advertiser Newspapers is an Australian-based corporation that publishes *The Advertiser*, a newspaper that focuses on news related to Adelaide and South Australia. Bolger Aff., Ex. 2 (Cameron Affidavit ¶¶ 3, 7). Tory Shepherd, at all times relevant to this suit, was the Political Editor for *The Advertiser* and is a citizen of Australia who has never been to the State of New York. *Id.*, Ex. 3 (Shepherd Affidavit ¶¶ 2, 16).

Defendant Fairfax Media is also an Australian-based corporation that publishes *The Sydney Morning Herald* based out of Sydney, Australia and focused on Australian-related news. Bolger Aff., Ex. 4 (Coleman Affidavit ¶¶ 2, 3, 6). At all times relevant to this suit, Amy McNeilage was a reporter for *The Herald* and a citizen of Australia who has never been to the

State of New York. Bolger Aff., Ex. 5 (McNeilage Affidavit ¶¶ 2, 9).

**B. Plaintiff Roy Den Hollander**

Plaintiff is a self-professed "anti-feminist" who believes that the "feminist" movement is a plot to "eliminate[] the rights that the members of a distinct group, such as men, are entitled to." FAC ¶¶ 67, 79. Plaintiff believes this erosion of men's rights by feminists who he calls, among other things, "witches," *id.* ¶ 14, means that one of the only "remaining sources of power" for men is the right to bear arms, which gives men "a fighting chance against unjust state violence," *id.* ¶ 79; *see also id*. ¶ 77 ("As for mainly men exercising their right to bear arms in the U.S.– it's the truth, look at the statistics."). Otherwise, Hollander hypothesizes, men will be "reduced" to living "in protective hamlets surrounded by armed guards and barbed wire where females can safely pick out their pleasure for the night and where females' fears remain entombed." Bolger Aff., Ex. 8 at 26. Hollander admits that his ideas are out of the mainstream. FAC ¶ 13 (noting that his views are "not available anywhere else in higher education").

Hollander has appeared on *The Colbert Robert*, the Opie & Anthony radio show, and *Your World* with Neil Cavuto, has been interviewed by multiple media outlets, including *The New Yorker*, and had his exploits followed closely by *The New York Times*. Bolger Aff. ¶ 26, Exs. 15, 20-24. In many of these public appearances, Hollander proudly refers to himself as an "anti-feminist" or the news outlet notes that he is a "self-described anti-feminist." *See, e.g.*, *id.* ¶ 26 (describing himself as an "anti-feminist" on *The Colbert Report*) & Ex. 17 (Appeal from N.Y.C.H.R. Determination and Order, Ex. A at 3 ("Complainant . . . identifies himself as an 'anti-feminist lawyer' . . . ."). Indeed, his now-defunct website bore a banner that quoted *The New York Times* calling him an "anti-feminist lawyer." *Id.*, Ex. 16.

Hollander has filed multiple civil suits alleging that various programs he believes favor women are unconstitutional or illegal. He has claimed in litigation that feminism is a religion,

and, therefore, U.S. government funding of educational institutions with women's studies courses violates the Establishment Clause. *See id.*, Ex. 13 at 2-4.[2] He has also claimed that "ladies' nights" at New York nightclubs impermissibly "discriminat[e] against men," *see id.*, Ex. 9 at 2, and that the Violence Against Women Act violates the Equal Protection Clause and is motivated by "animus toward American citizens, mainly men, who marry foreigners," *see id.*, Ex. 10 at 48-49. Plaintiff's complaints along these lines have been unsuccessful, *see, e.g.*, *Hollander v. Members of Bd. of Regents of Univ. of N.Y.*, 524 F. App'x 727, 730 (2d Cir. 2013) ("Before again invoking his feminism-as-religion thesis in support of an Establishment Clause claim, we expect [Plaintiff] to consider carefully whether his conduct passes muster under Rule 11."); *Hollander v. Inst. For Research On Women & Gender at Columbia Univ.*, 372 F. App'x 140, 141-42 (2d Cir. 2010). In some instances, Plaintiff has blamed this lack of success on judges who are women. *See, e.g.*, Bolger Aff., Ex. 6 at 2 (arguing that a judge's opinion was "factually wrong, but try telling that to a lady judge if you're a man"); *see also Hollander v. Swindells-Donovan*, No. 08-CV-4045 (FB)(LB), 2010 WL 844588, at *1 (E.D.N.Y. Mar. 11,

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[2] On a motion to dismiss pursuant to CPLR 3211(a)(1), a court may consider all documentary evidence so long as it is "'proved or conceded to be authentic.'" *Erich Fuchs Enters. v. ACLU Found., Inc.*, 95 A.D.3d 558, 558 (1st Dep't 2012) (citation omitted). The "typical[]" example of documentary evidence is judicial records. *See, e.g., Giuliano v. Gawrylewski*, 40 Misc. 3d 1210(A), 2013 WL 3497611, at *2 (Sup. Ct. N.Y. Cnty. June 27, 2013). A plaintiff's own writings are properly considered documentary evidence. *See Love v. William Morrow & Co*., 193 A.D.2d 586, 588 (2d Dep't 1993) ("[a] comparison of the disputed language employed by [defendant] with the plaintiff's own words in his term paper . . . demonstrates the 'substantial truth' of [defendant's] words") (citation omitted); *Grimaldi v. Ho*, No. 6909/2012 (Sup. Ct. Dutchess Cnty. Sept. 3, 2013) at 6 (relying on plaintiff's own "December 2011 newsletter" to support truth finding) (attached as Bolger Aff., Ex. 19).

The Court also is entitled to take judicial notice of certain materials, such as court records and newspaper articles, without converting the motion to one for summary judgment. *See, e.g.*, *Saleh v. N.Y. Post*, 78 A.D.3d 1149, 1151-53 (2d Dep't 2010); *see also Gomez-Jimenez v. N.Y. Law Sch*., 36 Misc. 3d 230, 258 n. 13 (Sup. Ct. N.Y. Cnty.) (judicial notice of newspaper article reporting a 25% decline in law school admissions), *aff'd*, 103 A.D.3d 13 (1st Dep't 2012); *People v. Larsen*, 29 Misc. 3d 423, 425 (Crim. Ct. N.Y. Cnty. 2010) (judicial notice of certain statements on a private website); *Sprewell v. NYP Holdings, Inc*., 1 Misc. 3d 847, 850 (Sup. Ct. N.Y. Cnty. 2003) (judicial notice of various articles on topics related to defamation plaintiff).

2010), *aff'd sub nom. Hollander v. Steinberg*, 419 F. App'x 44 (2d Cir. 2011); *see also* Bolger Aff., Ex. 9.

Outside the courts, Plaintiff contributes articles to *A Voice for Men*, a controversial men's rights website. *See, e.g.*, Bolger Aff., Exs. 6, 7, 11. There he has called for the end of women's studies (or as he "affectionately call[s] them[,] 'Witches' Studies,'"), *id.* Ex. 6 at 2, and complained that he was discriminated against because of "prejudice against Euro-Americans of protestant ancestry, divorced husbands who criticize their ex-wives, and men who choose not to meekly submit to feminist and political correctionalist totalitarianism," *id.*, Ex. 7 at 2.

