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

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

MEMORANDUM OF LAW IN OPPOSITION TO
PLAINTIFF'S MOTION FOR AN IMMEDIATE TRIAL

Katherine M. Bolger
LEVINE SULLIVAN KOCH & SCHULZ, LLP
321 West 44th Street, Suite 1000
New York, NY 10036
Tel.: (212) 850-6100
Fax: (212) 850-6299
Counsel for Defendants

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

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 opposition to Plaintiff Roy Den Hollander's ("Plaintiff" or "Hollander") oral motion for an immediate trial pursuant to Rule 3211(c) of the New York Civil Practice Law and Rules ("CPLR").

PRELIMINARY STATEMENT

This motion arises from Defendants' motion to dismiss Plaintiff's amended complaint for lack of personal jurisdiction. Defendants – two Australian news organizations and two Australian reporters based in Australia who wrote articles about a controversy at a local Australian university – argue that this Court does not have personal jurisdiction over any Defendant because the articles were not researched, written, edited, or published in New York; they were researched, written, edited, and published in Australia. In fact, just last month, a state court in Wisconsin dismissed a lawsuit against *The Herald* for just this reason. *See Salfinger v. Fairfax Media Ltd.*, No. 13-cv-0100081, slip op. at 8-10 (Wis. Cir. Ct. Dec. 8, 2014). Instead of bringing forward facts contradicting any of this as the law requires him to do, Plaintiff Roy Den Hollander – a self-proclaimed "anti-feminist" who makes no attempt to hide his contempt for Defendants, at a point even analogizing one to a "female dog in heat" – now asserts that this Court should hold an immediate trial on whether jurisdiction is proper because he *thinks* Defendants are "liars" and their affidavits cannot be trusted. Hollander asks this Court to validate this belief by ordering Defendants to expend time and money to travel ten thousand miles around the world based on his unsubstantiated allegation that they are liars. This Court should not do so.

Immediate trials should be held only when a plaintiff creates a genuine issue of fact in opposition to a motion to dismiss that has the potential to lead to an early resolution of the case. Here, Defendants' motion to dismiss argues that Defendants undertook no action in New York that was "directly related" to the creation of the articles Plaintiff challenges, such that exercising jurisdiction over them would be appropriate. Defendants affirmed by way of affidavits that they took no such action. Plaintiff, in opposition, offered no evidence at all contradicting these affidavits. That ends the inquiry.

Undeterred, Hollander alleges there are "inconsistencies" between Defendants' first set of affidavits responding to allegations in his original complaint and their second set responding to different allegations in his amended complaint. These "inconsistencies," he argues, are evidence of perjury, and, he claims, if Defendants "lied" about one thing, they are clearly "lying" about all things. He further catalogues a series of alleged contacts Defendants have with New York, which he argues support jurisdiction. Neither of Plaintiff's arguments, however, create a genuine issue of fact. First, his allegations of perjury are absurd; affidavits responding to different complaints with different allegations will of course be different. Second, Defendants' alleged contacts with New York, even if credited as true, cannot create a genuine issue of fact because they are unrelated to the creation of the articles Hollander challenges. In short, Plaintiff has not and cannot create a genuine issue of fact.

Moreover, forcing the Defendants to travel ten thousand miles to defend personal jurisdiction undercuts the policy decision made by the drafters of CPLR, who chose to treat defamation claims different than other claims, and the Court of Appeals, which chose to construe CPLR § 302(a)(1) narrowly in defamation actions. *SPCA v. Am. Working Collie Ass'n*, 18 N.Y.3d 400, 405 (2012). In fact, for this reason, Plaintiff cites no case finding an immediate trial

appropriate on a motion to dismiss for lack of personal jurisdiction in the defamation context. For these reasons, Plaintiff's motion should be denied.

BACKGROUND[1]

A. The Defendants

Advertiser Newspapers is an Australian-based corporation and publishes *The Advertiser*, a newspaper based out of Adelaide, Australia and focused on Australian-related news. *See* Affirmation of Katherine M. Bolger ("Third Bolger Aff."), Ex. 6 ("Cameron Aff.") ¶¶ 3-7.[2] 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. 7 ("Shepherd Aff.") ¶¶ 1, 2, 16. Shepherd, in researching and writing the challenged articles, placed a single phone call to Plaintiff in New York and also contacted Plaintiff and a New York professor, Miles Groth, via email. *Id.* ¶¶ 14-15.

Defendant Fairfax Media also is an Australian-based corporation and publishes *The Sydney Morning Herald* ("*The Herald*") based out of Sydney, Australia and focused on Australian-related news. *Id.*, Ex. 8 ("Coleman Aff.") ¶¶ 3-8. At all times relevant to this suit, Amy McNeilage was a reporter for *The Herald* and a citizen of Australia who, like Shepherd, has never been to the State of New York. *Id.*, Ex. 9 ("McNeilage Aff.") ¶¶ 1-3, 9. McNeilage had no contact with anyone in New York in the process of writing the single *Herald* article challenged by Hollander and also never attempted to contact Hollander. *Id.* ¶¶ 7-8.

---

[1] Defendants include in this Background only those facts that are necessary to the disposition of Plaintiff's Motion for an Immediate Trial. A complete background of this case can be found in Defendants' Opening Memorandum in support of their Motion to Dismiss [Dkt. 44] at 2-8.