Elsewhere, Plaintiff has written that "[t]he purpose of the Feminist Movement is not equality, justice or freedom, but . . . power over men." *Id.*, Ex. 8 at 26.[3] He believes that men have been victimized by women because, "Beyond [having to provide] food and housing, [a man] must satiate . . . [his wife's] relentless vanity with expensive jewelry, perfumes, clothes and cosmetics," *id.* at 15, and rails against domestic violence hotlines because there are no "advertisements paid for by taxpayer dollars giving men a number to call to get some ragging, nagging, malicious slut to shut her yap," *id.* at 18. Hollander also has advocated "[s]trap[ping]" a "Feminazi . . . to a missile" and "drop[ping] her it [sic] on the Middle East," *id.* at 25, and claimed that "the Feminazi infested media often fails to look beyond its members owned biased beliefs to the reality of being a husband in feminarchy America," *id.* at 15.

Hollander pronounced on *The Colbert Report* that if women "want equality let's give them 51% of the worst of society. Then they'll change their tune and they'll start whining 'where's the kitchen?'" Bolger Aff. ¶ 26 at 0:56. And, he has told FOX News host Neil Cavuto

[3] When his opposing counsel attached these articles as an exhibit to an affidavit in opposition to Hollander's motion to disqualify a female judge based on her bias against men, *see* Bolger Aff., Ex. 12, Hollander sued opposing counsel for copyright infringement, *id.*, Ex. 8.

that if a man takes a women's studies course, "The girls in the class are gonna basically walk all over him in their stiletto heels, which may not be too bad," to which Mr. Cavuto replied, "Stop, stop, stop." *Id.* Ex. 22 at 3.

**C. The Publications At Issue**

1. The Shepherd Articles. On January 12, 2014, Shepherd wrote an article titled "Lecturers in world-first male studies course at University of South Australia under scrutiny." FAC, Ex. C (the "First Shepherd Article"). In that article, Shepherd notes that some men's studies courses scheduled to be held at the University of South Australia would be led by lecturers "linked to extreme views on men's rights and websites that rail against feminism." *Id* at 1. She reported that Plaintiff, a "self-professed 'anti-feminist lawyer,'" was one of the lecturers. *Id*. Shepherd cited Hollander as "argu[ing] that feminists oppress men in today's world and referring to women's studies as 'witches' studies.'" *Id*. She then quotes the course founder who defended the men's studies courses as well as masculinity scholars who argued that "'populist' male studies" lent themselves to the "more extreme activists." *Id* at 2.

As a follow up on January 14, Shepherd wrote another article titled "University of South Australia gives controversial Male Studies course the snip." FAC, Ex. E (the "Second Shepherd Article"). The Second *Advertiser* Article reported that the University had decided against approving the men's studies courses. *Id*. Shepherd also summarized an interview she conducted with Hollander, wherein, among other things, he said he was "preparing a course that looked at how the law favours females when it comes to employment, crime, domestic relations, property, divorce and illegitimate children." *Id* at 1. She also noted that Plaintiff "stood by his claim that men's remaining source of power was 'firearms.'" *Id*.

On the same day, Shepherd also wrote a column on the Opinion page of the News section of *The Advertiser* website titled, "Tory Shepherd: Pathetic bid for victim hood by portraying

women as villains." FAC., Ex. H (the "First Shepherd Column"). This column never mentions Hollander at all but discusses the proposed course and men's rights advocates generally

Finally, on June 18, Shepherd wrote a column on the Opinion page of the News section of *The Advertiser* discussing Hollander's initial complaint in this action. FAC, Ex. F (the "Second Shepherd Column"). That column, titled, "Men's rights campaigner Roy Den Hollander attacks *The Advertiser*'s Tory Shepherd in bizarre legal writ filed in New York County," discusses the difference between Shepherd's response to this litigation.. *Id.*

2. The McNeilage Article. Also on January 14, McNeilage wrote an article, titled "University of South Australia distances itself from males studies proposals," which noted that the University had not approved several males studies courses, "some of which were to be taught by hardline anti-feminist advocates." FAC., Ex. D (the "McNeilage Article"). After introducing Hollander as one of the lecturers for the courses and as a "self-described anti-feminist," McNeilage spent the remainder of her short article focusing on an academic at the University who was linked to Hollander and another lecturer for a men's studies course. *Id* at 2.

**D. Procedural History**

3. The First Amended Complaint. Plaintiff filed his original complaint against Defendants on March 24, 2014. Plaintiff served the complaint through the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents. After Defendants moved to dismiss the complaint, on October 7, 2014, Hollander filed a First Amended Verified Complaint. The Amended Complaint purports to assert three causes of action against McNeilage and Shepherd for injurious falsehood, ¶¶ 156-158, tortious interference with prospective contractual relations, *id.* ¶¶ 159-169, and *prima facie* tort, *id.* ¶¶ 170-177. Hollander also alleges that Shepherd libeled him. *Id.* ¶¶ 178-209. Although *The Herald* and *The Advertiser* are named in the Complaint, he makes *no allegations* as against either. *See generally id.* ¶¶ 156-209.

In his first cause of action, Hollander alleges that the First Shepherd Article and the McNeilage Article published injurious falsehoods about the "property interest of Roy in his copyrighted compilation the 'Males and the Law' section of a Male Studies course" and about Hollander "so as to intentionally harm him by aborting that section of the Male Studies course." *Id.* ¶ 156. Hollander does not appear to allege this claim against the newspaper defendants.

In his second cause of action, Hollander alleges that Shepherd wrote the First Shepherd Article and McNeilage wrote the McNeilage Article "to keep the creators of the Male Studies courses from teaching their course sections at the University, which included the 'Males and the Law' section to be taught by Roy." *Id.* ¶ 159. They effected such tortious interference by allegedly "characterizing" Hollander as "extreme right wing, railing against feminism [women], referring to women as bitches and whores, advocating gun violence, lacking in academic rigor, on the margins of society, extreme activists, hostile toward women and nonwhites, opposed to an equal and fair world, not objective and dangerous to women." *Id.* ¶ 163. In the alternative, Hollander argues that Shepherd and McNeilage "are liable under *prima facie* tort" because "their sole motivation" in writing either the First Shepherd Article or the McNeilage Article was their "'disinterested malevolence' to invidiously discriminate against men's rights activists." *Id.* ¶ 170. Hollander does not appear to assert this claim against the publishers.

Finally, as to Shepherd specifically, Hollander argues that Shepherd libeled him with "numerous statements" that were "false and susceptible of defamatory meaning." *Id.* ¶¶ 178-79. These statements are chronicled in ten pages in his Complaint. *Id.* ¶¶ 145-55.

## ARGUMENT

This is a case about Australian newspapers that published news stories and opinion columns written by Australians about an Australian university. The only connection any of the Defendants have to this litigation is the publication of the articles on websites accessible in New York. As a matter of law, mere Internet publication is insufficient to confer personal jurisdiction over these Defendants. For this reason alone, Plaintiff's Complaint must be dismissed.

In addition, Plaintiff's claims fail on their merits. The *sine qua non* of injurious falsehood and libel claims is the existence of a falsehood. *Air Wisconsin Airlines Corp. v. Hoeper*, 134 S. Ct. 852, 861 (2014); *see also Penn Warranty Corp. v. DiGiovanni*, 10 Misc. 3d 998, 1003 (Sup. Ct. N.Y. Cnty. 2005). Here, Plaintiff's own Complaint establishes that the complained of statements are substantially true. Moreover, many of the statements are statements of opinion, are not defamatory or are not of and concerning the Plaintiff.

Finally, Plaintiff cannot prevail on his tortious interference claim or his *prima facie* tort claim because he will never be able to demonstrate, as he must, that the sole intention of Defendants in publishing the articles was to harm him. For these reasons, Plaintiff's Complaint should be dismissed.

## POINT I

## THIS COURT LACKS JURISDICTION OVER DEFENDANTS

This action should be dismissed[4] because this Court lacks jurisdiction over the Australia-based Defendants. It is Plaintiff's burden to establish personal jurisdiction, *O'Brien v. Hackensack Univ. Med. Ctr.*, 305 A.D.2d 199, 200 (1st Dep't 2003), and he cannot do so here.

[4] This Court can rely on affidavits in determining a motion to dismiss pursuant to CPLR 3211(a)(8). *See SNS Bank, N.V. v. Citibank, N.A.*, 7 A.D.3d 352, 354 (1st Dep't 2004) (where defendants submit affidavits alleging facts showing they were not subject to jurisdiction and plaintiff failed to provide "tangible evidence which would constitute a 'sufficient start' in showing that jurisdiction could exist," dismissal was proper (internal marks and citation omitted)).

In the Complaint, Plaintiff claims this court has long-arm jurisdiction under CPLR 302(a)(1) and (3) because the Article was published on the Internet and was available in New York, the websites are interactive and, he claims, the Defendants had some contacts with New York. None of these arguments are convincing.

Long-arm jurisdiction is governed by CPLR § 302. CPLR §§ 302(a)(2) and (3) preclude the exercise of long-arm jurisdiction over an out-of-state defendant in actions like the one at issue here that sounds in defamation. *See, e.g.*, *Pontarelli v. Shapero*, 231 A.D.2d 407, 410 (1st Dep't 1996) (jurisdiction over non-domiciliary defendants barred by the "specific language" of CPLR §§ 302(a)(2)-(3)); *Morrison v. NBC*, 19 N.Y.2d 453, 459 (1967) (claims of reputational damage "fall within the ambit of tortious injury which sounds in defamation"). This bar to jurisdiction over out-of-state defendants in defamation actions exists in order to prevent "disproportionate restrictions on freedom of expression," *SPCA*, 18 N.Y.3d at 404, and applies to causes of action sounding in defamation even if those claims are creatively labeled as "injurious falsehood" or "*prima facie* tort," *see, e.g.*, *Findlay v. Duthuit*, 86 A.D.2d 789, 790 (1st Dep't 1982) (in assessing personal jurisdiction bar for defamation actions, courts look to "the reality and the essence of the action[] and not its mere name"). Thus, Plaintiff's cursory citations to CPLR § 302(a)(3) to support jurisdiction lack merit.

Hollander's other allegation fares no better. Plaintiff alleges that Defendants are subject to personal jurisdiction in New York because they "publi[sh] their articles online," which constitutes "transacting business in New York under CPLR 302(a)(1)." FAC ¶ 32. This argument, however, was foreclosed by the Court of Appeals two years ago when it held, unequivocally, that publishing articles "on a medium that was accessible in this state," like a website, is *not* a transaction of business in New York. *SPCA*, 18 N.Y.3d at 405. In *SPCA*, the

defendant from Vermont posted a "series" defamatory statements about a New York organization to its website. *Id.* at 403. In analyzing whether the defendant transacted business in New York, the Court did not even consider the maintenance of the website except to say that such activity especially did not affect the analysis where the "statements were not written in or directed to New York." *Id.*

The decision on *SPCA* extended the then-widely accepted view by both state and federal courts that "making defamatory statements outside of New York about New York residents does not, without more, provide a basis for jurisdiction, *even when those statements are published in media accessible to New York readers*." *Best Van Lines, Inc. v. Walker*, 490 F.3d 239, 253 (2d Cir. 2007) (emphasis added); *see also Gary Null & Assocs., Inc. v. Phillips*, 29 Misc. 3d 245, 250 (Sup. Ct. N.Y. Cnty. 2010) (accepting plaintiff's concession "that the posting of defamatory material on a Web site accessible in New York does not, without more, constitute transacting business in New York.") (internal marks and citations omitted); *Realuyo v. Villa Abrille*, No. 01 Civ. 10158(JGK), 2003 WL 21537754, at *6 (S.D.N.Y. July 8, 2003), *aff'd sub nom.*, *Realuyo v. Abrille*, 93 F. App'x 297 (2d Cir. 2004) (business operating out of Philippines and preparing and posting content for its website from there was not subject to jurisdiction in New York ). Most recently, in *Trachtenberg v. Failedmessiah.com*, the defendant operated a news website that published an article about a New York resident being "arrested for allegedly sexually abusing a very young child." --- F. Supp. 2d ----, 2014 WL 4286154, at *1 (E.D.N.Y. Aug, 29, 2014). The plaintiff argued that the New York court had jurisdiction over the website based, in part, on the availability of the website in New York. The court rejected that argument and held that jurisdiction would be appropriate "*only* when the content in question was based on research physically conducted in New York." *Id.* at *2 (emphasis added). The court also rejected

plaintiff's argument that because the article was about a New York resident and the defendant had "targeted" New York jurisdiction was appropriate, holding instead that "*SPCA* makes clear that such 'targeting' is not a jurisdiction-conferring transaction under C.P.L.R. § 302(a)(1)." *Id.* at *3. Here, the Articles and columns at issue were researched and written in Australia, McNeilage Aff. ¶¶ 3-4, 9; Shepherd Aff. ¶¶ 3-4, 9, published by Australian newspapers, McNeilage Aff. ¶¶ 4; Shepherd Aff. ¶¶ 5-8, with Australian domain names, Coleman Aff. ¶ 6; Cameron Aff. ¶ 6,targeting an Australian audience, McNeilage Aff. ¶ 5; Shepherd Aff. ¶ 9, about a course taught at an Australian university.[5] The mere fact that those websites were accessible in New York cannot subject the Defendants to personal jurisdiction in New York.

Plaintiff must, therefore, allege *additional*, purposeful activity in New York, besides Internet publication, that is substantially related to "the transaction out of which the cause of action arose." *SPCA*, 18 N.Y.3d at 404 (internal marks and citation omitted). To do so, Plaintiff makes two arguments. First, Plaintiff asserts that *The Advertiser* and *The Herald* websites are "highly interactive websites that qualify as transacting business in New York" citing to their offering of "interactive quizzes" and "tablet apps." FAC ¶ 30. He also argues that they "sell[] and deliver various goods and services through their websites that also allow the transmittal of information between Defendants and their readers." *Id.* ¶ 28. New York courts however, have rejected website interactivity as a basis for jurisdiction *unless* there is a connection between the alleged defamatory article and the interactive element of the website. *See, e.g.*, *Best Van Lines, Inc.*, 490 F.3d at 252.

In *Realuyo*, for example, the plaintiff argued that the website's advertising links supported jurisdiction in a defamation action because they made the website interactive. 2003

[5] Not surprisingly, common words used in the articles and columns are given Australian spelling. *See, e.g.*, Shepherd Aff., Exs. A ("organisers," "Centre," and "legitimise"), B ("organisations"), D ("favour").

WL 21537754, at *7. The court rejected that argument holding that "[w]hile those advertising links may cause the web site to fall within the middle ground of possible jurisdiction, the claim in this case . . . does not arise from that set of interactive links." *Id.* On the contrary, the court explained, the claim arose "solely from the aspect of the website from which anyone—in New York or throughout the world—could view and download the allegedly defamatory article." *Id.* In any event, the court went on to find that the website was passive because no interaction between the defendant and its readers "in connection with the [defamatory] article." *Id. See also Gary Null & Assocs.*, 29 Misc. 3d at 252 (interactivity of website not relevant to jurisdictional analysis because "the advertisements bear no relationship . . . to the defamation alleged in this action.") *Id.* Here, as in *Realuyo,* the interactive elements of the website are not related to the Article. Accordingly, they cannot provide a basis to exercise jurisdiction.