[2] For the Court's convenience, Defendants submit herewith the Third Bolger Affidavit, which contains, as exhibits appended thereto, the Defendants' first and second set of affidavits filed in support of the first and second motions to dismiss, respectively.

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. To prevent that from happening, Hollander has filed multiple civil suits alleging that various programs he believes favor women are unconstitutional or illegal.[3]

Plaintiff's complaints along these lines have been unsuccessful. *See, e.g.*, *Hollander v. Inst. for Research on Women & Gender at Columbia Univ.*, 372 F. App'x 140, 141-42 (2d Cir. 2010) (noting the court's "grave doubts" about Plaintiff's legal arguments). This is so despite Plaintiff's efforts to paint his opponents as liars, *Hollander v. The City of New York Commission on Human Rights*, No. 12635, 2013 WL 9679520, at *3-4 (1st Dep't Mar. 3, 2013) (Reply Brief for Petitioner-Appellant Hollander) (accusing the Commission on Human Rights of "falsely recount[ing]" its own order), and the judges he appears before as biased, Second Affirmation of Katherine M. Bolger [Dkt. 45], Ex. 6 [Dkt. 46] at 2 (arguing that a judge's opinion was "factually wrong, but try telling that to a lady judge if you're a man"). And, in fact, the U.S. Court of Appeals for the Second Circuit has admonished Hollander for his conduct in these matters. *See 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."). Plaintiff chronicles his legal exploits on a website titled, "MR Legal Fund" (the "MR" standing for "Men's Rights"), urging that "[n]ow is the time for all good men to fight for their rights before they have no rights left." MR Legal Fund,

[3] The Court 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); Opening Mem. at 4 n.2 (discussing judicial notice).

http://www.mensrightslaw.net/main/index.html (last visited on Jan. 12, 2015).

Hollander discusses this lawsuit on his website under the headline "Bimbo Book Burners from Down Under." *Id.* He describes the articles subject to his original complaint as "Yellow, female-dog-in-heat Articles," while styling Defendants' filings as, for example, "Book Burner's Motion to Dismiss." *Id.* In a document titled "Responses to Media," also published on Hollander's website and relating to this suit, Hollander asks himself, "Why bring the suit?" and goes on to answer, "To have fun fighting these bimbo book burners who think they are the chosen ones." *See* Third Bolger Aff., Ex. 1 at 1 ("Release"). He then says "[t]he term bimbo refers to Tory the Torch and Amy 'McNeuter.' McNeuter because she wants to neuter men, unless she's in bed with them, assuming she's heterosexual." *Id.* When asked, "Weren't you published on the Voice of Men website that calls girls 'bitches,'" an allegedly libelous statement at issue in this complaint, Hollander responds, "Yes, but I don't use that term. I think it gives girls too much credit." *Id.* at 10. When he asked, "Are you advocating a revolution," he states, in part, "The only way to stop the discrimination against men is for 100,000 armed guys to show up in Washington, D.C. demanding their rights." *Id.* at 11.

C. Procedural History

1. The Original Complaint

Hollander filed his original complaint against Defendants on March 24, 2014 and served it on the Defendants in Australia through the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents. The original complaint purported to assert two causes of action against all Defendants for "injurious falsehoods" and tortious interference with prospective economic advantage. Original Compl. [Dkt. 1] ¶ 77. Plaintiff based his claims on three articles, two of which were published by Advertiser Newspapers and written by Shepherd. *Id.* ¶¶ 16, 65. Fairfax Media published the third in *The Sydney Morning Herald*, which

McNeilage authored. *Id.* ¶ 44.

2. The Motion to Dismiss and Supporting Affidavits

On August 29, 2014, Defendants filed a motion to dismiss that complaint, arguing that this Court lacked personal jurisdiction and Plaintiff failed to state a claim. Original Motion [Dkt. 7]. Defendants attached affidavits responding to the jurisdictional allegations in the original complaint from Shepherd and McNeilage, as well as from Michael Cameron, the National Editorial Counsel at News Limited, the parent of Advertiser Newspapers, and Richard Coleman, the Solicitor at Fairfax Media. Third Bolger Aff., Exs. 2-5.

3. The Amended Complaint

On October 7, 2014, Plaintiff filed an affidavit in opposition to Defendants' motion to dismiss, ("Original Opp.") [Dkt. 26], and an amended complaint ("FAC" or "Amended Complaint") [Dkt. 11]. In his opposition, Hollander noted an inconsistency in Shepherd's original affidavit, accusing her of "perjury on the material issue of personal jurisdiction" because her affidavit stated that she only had contact with Hollander in New York, even though she also exchanged emails with Miles Groth, a New York professor. Original Opp. ¶ 24. Hollander's Amended Complaint asserted claims styled as injurious falsehood and tortious interference. FAC ¶¶ 156-58, 159-69. Hollander also added claims for *prima facie* tort against McNeilage and Shepherd and defamation against Shepherd, *id.* ¶¶ 170-77; 178-214. He also alleged that two additional articles written by Shepherd and published by *The Advertiser* were actionable. *Id.* ¶¶ 181-82. Additionally, Plaintiff added a number of new jurisdictional allegations. *Compare* Original Compl. ¶¶ 78-82 *with* FAC ¶¶ 26-34 *and* Original Opp. ¶¶ 17-48.