Plaintiff next tries to argue that jurisdiction is appropriate over the newspaper defendants because he claims they generally have various contacts in New York. These general allegations, however, even if true, are not sufficient. It is the plaintiff's burden to show that the allegedly tortious activities relate "to the jurisdiction-conferring transaction." *Trachtenberg*, 2014 WL 4286154, at *4. Hollander cannot carry this burden.

*First*, there is no question that Hollander cannot carry this burden as to McNeilage. In fact, Hollander makes no jurisdictional allegations at all relating to McNeilage and where there are no such allegations, dismissal is appropriate. *See Pramer S.C.A. v. Abaplus Int'l Corp.*, 76 A.D.3d 89, 95-96 (1st Dep't 2010) ("Preliminarily, there are no allegations that Vargas personally conducted any transaction in New York, notwithstanding his possible corporate affiliation, so jurisdiction cannot be obtained over him as an individual.").[6] Moreover, the only

[6] Instead, the only jurisdictional facts before the Court are contained in McNeilage's affidavit, which states that she is an Australian citizen, who works for an Australian newspaper, did not intend to target

allegedly tortious activity he claims McNeilage engaged in was writing the Article. Because that happened in Australia, there is no jurisdiction here in New York.

*Second*, as to *The Herald*, Hollander makes no relevant allegations sufficient to confer jurisdiction. Hollander, for example, attempts to foist personal jurisdiction onto *The Herald*, because some indeterminate number of Australian's living in New York "subscribe electronically to" *The Herald*. But this not enough to confer jurisdiction in New York. *Am. Radio Ass'n v. A. S. Abell Co.*, 58 Misc. 2d 483, 484-85 (Sup. Ct. N.Y. Cnty.); *Sino Clean Energy Inc. v. Little*, 35 Misc. 3d 1226(A), 2012 WL 1849658, at *7 (Sup. Ct. N.Y. Cnty. May 21, 2012) (offering an "email subscription . . ., posting responses and comments to the website users, who could download reports and files directly to their computers" was "insufficient to support" to support transacting business personal jurisdiction). There is therefore, no jurisdiction over *The Herald* here.[7]

*Third*, the only allegation Plaintiff makes about *The Advertiser*, other than the unsuccessful argument that it published the Articles and Columns and that it like *The Herald* has digital subscribers, is that News Corp., *The Advertiser*'s ultimate parent, is present in New York. FAC ¶ 31. But the mere presence of *The Advertiser*'s parent company in New York does not confer jurisdiction over *The Advertiser* under CPLR § 302. *Oriska Ins. Co. v. Brown & Brown*

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New York by writing the McNeilage Article, and did not contact anyone in New York in the process of writing the Article. McNeilage Aff. ¶¶ 1, 2, 4, 5-7.

[7] *The Herald* has no business operations in New York and has not done so since 2012. Coleman Aff. ¶ 8. In addition, *The Herald*'s relationship with Press Reader, id. ¶ 5, does not give this Court jurisdiction over *The Herald*. Indeed, a third party's distribution of products into the State are not attributable to a defendant absent some evidence that the defendant controlled the actions of the third party. *See, e.g., Standard Wine & Liquor Co. v. Bombay Spirits Co*., 20 N.Y.2d 13, 16 (1967) (holding that it was "perfectly evident" that defendant did not transact business under CPLR 302(a)(1) despite defendant giving "the exclusive rights to market its spirits in this country" to a company licensed to do business in New York); *Stephan v. Babysport, LLC*, 499 F. Supp. 2d 279, 287 (E.D.N.Y. 2007) (sales in New York by a third party defendant entered into a distribution contract with insufficient to constitute transacting business). Here, *The Herald* had no such control over Press Reader.

*of Texas, Inc.*, No. 02-CV-578, 2005 WL 894912, at *2-4 (N.D.N.Y. Apr. 8, 2005) (companies with consolidated finance reporting, shared address, and a board member's president being listed as the other company's representative were insufficient for jurisdiction under Section 302(a)(1)).[8] Plaintiff's claims against *The Advertiser,* too, must be dismissed.

*Finally*, Hollander alleges this Court has jurisdiction over Shepherd because Shepherd had multiple email or telephone communications either with him or another source in New York either. FAC ¶ 34. Such out-of-state communications do not add much to the analysis, however, because New York courts generally focus on the research "physically conducted in New York." *Trachtenberg*, 2014 WL 4286154, at *2; *see also, e.g.*, *SPCA*, 18 N.Y.3d at 405 (analyzing "defendants' activities *in New York*" (emphasis added)); *Copp v. Ramirez*, 62 A.D.3d 23, 30 (1st Dep't 2009) (analyzing *in state* transactions only as part of jurisdiction analysis). For that reason alone, these out-of-state contacts do not affect the analysis. *Trachtenberg*, 2014 WL 4286154, at *4 ("Basing an article on information received out-of-state from a New York source is simply not the same as coming to New York to conduct research."). Even if these out-of-state contacts were properly considered, the jurisdiction conferring "research requirement is not *de minimis*." *Id.*, at *2. Thus, in *SPCA*, the Court of Appeals found "three phone calls and two short visits [in New York] – totaling less than three hours – in addition to the donation of [$1,000] cash" donated to a New York non-profit to be "quite limited" and insufficient to find personal

[8] To the extent Hollander argues that *The Advertiser* is subject to general jurisdiction in New York under CPLR § 301 because its parent is here, this argument fails. To be subject to general jurisdiction, a corporation must be at home here. *Daimler AG v. Bauman*, 134 S. Ct. 746, 761 (2014). Thus, since *Daimler AG*, the continued viability of CPLR § 301's less-stringent "doing business" test for general jurisdiction has been questioned. *See Sonera Holding B.V. v. Cukurova Holding A.S.*, 750 F.3d 221, 225 n.2 (2d Cir. 2014) (internal marks and citation omitted). Even if that test were still valid, New York courts have already established the general rule that foreign subsidiary is not subject to general jurisdiction in New York, simply because its parent is at home here. *See, e.g., Grove Valve & Regulator Co. v. Iranian Oil Servs. Ltd.*, 87 F.R.D. 93, 95 (S.D.N.Y. 1980); *Saraceno v. S.C. Johnson & Son, Inc.*, 83 F.R.D. 65, 67 (S.D.N.Y. 1979); *Oriska Ins. Co. v. Brown & Brown of Tex., Inc.*, No. 02-CV-578, 2005 WL 894912, at *2 (N.D.N.Y. Apr. 8, 2005).

jurisdiction over the defendants. *SPCA*, 18 N.Y.3d at 405; *see also Penachio v. Benedict*, 461 F. App'x 4, 5 (2d Cir. 2012) (noting that "contact[ing] New York residents by email and telephone," among other acts, did not constitute transacting business); *Copp*, 62 A.D.3d at 29 n.3 (expressing "doubts as to whether the out-of-state defendants' minimal contacts with New York," including travelling to New York in their capacities as reporters and staying in New York for no longer than 48 hours, "would be sufficient proof to establish the element of transacting business"). Here, Shepherd's contacts with New York -- a handful of emails to two individuals and one telephone call - were far less than those found insufficient to confer jurisdiction in *SCPA*, *Penacho*, and *Copp*. There is, therefore, no personal jurisdiction over Shepherd.

In sum, Hollander argues that this Court has "transacting business" personal jurisdiction over four Australian Defendants located over ten thousand miles away from New York based almost exclusively on the fact that Defendants' articles were accessible in New York on the Internet. This argument has been explicitly rejected by the New York State Court of Appeals. *SPCA*, 18 N.Y.3d at 405 (no personal jurisdiction despite the fact that the challenged statements "were posted on a medium that was accessible in this state"). This Court should dismiss Plaintiff's Complaint for lack of personal jurisdiction as to all Defendants.