On October 26, 2014, Defendants withdrew their motion to dismiss, because it was mooted by Hollander's filing of the Amended Complaint. Letter of Withdrawal [Dkt. 41]. On October 27, 2014, Defendants again moved to dismiss Hollander's action. Notice of Motion to

Dismiss [Dkt. 43]. In their Memorandum in support of their Motion to Dismiss ("Opening Mem." or "Motion to Dismiss") [Dkt. 44], Defendants argued that this Court lacked jurisdiction over them and, in any event, that Plaintiff's claims failed on the merits as they sought to impose liability for either true statements, statements of opinion, or for statements Defendants never made. Opening Mem. at 9-16, 18-27. In support of their Motion to Dismiss, Defendants attached new affidavits from Shepherd, McNeilage, Cameron, and Coleman, each responding to the new jurisdictional allegations in Plaintiff's Amended Complaint or in his original opposition. *See* Third Bolger Aff., Exs. 6-9. In addition, the Shepherd affidavit corrected the earlier error, and Shepherd swore, "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." Shepherd Aff. ¶ 13.

Hollander filed an Affidavit in Opposition to Defendants' Motion to Dismiss ("Opposition" or "Opp.") [Dkt. 48] on November 7, 2014. In his Opposition, Plaintiff accused Defendants of perjury and argued that the undersigned suborned perjury. Opp. ¶¶ 6-10, 22-56. In support, Plaintiff points to several alleged "inconsistencies" between the first and second sets of affidavits. For example, Hollander argued that Shepherd "committed perjury in her [first affidavit]" because she failed to disclose that she emailed a professor in New York City in the process of writing some of the challenged articles. *Id.* ¶ 31(a). This additional information, Hollander alleges, "raises doubts as to" Defendants' "truthfulness." *Id.* ¶ 34 (as to Coleman); *see also, e.g.*, *id.* ¶ 31(b) (arguing that "discovery is needed to determine whether Shepherd is still lying or concealing facts"). As to personal jurisdiction, Plaintiff pointed to other alleged different occasions where he claims Defendants allegedly "lied" either outright or by omission. *Id.* ¶¶ 26-28, 30, 31(a)-(e), 32, 34, 36-39, 41, 42, 52.

On November 13, 2014, Defendants replied to Hollander's Opposition, pointing out that Hollander's claims of "perjury" were unfounded. Reply [Dkt. 67] at 3-4. The only real inconsistency identified in the Opposition was in Shepherd's affidavit and she had corrected and apologized for the error. *Id.* The other alleged "inconsistencies" were just differences created because of Hollander's Amended Complaint and original affidavit in opposition "contain[ing] significantly more allegations regarding personal jurisdiction than did the original complaint." *Id.* In other words, Defendants' two sets of affidavits were different because Plaintiff's jurisdictional allegations were different – *not* because Defendants were trying to "cover-up" contacts with New York as Hollander argued. *Id.* at 4.

This Court held a hearing on Defendants' Motion to Dismiss on November 24, 2014. There, Hollander again accused Defendants of perjuring themselves. In the process, Plaintiff made an oral motion pursuant to CPLR Rule 3211(c) for an immediate trial on the question of whether this Court had personal jurisdiction over the Defendants, arguing that their affidavits could not be trusted based on the alleged inconsistencies pointed to by Hollander. Defendants requested an opportunity to oppose the motion on submission which the Court granted, giving Defendants up-to and including January 12, 2015 to respond.

ARGUMENT

This Court should deny Plaintiff's motion. As an initial matter, no Defendants perjured themselves. Instead, Plaintiff is attempting to manipulate Shepherd's error – that she both corrected and apologized for *before* Plaintiff made his application – and the fact that the other Defendants submitted different affidavits in response to the Amended Complaint than they did to the original complaint, to force Defendants to travel ten thousand miles to appear before this Court. And we know why Plaintiff is doing so – on his website, he tells he is bringing this lawsuit to "[t]o have fun fighting these bimbo[s]" and admits he "despise[s]" feminists, which he

believes Shepherd and McNeilage to be. Release at 1. This Court should not allow Plaintiff to succeed and should deny this Motion because Plaintiff has cited no genuine issue of fact that would compel a trial here.

Moreover, even if all of the facts that Plaintiff claims are true were actually true – and they are not – this Court must still deny Plaintiff's Motion for an Immediate Trial and dismiss this case. At best, Plaintiff's claim is that because Defendants' newspapers have websites that are accessible in New York and, he claims, have some ancillary operations here (they do not), there is jurisdiction. As a matter of law, however, even if Plaintiff's jurisdictional claims were true, they are insufficient and this Court must dismiss this case for lack of jurisdiction.

POINT I

PLAINTIFF'S MOTION SHOULD BE DENIED

"[C]ourts must of course be circumspect in using [their] power" to order an immediate trial under CPLR Rule 3211(c). David D. Siegel, *Practice Commentaries*, CPLR Rule C3211:47. Such motions should be granted only "when appropriate for the expeditious disposition of the controversy," CPLR Rule 3211(c), and "only when there is a genuine dispute" as to a case-ending fact, David D. Siegel, *N.Y. Practice* § 271 (5th ed. 2011); *see also Howard v. Spitalnik*, 68 A.D.2d 803, 803 (1st Dep't 1979). In other words, an immediate trial is *only* appropriate where (1) a plaintiff has produced evidence that "raised a genuine issue of fact," *Howard*, 68 A.D.2d at 803, and (2) that fact has the prospect of ending the litigation, CPLR Rule 3211(c).

A "genuine issue of fact" is not created by ambiguous, speculative rebuttals to evidence offered by the party moving to dismiss the action. *LeFevre v. Cole*, 83 A.D.2d 992, 992 (4th Dep't 1981). Instead, the party opposing dismissal generally must offer evidence that actually contradicts the evidence offered by the moving party. *Id.* (trial appropriate where there was

unequivocal evidence contradicting opposing party's affidavit); *see also Howard*, 68 A.D.2d at 803 (immediate trial appropriate where competing affidavits "clearly raised a genuine issue of fact"). Accordingly, to prevail on this Motion, Plaintiff would need to show by *admissible evidence* that there is a genuine issue of material fact as to the Motion to Dismiss. He has not and cannot do so.

Defendants' Motion to Dismiss is predicated in part on this Court's lack of personal jurisdiction over the Australia-based Defendants. In actions like this one that sound in defamation, long-arm jurisdiction over a foreign defendant can only be found, if at all, pursuant to CPLR § 302(a)(1). Opening Mem. at 9-11 (citing, *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)). This section of New York's long-arm statute authorizes jurisdiction only when a plaintiff's claims "aris[e] from" a defendant's "transact[ion of] business within the state." CPLR § 302(a)(1). And even then, the normal reach of CPLR § 302(a)(1) is "narrowly" circumscribed where the plaintiff seeks to impose liability based on a defendant's speech. *SPCA*, 18 N.Y.3d at 405 ("'New York courts construe 'transacts any business within the state' more narrowly in defamation cases . . . .'" (quoting *Best Van Lines, Inc. v. Walker*, 490 F.3d 239, 248 (2d Cir. 2007)). Thus, mere maintenance of a website accessible in New York or merely sending defamatory statements into New York, even if it causes injury in New York, does not constitute transactions of business where the claims are speech-based. Opening Mem. at 10-12; Reply at 7-8.

Instead, a defendant can be said to have transacted business only when she "[1] engaged in some purposeful activity *within New York* [2] that was *directly related to the creation* of the allegedly defamatory work." *Biro v. Condé Nast*, No. 11 Civ. 4442 (JPO), 2012 WL 3262770, at

*10 (S.D.N.Y. Aug. 10, 2012) (emphases added); *see also Am. Radio Ass'n v. A.S. Abell Co.*, 58 Misc. 2d 483, 484-85 (Sup. Ct. N.Y. Cnty. 1968). Email and telephone contacts from outside of New York sent into New York do not, on their own, constitute a transaction of business. *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); *Trachtenberg v. Failedmessiah.com*, No. 14 Civ. 1945 (BMC), --- F. Supp. 2d ----, 2014 WL 4286154, at *4 (E.D.N.Y. Aug. 29, 2014) ("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.").

For this reason, the relevant question in determining whether Plaintiff is entitled to an immediate trial is whether Hollander put forward evidence showing that Defendants took action *in New York* that *directly related* to the reporting of the challenged articles and thereby raised a genuine issue of fact relating to jurisdiction. Plaintiff has not done so.

First, Plaintiff produced no evidence of Defendants' contacts with New York sufficient to confer jurisdiction. In support of their Motion to Dismiss, Defendants submitted affidavits affirming that Advertiser Newspapers and Fairfax Media are Australian corporations that do not publish in New York and are not targeted at New York. Cameron Aff. ¶¶ 3, 6, 7, 8; Coleman Aff. ¶¶ 2, 4, 6. McNeilage submitted an affidavit stating that she is an Australian citizen who has never visited New York. McNeilage Aff. ¶¶ 1, 9, 10. As to the single article written by her and challenged by Hollander, McNeilage further affirmed that she did not intend to target New York and had no contact with anyone in New York in reporting and writing that article. *Id.* ¶¶ 6-7. Shepherd also submitted an affidavit wherein she too states she is a citizen of Australia who has never visited New York. Shepherd Aff. ¶¶ 1, 16. She also affirmed that she did not intend to

target New York with any of the articles written by her and challenged by Hollander and had only limited contact with Plaintiff and another New York professor in the process of researching two of the articles challenged by Hollander, including a single phone call and email exchanges. *Id.* ¶¶ 11-12, 14.

Based on these facts, Defendants argued that this Court did not have jurisdiction over any one of them under well-settled New York law. Opening Mem. at 9-16. More specifically, Defendants asserted that jurisdiction could not be based on the maintenance of websites or the distribution of the allegedly injurious statements in New York. *Id.* at 11-12 (citing, *e.g.*, *Gary Null & Assocs., Inc. v. Phillips*, 29 Misc. 3d 245, 250 (Sup. Ct. N.Y. Cnty. 2010)). Defendants further argued that Plaintiff had the burden, therefore, of demonstrating "*additional*, purposeful activity in New York . . . that is substantially related to 'the transaction out of which the cause of action arose.'" *Id.* (quoting *SPCA*, 18 N.Y.3d at 404 (quotation marks and citations omitted)). All Plaintiff pled in his Amended Complaint, however, was that Defendants had coincidental contacts with New York unrelated to the articles at issue here and that Shepherd had limited contact with New York by way of a phone call and emails. Opening Mem. at 15-16. Because neither set of contacts would support jurisdiction over any defendant, Defendants argued that Plaintiff could not meet his burden.