## POINT II

## PLAINTIFF'S COMPLAINT SHOULD BE DISMISSED ON ITS MERITS

In the alternative, Plaintiff's claims as alleged against Defendants cannot withstand a motion to dismiss on the merits. When evaluating a motion to dismiss pursuant to CPLR 3211(a)(7) for failure to state a claim, courts must determine whether a plaintiff's complaint evidences facts "'which taken together manifest any cause of action cognizable at law.'" *McGill v. Parker*, 179 A.D.2d 98, 105 (1st Dep't 1992) (citation omitted) (dismissing defamation claim). And, while courts must accept as true allegations in a plaintiff's complaint, courts need not

accept as true "'bare legal conclusions.'" *Cangro v. Marangos*, 61 A.D.3d 430, 430 (1st Dep't 2009) (citation omitted). In addition, "[u]nder CPLR 3211(a)(1), a dismissal is warranted" when "documentary evidence submitted conclusively establishes a defense to the asserted claims as a matter of law." *Leon v. Martinez*, 84 N.Y.2d 83, 88 (1994). "A movant is entitled to dismissal under CPLR § 3211 when his or her evidentiary submissions flatly contradict the legal conclusions and factual allegations of the complaint." *Uzamere v. Daily News, L.P.*, 34 Misc. 3d 1203(A), 2011 WL 6934526, at *2 (Sup. Ct. N.Y. Cnty. Nov. 10, 2011).

Where, as here, libel and related tort claims are insufficient on their face, New York courts do not hesitate to dismiss them. *See, e.g.*, *Muhlhahn v. Goldman*, 93 A.D.3d 418, 419 (1st Dep't 2012) (affirming grant of CPLR 3211(a)(1) motion because "[b]ased on the documentary evidence," the challenged statements were "true or substantially true"). This is especially so where claims unquestionably implicate defendants' First Amendment rights to report newsworthy information, requiring courts to "consider [the] case against the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964); *see also Freeze Right Refrigeration & Air Conditioning Servs., Inc. v. City of New York*, 101 A.D.2d 175, 181 (1st Dep't 1984) ("courts should not be oblivious to the crippling financial burden which the defense of libel claims entails, even for major news organizations."). These concerns are particularly relevant here. Plaintiff has stated that he wants to punish Shepherd and McNeilage "as a warning to others" not to be critical of the men's rights movements. FAC ¶ 214. But it is not the job of this Court to referee Hollander's dispute with "feminists" and those who are critical of the men's rights movements so long as, as is the case here, the relevant speech is truthful opinion. Hollander cannot use this Court to punish those with whom he disagrees.

## A. Hollander's Claims Based On Statements Defendants Did Not Make Must Be Dismissed

There is no question that a defendant only can be held liable for statements she actually makes. *Frechtman v. Gutterman*, 115 A.D.3d 102, 104 (1st Dep't 2014). Yet Hollander makes several claims based on statements that do not actually appear in any of the challenged articles. *See* Bolger Aff., Ex. 18 (Statements A, H, I, L, M, V, & AA).[9] For example, Hollander alleges that Shepherd stated he "has been 'identified as belonging to extreme right wing groups in the USA.'" FAC ¶ 185; *see also id.* ¶¶ 62, 76. That phrase is not found in *any* article subject to Hollander's Complaint. *Id.*, Exs. C-F, H. Similarly, Plaintiff accuses Defendants of calling him an "'extreme' right-winger." *Id.* ¶ 62. But, Defendants never used the words "right winger" in the articles. *Id.*, Exs. C-F, H. In addition, Hollander argues that "Tory and Amy have continued in the McCarthy-Cohn tradition by destroying a proposed course at a public university that they deemed 'inappropriate' in order to eliminate dissent." *Id.* ¶ 16. The word "inappropriate," however, is not used in any of the challenged articles. *Id.*, Exs. C-F, H. Thus, Plaintiff's claims based on these allegations should be dismissed.

## B. The Injurious Falsehood And Libel Claims Must Be Dismissed

Next, the central allegations in Plaintiff's Complaint – the injurious falsehood and libel

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[9] The Court should also dismiss this action against *The Advertiser* and *The Herald* on the independent ground that Plaintiff has failed to satisfy even the most basic pleading requirement. New York law requires that "[s]tatements in a pleading *shall be* sufficiently particular to give the court and parties notice of . . . the material elements of each cause of action" against the defendants, CPLR § 3013 (emphasis added), and, therefore, a plaintiff must plead some form of liability against each defendant. *Fisher v. Schur*, 61 A.D.2d 780, 780 (1st Dep't 1978). Thus, where a plaintiff does not plead direct liability, some form of secondary liability must be pled. *Sanderson v. Bellevue Maternity Hosp. Inc.*, 259 A.D.2d 888, 892 (3d Dep't 1999) (merely referencing an employee's defamation does not establish *respondeat superior* liability).

Hollander makes no allegations of liability whatever as against *The Herald* and *The Advertiser*. *See generally* FAC ¶¶ 156-58 (discussing injurious falsehood claim as against "Tory and Amy"), 159-170 (tortious interference claim as against "Tory and Amy"), 170-77 ("Tory and Amy are liable under *prima facie* tort"), 178-209 (noting that Shepherd "authored" the allegedly defamatory, which she "published" to *The Advertiser*). For this reason, Hollander has utterly failed to state a claim as to either defendant.

claims – fail as a matter of law. Under New York law, the elements of an injurious falsehood claim are: "(i) falsity of the alleged statements; (ii) publication to a third person; (iii) malice; and (iv) special damages." *Biro v. Conde Nast*, 883 F. Supp. 2d 441, 483 (S.D.N.Y. 2012). The elements of a defamation are: (1) a false statement; (ii) publication to a third party; (iii) with fault; and (iv) special harm or defamation *per se*. *Frechtman*, 115 A.D.3d at 104. Injurious falsehood claims are subject to the same constitutional protections as are defamation claims. *See, e.g.*, *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 57 (1988) (holding that First Amendment protections developed in defamation case law apply to creatively pled causes of action based on speech); *Newport Serv. & Leasing, Inc. v. Meadowbrook Distrib. Corp.*, 18 A.D.3d 454, 455 (2d Dep't 2005) (dismissing injurious falsehood claim on summary judgment based on substantial truth defense) (citing *Carter v. Visconti*, 233 A.D.2d 473, 474 (2d Dep't 1996) (defamation case)); *see also Biro*, 883 F. Supp. 2d at 483 (rejecting attempts to circumvent defamation standards by pleading injurious falsehood). Plaintiff cannot make out these elements.