In his Opposition, Plaintiff failed to put forward evidence contradicting any of this. *See generally* Opp. ¶¶ 22-56. Instead, he offered a smattering of irrelevant contacts Defendants allegedly have with New York. *See, e.g.*, *id.* at ¶¶ 26 (relationship between Advertiser Newspapers and News Corp), 29 (alleged presence of an Advertiser Newspapers officer in New York), 32 (alleged presence of an advertising representative for Fairfax Media in New York); 34 (presence of a *The Herald* correspondent in New York until 2012). In their Reply, Defendants

pointed out that even if these contacts were credited, they still would not support jurisdiction because none of his claims arose from these contacts. *See, e.g.*, Reply at 10 (noting that even if true, the presence of an advertising representative in New York is "not relevant to the Court's inquiry, because Hollander's claims do not result from any advertisements in *The Herald*"). An immediate trial would, therefore, be improper here because Hollander clearly failed to create a genuine issue of fact related to the exercise of jurisdiction under CPLR § 302(a)(1).

Plaintiff's purported authority to the contrary, *Vandermark v. Jotomo Corp.*, 42 A.D.3d 931 (4th Dep't 2007), changes none of this. There, a plaintiff's son had ingested a toxic chemical, causing him injuries. *Id.* at 931. The Texas defendants argued that they were not subject to personal jurisdiction, because the only connection they had to New York was a franchisee agreement with a New York co-defendant. *Id.* at 932. In ordering an immediate trial, the Fourth Department explained that the plaintiff had also "submitted evidence establishing that [the Texas Defendants] maintained a Web site to conduct business transactions on behalf of itself and [the New York co-defendant]." *Id.* This contact, the court, noted could be enough to maintain jurisdiction under CPLR § 302(a)(1), because it is "well settled that 'long-arm jurisdiction [lies] over commercial actors and investors using electronic and telephonic means to project themselves into New York to conduct business transactions.'" *Id.* (citation omitted). But *Vandermark* was not a defamation claim and defamation claims are treated differently. *SPCA*, 18 N.Y.3d at 405. The Court of Appeals made clear in *SPCA* that the maintenance of a website alone in defamation cases does not constitute a transaction of business under CPLR § 302(a)(1). *Id.* ("While [the allegedly defamatory statements] were posted on a medium that was accessible in this state, the statements were equally accessible in any other jurisdiction."). Thus, the mere existence or nature of the Defendants' websites do not create a genuine issue of material fact as

to whether jurisdiction would be proper in this case.

Second, Hollander in his Opposition and at the November 24 hearing resorted *ad hominem* attacks, as he has done in the past with other defendants in other cases, declaring based on purported inconsistencies between Defendants' first and second sets of affidavits that Defendants "lie, dissemble, prevaricate and cover-up." Opp. at 14. In essence, Plaintiff argues that an immediate trial is required because Defendants are "liars." But, there is no there there. Any material inconsistencies between the affidavits – to the extent there are any – result *solely* from the fact that the affidavits responded to different allegations in different complaints. In any event, no matter how many allegations of bad faith Plaintiff lobs at Defendants, such baseless allegations do not create a genuine issue of fact meriting resolution at a trial.

As an initial matter, alleged "inconsistencies" do not create a genuine issue of fact when left unsupported by facts showing the same. *Cf. Thomas v. Abate*, 213 A.D.2d 251, 252 (1st Dep't 1995) ("[P]etitioner's mere belief of bad faith, unsupported by proof in support thereof . . . does not warrant an evidentiary hearing . . . ."); *see also DMP Contracting Corp. v. Essex Ins. Co.*, 76 A.D.3d 844, 847 (1st Dep't 2010) ("allegations of bad faith . . . unsupported by evidence" did not create a genuine issue of material fact).

And it is clear from Plaintiff's Opposition that even he is unable to point to actual evidence that Defendants have made any misrepresentations at all. As discussed above, Shepherd made an inadvertent error, admitted it, corrected it, and apologized for it. Shepherd Aff. ¶ 13.[4] The other differences, as made clear by Defendants in their Reply, are a result of new allegations

[4] Hollander's allegations that Defendants' are lying and perjuring themselves are irresponsible. Perjury is a serious crime, N.Y. Penal Law §§ 210.00, *et seq.*; it is not, however, committed whenever parties disagree or when parties *unintentionally* make a false statement, *id.* § 210.00 (defining "swear falsely" as occurring where one "intentionally makes a false statement"). Like his jurisdictional arguments, Plaintiff's accusations are unfounded.

in Plaintiff's Amended Complaint and his original affidavit in opposition or Plaintiff merely inventing them out of whole cloth. Reply at 3-4; *compare* Original Compl. ¶¶ 78-82 *with* FAC ¶¶ 26-34 and Original Opp. ¶¶ 17-48. Hollander's original complaint set forth little more than boilerplate allegations regarding jurisdiction. Original Compl. ¶¶ 80-81. In his Amended Complaint, Hollander takes a different approach. There, he adds a whole litany of new allegations regarding, for example, News Corp and its relationship to *The Advertiser*, FAC ¶ 31, the alleged distribution of *The Herald* and *The Advertiser* in the United States, *id.* ¶¶ 27, 32, and that every defendant was "persistently conducting business in New York," *id.* ¶ 33. As a result, Defendants submitted new affidavits from the same individuals responding to the different jurisdictional allegations in the Amended Complaint (and in his first opposition affidavit).[5] *Compare* Original Compl. ¶¶ 78-82 *with* FAC ¶¶ 26-34.

Nevertheless, Plaintiff states in a wishy-washy sort of way that the alleged inconsistencies "appear[] to" show that Defendants are lying, Opp. ¶ 30, or that from them one can "infer[] more contacts may exist," *id.* ¶ 34, or that the affidavits, in general, "appear[] to be disingenuous," *id.* ¶ 51. For example, Plaintiff claims that Shepherd "lied" in her first affidavit because "[f]or the first time in her Second Affidavit Shepherd admits all her articles were published on the World Wide Web." *Id.* ¶ 31(c). As an initial matter, this is not a lie – the first affidavit does not say something contrary to the second affidavit. Moreover, the very copies of the articles attached to the Shepherd affidavit were copies of the articles *from The Advertiser website*. Third Bolger Aff., Ex. 3 (First Shepherd Aff., Ex. A). Plaintiff has just concocted a "lie" out of whole cloth. As another example in the original complaint, Plaintiff made no

[5] Plaintiff also alleges that counsel here lied, asserting, for example, she falsely claimed that "Plaintiff used the term 'harpy' to disparage Defendant McNeilage." Opp. ¶ 12(e). This is a "lie," Hollander argues, because he only "used [the term] to refer only to Defendant Shepherd." *Id.*

allegations as to whether *The Herald* maintained an office in New York. As a result, Fairfax Media, which has no current business operations in New York, submitted the Coleman affidavit in which Coleman swore "Fairfax Media and *The Sydney Morning Herald* do not have any office[s] . . . in New York." Third Bolger Aff., Ex. 4 (First Coleman Aff. ¶ 10). In his subsequent filings, Plaintiff stated that *The Herald* appeared to have had an office in New York at some point in the past. *See, e.g.*, Original Opp. ¶ 26. In response, Coleman stated that "Fairfax did have a correspondent in New York until 2012," but it no longer does. Coleman Aff. ¶ 8. Hollander calls this a lie – it is not. It is completely consistent testimony in response to differing allegations. In short, there are no "lies" or "inconsistencies." And, Plaintiff's own subjective doubt as to the veracity of Defendants' affidavits – particularly in light of Plaintiff's clear dislike of Shepherd and McNeilage, who he calls "harp[ies]," Original Opp. at ¶ 8(k), and compares to the infamous Nazi propagandist Joseph Goebbels, *id.* at ¶ 8(j), does not create a genuine issue of fact.

Third, even if the Court were to assume the truth of all of the purported contacts Plaintiff asserts that Defendants have with New York, this Court still would not have jurisdiction over any defendant. In casting a broad net, offering a collage of Defendants' alleged New York contacts, Hollander forgets that the inquiry here is a narrow one. *SPCA*, 18 N.Y.3d at 405 ("New York courts construe 'transacts any business within the state' more narrowly in defamation cases . . . ." (citations omitted)). Indeed, as set forth *supra* at 12-13 and in the Motion to Dismiss at 12-16 and the Reply at 9-12, none of Hollander's allegations regarding random or fortuitous contacts with New York – unrelated to the underlying cause of action – would support a finding of jurisdiction under CPLR § 302(a)(1).[6]

[6] As explained in Defendants' Opening Memorandum, none of these contacts would support jurisdiction under CPLR § 301 either. Opening Mem. at 13-16. Moreover, even if jurisdiction was found

In short, Plaintiff has failed to raise a genuine issue of fact relating to the exercise of personal jurisdiction and his Motion must be denied.

POINT II

IN ANY EVENT, PLAINTIFF'S CLAIMS ARE MERITLESS

The First Department has made clear that a court may properly consider the equities of forcing a party to appear for an immediate trial. *Rubin v. Rubin*, 73 A.D.2d 148 (1st Dep't 1980). In *Rubin v. Rubin*, for example, the First Department, in rejecting the need to hold a pre-trial hearing on the issue of a party's residence, stated that "the interests of economy of effort and sound judicial management . . . militate against bifurcated proceedings." *Id.* at 151. This is especially true where such proceedings would "necessit[ate] . . . twice calling witnesses who may come from as far away as Europe," and where such a "piecemeal approached" might be "used for harassment purposes." *Id.*

It is clear that Plaintiff's singular goal here, as evidenced by Plaintiff's vitriolic, hate-filled Amended Complaint, describing Defendants as, among other things, "Japanese 'comfort girls,'" FAC ¶ 80, and "Nazi[s]," *id.* ¶ 105, is to exact litigation costs and punish Defendants, who Hollander believes are the latest iteration of the "Feminazi infested media," Opening Mem. at 5. Elsewhere, Plaintiff has made clear that he brings this suit against "stupid little girls," Release at 8, out of vengeance because "what's wrong with a little quid pro quo." *Id.* at 3. This is made all the worse by the fact that Defendants are located in Australia and would be required