1. The Vast Majority of Complained of Statements Are True

First, the *sine qua non* of both an injurious falsehood and a libel claim is falsity. It is, therefore, axiomatic that truth is a complete defense to libel. *Phila. Newspapers, Inc. v. Hepps*, 475 U.S. 767, 778 (1986) (plaintiff has burden of proving falsity); *see also Diaz v. Espada*, 8 A.D.3d 49, 50 (1st Dep't 2004) (construing defamation case law); *Pitcock v. Kasowitz, Benson, Torres, & Friedman, LLP*, 74 A.D.3d 613, 615 (1st Dep't 2010) (injurious falsehood claim must be dismissed where plaintiff failed to allege falsity). A plaintiff bears the burden of pleading and proving falsity. *Immuno AG. v. Moor-Jankowski*, 77 N.Y.2d 235, 245 (1991). Moreover, "truth need not be established to the extreme, literal degree." *Yarmove v. Retail Credit Co.*, 18 A.D.2d 790, 790 (1st Dep't 1963); *see also Cusimano v. United Health Servs. Hosps., Inc.*, 91 A.D.3d 1149, 1151 (3d Dep't 2012) ("substantial truth is all that is required"). Therefore, if the

statements complained of are substantially true, a claim sounding in defamation fails as a matter of law and can be dismissed at the pleading stage. *See Muhlhahn*, 93 A.D.3d at 419 (affirming grant of CPLR 3211(a)(1) motion because "[b]ased on the documentary evidence," the challenged statements were "true or substantially true"); *see also Aguinaga v. 342 E. 72nd St. Corp.*, 14 A.D.3d 304, 305 (1st Dep't 2005) (where letter written by plaintiff admitted "the truth of an expressed opinion, the words cannot be actionable"); *Torres v. CBS News*, No. 121646/93, 1995 WL 810041, at *3 (Sup. Ct. N.Y. Cnty. Oct. 11, 1995) (where plaintiff admitted statement was true, dismissal under CPLR 3211 was proper).

Here, most of the statements that form the basis of his Complaint are substantially true. Plaintiff sets forth those statements in a scattershot manner throughout his Complaint,[10] but for analysis sake, these disparate allegations can be categorized into four basic groups:

> Category 1: Statements that Plaintiff is a "hardline" "radical" "anti-Feminist" or has controversial views himself (Bolger Aff., Ex. 18 (Statements F, I, K, M, Q, V, Y, EE, LL, MM, NN, & PP));
>
> Category 2: Statements that Plaintiff has been linked to people with extreme views on men's rights (*Id.* (Statements B, D, I, J, X, DD, & OO));
>
> Category 3: Statements that the only remaining source of power left to men are firearms (*Id.* (Statements E, N, & Z)); and
>
> Category 4: Statements that Hollander blames feminists for oppressing men and refers to women's studies as "witches' studies" (*Id.* (Statements G, O, & P)).

All of these statements are substantially true and indeed their truth is largely covered by the very Complaint in this action. First, as to Category 1, Hollander admits that he is an "anti-feminist." FAC ¶ 67 ("Roy does describe himself as an anti-feminist"). And he's admitted it in media outlets throughout the world. *See* Bolger Aff. ¶ 26 (noting on *The Colbert Report* that he is an "anti-feminist"). Hollander's Complaint also establishes that his views are radical and

[10] To aid the court's analysis, the relevant statements are set forth in a chart annexed to the Bolger Aff., Ex. 18.

extreme. In it, he makes myriad attacks on Shepherd and McNeilage, calling them "Bacchae", "Harpys," "book burners," "bigots," "yellow female-dog[s]-in-heat,", FAC ¶¶ 1, 62, 13, 9, 59, claiming that Tory "figuratively picked up Lizzie Borden's hatch and set off whacking any men's rights activist" and wondering whether Shepherd is desirous "for the emasculation or circumcision of men's rights advocates," *id.* ¶ 52. In addition, he takes hardline positions in the Complaint about the right to bear arms, *id.* ¶ 77, the Violence Against Women's Act, *id.* ¶ 88-90 and rape and abuse statistics, *id.* ¶ 113. These statements echo those he has published, *see, e.g.*, Bolger Aff., Ex. 8 at 26 ("Feminazis will not stop until they reshape America and eventually the world into an intolerant hell complete with thought-control, inquisitions, intimidation, [and] enslavement."); *id.* (arguing that feminism exists to counteract women's fear that a man "can beat her up, rape or kill her with his bare hands, providing no one else is present to prevent it").[11] And, Hollander himself, admits that his ideas are not widely accepted by others. FAC ¶ 13; *see also Biro*, 883 F. Supp. 2d at 459 (where plaintiff admitted in the complaint that he was part of an "emerging field," statement that plaintiff had a "radical approach" was not false). It is, therefore, substantially true that Plaintiff is a hardline anti-feminist lawyer.

The statements in Category 2 are also true. Plaintiff has written articles for *A Voice for Men*. The Southern Poverty Law Center has found that the men's rights website *A Voice for Men*, a website to which Hollander is a contributor, is a hate site. Bolger Aff., Ex. 14. Quoting the website's founder, SPLC explains *A Voice for Men*'s credo, "AVfM regards feminists, manginas [a derisive term for weak men], white knights [a similar derisive term . . . ] and other agents of misandry as a social malignancy." *Id.* Plaintiff has, therefore, been linked to

[11] Plaintiff attempts to qualify what he means by the term "anti-feminist" as a way to establish the falsity of the Article. But the articles actually state that Plaintiff is a "self-described" anti-feminist. Plaintiff's quibbling over what "feminist" means is, therefore, irrelevant.

individuals who hold extreme viewpoints.

Next, the statements in Category 3 are also true. Hollander has argued that "there is one remaining source of power in which men still have a near monopoly—firearms." Bolger Aff., Ex. 11. at 2; *see also* FAC ¶ 77 ("As for mainly men exercising their right to bear arms in the U.S.—it's the truth . . . ."). And he has advocated strapping feminists to missiles and bombing the Middle East with them. Bolger Aff., Ex. 8 at 25. These statements, therefore, cannot form the basis of a claim for injurious falsehood or libel because they are substantially true.

Finally, the statements in Category 4 are also true because Hollander does believe that feminists oppress men, *see, e.g.*, FAC ¶ 88 (noting that the Violence Against Women Act kicked men "off the bus"); Bolger Aff., Ex. 8 at 26 (describing attempts to subvert men), and he does call women's studies "witches' studies," FAC ¶ 62; Bolger Aff., Ex. 6 ("The third in my trilogy of anti-feminist cases is against 'Women's Studies Programs,' or as I affectionately call them 'Witches' Studies.'"); *id.*, Ex. 13 at 5 ("the IRWG Women's Studies program demonizes men and exalts women in order to justify discrimination against men based on collective guilt.").[12]

In short, "[w]hile plaintiff might not have found [Defendants'] tone of voice to his liking, he has admitted that the factual matter contained in [their] statement[s] is true. Therefore, the statement[s are] non-actionable." *Torres*, 1995 WL 810041, at *3. This Court should dismiss Plaintiff's Complaint as to Statements B, D-G, I-K, M-Q, T, V, X-Z, DD, EE, GG, and LL-PP because they are true.

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[12] One statement that does not fit neatly into these categories is also true. Hollander argues that McNeilage injured him by reporting on his lawsuit against Columbia premised on feminism being a religion. FAC ¶ 144. But Hollander himself described the lawsuit as arguing, "Feminism is a religion; therefore, the state and federal governments cannot provide aid to Women's Studies because it would violate the Establishment Clause of the First Amendment." Bolger Aff., Ex. 6; *see also Hollander v. Inst. For Research On Women,* 372 F. App'x at 141-42 (affirming dismissal of Plaintiff's claim that the existence of a women's studies program at Columbia University violated the Establishment Clause). As such, the assertion complained of is true.