---

under New York's long-arm statute, jurisdiction would be improper under the Due Process Clause. A Wisconsin court, in fact, just found that *The Herald* was not subject to jurisdiction in a defamation suit brought by a resident of Wisconsin based on its website because, "Fairfax defendants ha[d] not purposefully reach[ed] out and into Wisconsin, for example, by circulating newspapers or magazines [t]here (as was the case in *Keeton* [*v. Hustler Magazine, Inc*., 465 U.S. 770 (1984)]) or by placing advertising [t]here to draw Wisconsinites to their websites in Australia and New Zealand." *Salfinger*, slip op. at 8 (quotation marks omitted). Indeed, the mere fact that Wisconsin residents could visit the website and would see display advertising like everyone else who visited the site was found to be "insufficient to satisfy due process." *Id.* at 8-9.

to expend substantial costs if this Court were to credit Hollander's baseless allegations of bad faith and Defendants were made to travel to New York for an immediate trial.

As such, in the alternative, this Court should decide Defendant's Motion to Dismiss on the merits, mooting Plaintiff's Motion here. Defendants explained in their Opening Memorandum and Reply that Hollander impermissibly seeks to impose liability based on truthful statements – freely admitted by Plaintiff himself, *compare, e.g.*, FAC ¶ 11 (asserting that Shepherd and McNeilage "intentionally misled their readers" by describing Plaintiff has an "anti-feminist") *with id.* ¶ 67 ("Roy does describe himself as an anti-feminist"), statements of opinion, *see, e.g.*, Opening Mem. at 24 (arguing that statements that Plaintiff was "radical," "hardline," or on "the margins" are protected opinion and citing, *e.g.*, *Pitcock v. Kasowitz, Benson, Torres, & Friedman LLP*, 74 A.D.3d 613, 614 (1st Dep't 2010) (use of the word "extreme[]" is a statement of opinion)), and statements that Defendants never actually made, Opening Memo at 18 (noting that "[t]here is no question that a defendant only can be held liable for statements she actually makes" (citation omitted)). The U.S. Constitution precludes liability under these circumstances.

Plaintiff's recent "Media Release" only reinforces these arguments. Indeed, in the Release, he again admits the truth of things he claims are defamatory. He admits, for example, that "I'm an anti-feminist, and proud of it," *compare* FAC ¶ 11 *with* Release at 9; that he published articles on a "Voice for Men, a site which regularly refers to women as 'bitches,'" FAC ¶ 55 *with* Release at 4; and that he advocates gun ownership as a way to combat feminism, *compare* FAC ¶ 163 *with* Release at 11 (urging "100,000 armed guys to show up in Washington, DC").

The point is that Plaintiff's own filings in this case and his writings elsewhere, demonstrate that this case is a meritless suit aimed only at exacting burdensome litigation cost on

Defendants of whom Plaintiff has said, "I don't hate the feminists – I despise them." Release at 3. His Amended Complaint is utterly without merit and must be dismissed.

CONCLUSION

This Motion is meritless. Plaintiff has produced no evidence creating a genuine issue of fact requiring resolution at an immediate trial. For each of the foregoing, reasons, Defendants respectfully request that the Court deny Plaintiff's Motion for an Immediate Trial and dismiss the Amended Complaint with prejudice.

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, LLP

By: */s/ Katherine M. Bolger*
Katherine M. Bolger

321 West 44th Street, Suite 1000
New York, NY 10036
(T): (212) 850-6100
(F): (212) 850-6299
Counsel for Defendants

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

ROY DEN HOLLANDER, Plaintiff, -against- TORY SHEPHERD, ADVERTISER NEWSPAPERS PTY LTD., AMY McNEILAGE, FAIRFAX MEDIA PUBLICATIONS PTY LIMITED, Defendants.	:	Index No. 152656/2014 **AFFIRMATION OF KATHERINE M. BOLGER** 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' opposition to Plaintiff Roy Den Hollander's ("Plaintiff") oral motion for an immediate trial pursuant to Rule 3211(c) 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 "Media Release" available at Plaintiff's MR Legal Fund website, http://www.mensrightslaw.net/main/Down_Under/Press_Responses.pdf, is attached hereto as **Exhibit 1**.

3. A true and correct copy of the first affidavit of Michael Cameron originally filed in this Court on August 29, 2014 in support of Defendants' original motion to dismiss is attached hereto as **Exhibit 2**.

4. A true and correct copy of the first affidavit of Tory Shepherd originally filed in this Court on August 29, 2014 in support of Defendants' original motion to dismiss is attached hereto as **Exhibit 3**.

5. A true and correct copy of the first affidavit of Richard Coleman originally filed in this Court on August 29, 2014 in support of Defendants' original motion to dismiss is attached hereto as **Exhibit 4**.

6. A true and correct copy of the first affidavit of Amy McNeilage originally filed in this Court on August 29, 2014 in support of Defendants' original motion to dismiss is attached hereto as **Exhibit 5**.

7. A true and correct copy of the second affidavit of Michael Cameron originally filed in this Court on October 27, 2014 in support of Defendants' operative Motion to Dismiss is attached hereto as **Exhibit 6**.

8. A true and correct copy of the second affidavit of Tory Shepherd originally filed in this Court on October 27, 2014 in support of Defendants' operative Motion to Dismiss is attached hereto as **Exhibit 7**.