2. Multiple Statements Are Pure Opinion

Next, Hollander's claims as to Statements B, D, F, I-K, M, Q-Y, BB-OO, QQ, and as to the First and Second Shepherd Columns in their entirety should be dismissed because they are non-actionable opinion. *Vitro S.A.B. de C.V. v. Aurelius Capital Mgmt., L.P.*, 99 A.D.3d 564, 565 (1st Dep't 2012) ("expression of opinion is constitutionally protected and cannot serve as the basis for plaintiff's injurious falsehood claim."). In *Milkovich v. Lorain Journal Co.*, the Supreme Court held that "a statement of opinion relating to matters of public concern which does not contain a provably false factual connotation will receive full constitutional protection," so long as such a statement does not "reasonably impl[y] false and defamatory facts." 497 U.S. 1, 20 (1990). New York's Constitution goes even further. *Gross v. N.Y. Times Co.*, 82 N.Y.2d 146, 152 (1993). When determining if a statement is opinion, a court must "take into consideration the larger context in which the statements were published, including the nature of the particular forum." *Brian v. Richardson*, 87 N.Y.2d 46, 51 (1995). A court should begin by "looking at the content of the whole communication, its tone and apparent purpose" to "determine whether a reasonable person would view them as expressing or implying any facts." *Immuno AG*, 77 N.Y.2d at 235-36.

Here Statements B, D, F, I-K, M, Q-Y, BB-OO, and QQ are non-actionable opinion based on truthful, disclosed facts in the Article. Bolger Aff., Ex. 18 ("Opinion Statements"). Hollander, for example, claims that McNeilage injured him by using words like "hardline," FAC ¶ 129, and "radical," *id.* ¶ 139, and that Shepherd did so when she repeated the statement that men's studies courses "represent[] the margins," *id.* ¶¶ 94, 179; these are non-actionable statements of opinion that do not imply any underlying facts.[13] *Buckley v. Littell*, 539 F.2d 882,

[13] Even if they did imply facts, the articles disclose facts on which the opinions are based. McNeilage discloses: (1) the lecturers had been published on men's rights websites; (2) Hollander believes that

893 (2d Cir. 1976). Indeed, Plaintiff's comparison of statements made by Defendants to "certain words" from McCarthy's days like "fellow traveler," FAC ¶ 106, actually proves the point. In *Buckley v. Littell*, the Second Circuit held that words like "'fellow traveler' and 'radical right'" are not provably false because "because of the tremendous imprecision of the meaning and usage of these terms in the realm of political debate." 539 F.2d at 893. Based on Plaintiff's own comparison, it must, therefore, be opinion to call him "radical," "hardline," or on "the margins." *See also Pitcock*, 74 A.D.3d at 614 (use of the word "extreme[]" is a statement of opinion). For this reason, Plaintiff's claims as to the Opinion Statements must be dismissed.

There can be no reasonable doubt that the First and Second Shepherd Columns – both of which were published in the "Opinion" section of the newspaper contained Shepherd's constitutionally protected opinion. As an initial matter, that the articles were published in the opinion subsection of the website and so held themselves out the public as containing Shepherd's opinions. *Brian v. Richardson*, 87 N.Y.2d 46, 52 (1995) (material in editorial section "typically regarded by the public as a vehicle for the expression of individual opinion"). Moreover, Shepherd wrote the Articles in the first the first person and used loose, figurative language that alerts the reader that she is expressing her opinion. *Immuno AG.*, 77 N.Y.2d at 244 ("imprecise language . . . signal[s to] the reasonable observer that no actual facts were being conveyed about an individual"). Shepherd, for example, writes in the first person, discussed her hair style and uses words like 'bizarre," "phony," and "gold and genius" to describe Hollander's original complaint and his allegations. *See* FAC, Ex. F. She asks rhetorical questions, such as "Brilliant,

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feminism is a religious belief; and (3) Hollander brought a lawsuit against Columbia University for offering a women's studies course. FAC, Ex. D. Shepherd lays out the facts in her articles, as well, by disclosing, for example, that (1) the lecturers were linked with "websites that rail against feminism"; (2) two lecturers had been published on A Voice for Men, which "regularly refers to women as 'bitches' and 'whores'"; (3) Hollander believes that men must defend themselves with guns from oppressive feminists; and (4) Hollander sued nightclubs for ladies' nights. FAC, Ex. C.

no?" to describe Hollander's unconventional complaint in this case and repeats his allegations only to shoot back "Whatever that means." *Id.* She closes her article noting that she "start[ed] to wonder" after reading his complaint "Why on Earth give such a man more publicity?" *Id.* Shepherd's loose words and rhetorical questions flag to even the most blasé reader that she is not reporting – instead, she is commentating. Even Hollander recognizes exactly what Shepherd is doing, noting at one point that she is being sarcastic. FAC ¶ 182

Therein lies the crux of this lawsuit: Plaintiff does not like feminists and he strongly disagrees with those, including Shepherd and McNeilage, who are critical of "males studies" courses. His dislike is so strong, that he resorts to calling Shepherd and McNeilage names in almost every paragraph of his sixty-page Complaint, makes snide comments about their appearance, ¶¶ 75, 154, their morality, *id.* ¶¶ 113, 128, their intelligence, *id.* ¶ 183, and their families, *id.* ¶ 73, and cautions them that but for men, they would have ended up "suffering the fate of Nanking, China," *id.* ¶ 80, a not so veiled reference to the Japanese invasion of Nanking, which is commonly called the "Rape of Nanking." What Plaintiff misses is that just as he is free to make these statements about Shepherd and McNeilage, it is also their right to criticize the comments he makes. This is exactly the type of speech that the First Amendment and the New York State Constitution are designed to protect. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 339-40 (1974) ("Under the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas."). As Judge Hand long ago explained, "It is indeed not true that all ridicule or all disagreeable comment is actionable; a man must not be too thin-skinned or a self-important prig." *Burton v. Crowell Publ'g Co.*, 82 F.2d 154, 155 (2d Cir. 1936) (internal citations omitted). For this reason, Plaintiff's Complaint as to the Opinion

Statements and the Third and Fourth Articles in their entirety must be dismissed.

3. Multiple Statements Are Not Defamatory

Next, Statements C, R, S, V, II, and PP-SS are simply not defamatory and cannot form the basis of a claim. Whether statements are capable of sustaining the defamatory meaning alleged is a question of law for the court. *Golub v. Enquirer/Star Grp., Inc.*, 89 N.Y.2d 1074, 1076 (1997). A statement is defamatory if it "tends to expose a person to hatred, contempt or aversion, or to induce an evil or unsavory opinion of him in the minds of a substantial number of the community." *Id.* at 1076 (internal marks and citation omitted); *see also Stepanov v. Dow Jones & Co.*, 120 A.D.3d 28, 28 (1st Dep't 2014) (not defamatory to call someone a "former Russian diplomat" in article titled "*Crime and Punishment in Putin's Russia*" where corruption related to Russian police and tax officials). When defamation by implication is alleged and the facts are substantially true, "the plaintiff must make a rigorous showing that the language of the communication as a whole can be reasonably read both to impart a defamatory inference" and endorse it. *Stepanov*, 120 A.D.3d 28 at 28.

Here, Hollander complains of multiple statements that are simply not defamatory. Bolger Aff., Ex. 18 (Statements C, R, S, V, II, PP-SS) ("Non-Defamatory Statements"). Hollander argues, for example, that the statement "some men have difficulties going to doctors" is defamatory because it is "meant as derision toward men in general." *Id.* ¶ 154. Even if this statement was "of and concerning" Hollander, it is not shameful to not go to a doctor. He also alleges that the statement "'populist' male studies" in the First Shepherd Article is defamatory. FAC ¶ 98. But it does not hold someone up to ridicule to suggest that their studies are populist -- such political labels are not susceptible of defamatory meaning. *Cf. Buckley*, 539 F.2d at 893. Finally, it is not defamatory to say a course has "no prerequisites." FAC ¶ 51. Most introductory courses do not. For these reasons, all of Plaintiff's claims as to these Non-

Defamatory Statements must be dismissed.

4. Multiple Statements Are Not "Of and Concerning" Plaintiff

Finally, statements F, R, T, BB, QQ and RR and the entirety of the First Shepherd Column are not "of and concerning" Plaintiff. A statement is only actionable if it is about, or "of and concerning" a plaintiff. *N.Y. Times Co. v. Sullivan*, 376 U.S. at 288; *Commercial Programming Unlimited v. CBS*, 50 A.D.2d 351, 352 (1st Dep't 1975) (noting that allegedly defamatory and injurious falsehoods were "of and concerning" plaintiffs). The "of and concerning" requirement is a constitutional one. *Sullivan*, 376 U.S. at 288. New York state courts have long held that a defamation plaintiff must "*prove* that the matter is published of and concerning the plaintiff." *Julian v. Am. Bus. Consultants, Inc.*, 2 N.Y.2d 1, 17 (1956) (emphasis in original). "The 'of and concerning' requirement stands as a significant limitation on the universe of those who may seek a legal remedy for communications they think to be false and defamatory." *Kirch v. Liberty Media Corp.*, 449 F.3d 388, 399 (2d Cir. 2006). Here, the First Shepherd Column and multiple other challenged statements are not "of and concerning" Hollander, and, therefore, his claim must be dismissed as to these statements. *See* Bolger Aff., Ex. 18 (Statements F, R, T, BB, QQ, & RR). The First Shepherd Column, about which Hollander alleges that it "clearly includes Roy in the group of men [Shepherd] is attacking with her stiletto words," FAC ¶ 181, in fact does not mention Hollander by name or implication, *id.*, Ex. H. Because no reasonable reader could therefore, associate it with Hollander, his claims as to the First Shepherd Column and Statements F, R, T, BB, QQ and RR must be dismissed.

**C. Plaintiff's Tortious Interference With Prospective Economic Advantage Claim Should Be Dismissed**

Similarly, Plaintiff's claim for tortious interference with prospective economic advantage fails as a matter of law. The elements of a claim for tortious interference with a prospective

economic advantage are: "(1) business relations with a third party; (2) defendants' interference with those business relations; (3) defendants acted with the sole purpose of harming the plaintiff or used dishonest, unfair, or improper means; and (4) injury to the relationship." *Purgess v. Sharrock*, 33 F.3d 134, 141 (2d Cir. 1994).

*First,* Hollander's claims must be dismissed because they are duplicative of his defamation and injurious falsehood claims against Shepherd and McNeilage respectively. *Perez v. Violence Intervention Program*, 116 A.D.3d 601, 602 (1st Dep't 2014) (dismissing tortious interference and injurious falsehood claims as "duplicative of the defamation claim"). Hollander does not get two bites at the same apple.

*Second*, Plaintiff's claim fail because he cannot show that either Defendant acted with the sole purpose of harming him. In order to constitute intentional interference, "the interference must be intentional, not merely negligent or incidental to some other, lawful, purpose." *Alvord & Swift v. Stewart M. Muller Constr. Co.*, 46 N.Y.2d 276, 281 (1978). Under this standard, "a [publisher] whose motive and conduct is intended to foster public awareness or debate cannot be found to have engaged in the wrongful or improper conduct required to sustain a claim for interference." *Huggins v. Povitch*, No. 131164/94, 1996 WL 515498, at *9 (Sup. Ct. N.Y. Cnty. Apr. 19, 1996) (interpreting claim for tortious interference with a contract); *see also Trachtman v. Empire Blue Cross & Blue Shield*, 251 A.D.2d 322, 323 (2d Dep't 1998) (plaintiff "failed to allege sufficient facts to plead that the alleged interference by [defendant] was for the *sole* purpose of harming him rather than merely incidental to the lawful purpose of obtaining the sought after information") (emphasis added; internal citation omitted)).

Here, any "interference" with Hollander's prospective business relationship with the University of South Australia was merely incidental to Shepherd's and McNeilage's primary

purpose of gathering news and reporting on a newsworthy topic – a new course at a local university based on an ideology that many find to be outside the bounds of acceptable academic standards. For this reason, Plaintiff's tortious interference claims fail as a matter of law.[14]

**D. Plaintiff's Prima Facie Tort Claim Should Be Dismissed**

Similarly, Hollander's claim in the alternative for *prima facie* tort must be dismissed. *Prima facie* tort is a "cause of action that is *highly disfavored* in New York." *Nevin v. Citibank, N.A.*, 107 F. Supp. 2d 333, 346-47 (S.D.N.Y. 2000) (emphasis added). Under New York law, "[t]he requisite elements of a cause of action for *prima facie* tort are (1) the intentional infliction of harm, (2) which results in special damages, (3) without any excuse or justification, (4) by an act or series of acts which would otherwise be lawful." *Freihofer v. Hearst Corp.*, 65 N.Y.2d 135, 142-43 (1985). "Where relief may be afforded under traditional tort concepts, *prima facie* tort may not be invoked as a basis to sustain a pleading which otherwise fails to state a cause of action in conventional tort." *Id*. at 143.

Moreover, "[t]he touchstone [of *prima facie* tort] is 'disinterested malevolence', meaning that the plaintiff cannot recover unless the defendant's conduct was not only harmful, but done with the *sole intent to harm*. . . . [M]otives other than disinterested malevolence, such as profit, self-interest, or business advantage will defeat a *prima facie* tort claim." *Twin Labs., Inc. v. Weider Health & Fitness*, 900 F.2d 566, 571 (2d Cir. 1990) (emphasis added, internal marks and citations omitted). When an act "is a product of mixed motives, some of which are perfectly legitimate then recovery in *prima facie* tort is impossible." *Fabry v. Meridian Vat Reclaim, Inc.*,

[14] Plaintiff's tortious interference with prospective economic advantage against McNeilage should also be dismissed because the course was cancelled *before* she wrote the Article. In fact, the story reports on the cancellation. *See* FAC ¶ 157; *id.*, Ex. D (noting that the University did not approve "a course called 'males and sexism,' which named lecturers who have been published on radical men's rights websites"); *id*., Ex. E (reporting that "the university says the subject he is down to teach was never approved"). McNeilage could not, therefore, have committed tortuous interference. *See*. *e.g., Connolly v. Wood-Smith*, No. 11 Civ. 8801 (DAB) (JCF), 2014 WL 1257909, at *2 (S.D.N.Y. Mar. 27, 2014).

Nos. 99 Civ 5149 NRB, 99 Civ. 5150 NRB, 2000 WL 1515182, at *2 (S.D.N.Y. Oct. 11, 2000) (internal marks and citations omitted). In particular, "[i]n the context of cases involving acts of expression, wherever a defendant's actions can be seen, at least in part, as having been motivated by the desire to express some opinion, a cause of action for prima facie tort will fail." *McKenzie v. Dow Jones & Co.*, 355 F. App'x 533, 536, (2d Cir. 2009); *see also Freihofer*, 65 N.Y.2d at 143 ("The newsworthy content of the articles constitutes sufficient justification for its publication.").

As discussed above, even assuming that in publishing the Articles the Defendants intended to harm Hollander – and they did not – Hollander could not, as a matter of law, demonstrate that the Defendants' *sole* motivation in publishing the columns and the articles was to harm him. Plaintiff's *prima facie* tort claim must be dismissed.

**CONCLUSION**

This case does not belong in this Court. The Court lacks jurisdiction over the Australian defendants and the claims fail on their merits. For each of the foregoing, independent reasons, Defendants respectfully request that the Court grant their motion to dismiss and dismiss the First Amended Complaint with prejudice.

Respectfully submitted,

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