9. A true and correct copy of the second affidavit of Richard Coleman originally filed in this Court on October 27, 2014 in support of Defendants' operative Motion to Dismiss is attached hereto as **Exhibit 8**.

10. A true and correct copy of the second affidavit of Amy McNeilage originally filed in this Court on October 27, 2014 in support of Defendants' operative Motion to Dismiss is attached hereto as **Exhibit 9**.

11. For the convenience of the Court and counsel for the parties, attached hereto as **Exhibit 10** is a true and correct copy of a decision in *Salfinger v. Fairfax Media Limited, et al.*, No. 13-cv-0100081 (Wis. Cir. Ct. Dec. 8, 2014).

Dated: New York, New York
January 12, 2015

KATHERINE M. BOLGER

EXHIBIT 1

Responses to Media

Do you have a copy of the Complaint? You can take anything you want from the complaint and attributed it to me as a quote.

Why bring the suit?

To have fun fighting these bimbo book burners who think they are the chosen ones. [I like the alliteration. Of course given Tory's apparent age, she's really a bimbat and Amy a bimbette].

There were Feminists to the right of me, Feminists to the left of me, Feminists in front of me volley'd and thunder'd from down under, so I decided to sue.

Tory the Torch and Amy McNeuter are just like Joseph McCarthy and Roy Cohn from the 1950s. They targeted the guys involved in the course for our political beliefs.

It's another witch hunt; only today the witches are doing the hunting.

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

Reporters like Tory and Amy have taken the place of the 1950s "loyalty review boards" that carried out investigations for universities, governments and businesses to certify that their employees were not Communists or lefties. Only today, those who are not politically-correct are excluded.

If this case is successful, the private pinklisters, similar to the blacklisters of the 1950s, and those who use them will be put on notice that they are legally liable for the professional and financial damage they cause with their falsehoods and interference in business relations.

Bimbo?

The term bimbo refers to Tory the Torch and Amy "McNeuter." McNeuter because she wants to neuter men, unless she's in bed with them, assuming she's heterosexual.

In 1920, composer Frank Crumit recorded "My Little Bimbo Down on the Bamboo Isle", in which the term "bimbo" was used to describe an island girl of questionable virtue. Australia's an island, isn't it? Considering how Tory and Amy operate as reporters—they're of questionable virtue.

How do you view what happened or what's the big deal?

Under the Nazis, it was the German Student Union's Office for Press and Propaganda that started the book burning of those writers who opposed Nazi ideology.

At the Nazi book burning in 1933, Joseph Goebbels said, “The era of extreme Jewish intellectualism is now at an end.” Tory and Amy can’t wait to say the same about any intellectualism that isn’t pro-Feminist.

So what’s the difference here with Tory and Amy stopping the teaching of a course on men and the law by claiming it expressed “radical” and “extreme” male views?

So they didn’t go into the University and take knowledge, ideas and facts in the form of books and throw them on a bonfire. Instead they used the modern-day torch of the electronic media to incinerate opposing views.

The end result is the same—censorship of ideas, or verbal mutilation.

Why should anyone who does not believe in this Feminist mumbo-jumbo be punished for their beliefs, speech or actions, unless they commit a crime or are running for office. As to beliefs, there are no crimes and as to speech very few, such as yelling “bomb” in Times Square.

As President Truman wrote, "In a free country, we punish men for the crimes they commit, but never for the opinions they have." Not so in Australia.

Are you comparing them to the Nazis?

Yes. I guess that makes them Feminazis.

I’m also comparing them to the Commies. The Soviet Union ostracized anti-commies into Gulags. The Feminist just keep anti-Feminists out of the universities. What are they afraid of? I thought they were strong and independent females.

Tory and Amy wrapped themselves in the rag of Feminism to justify the imposition of a unitary belief-system of Feminist orthodoxy for dictating the thought, speech, and conduct of members of the educational community and society-at-large.

Were you surprised?

Yes, but I should have expected such from yellow, female-dog-in-heat journalists and the press in a penal colony.

Wasn’t Noonien Singh Khan born there?

Did the articles anger you?

Of course they did, but at least I’m in touch with my feelings.

Although, one thing Tory does not realize is that insults from an opponent is the highest form of compliment for an attorney.

In these causes of action, it's not what I think that matters, but what Tory caused others to think.

Are you out for vengeance?

Hey, what's wrong with a little quid pro quo—one bad turn deserves another.
I'd call it justice.

Sounds like vengeance.

So what's the difference.

Do you feel persecuted?

Not if the Feminist is hot, she can walk all over me in her stiletto heels. Hmm, maybe I'll contact the dominatrix trio I ran into the other night?

Anyway, Feminists, assuming they are human beings, which has yet to be proven, can do whatever they want so long as they stay off of my rights. If they don't, which they don't, then it's a fight.

And I'm going to fight them to my last dollar and last breath, and, if there is anything after death for eternity.

Sounds like hate?

I don't hate the Feminists—I despise them. It's a great motivator.

Do you think the people who rose up in the Ukraine loved their President? No, they despised and hated him.

What did the Feminists do to you?

Just because they are unable to accept that Mother Nature condemned them to mood swings, do they have to make life trying for the rest of us.

VAWA

At least in the Inquisition you got to appear before your judges, although you were probably tied to the rack, with VAWA you never know who your judges are, and they skip the rack and go right to finding you did what the alien says you did.

The Edgar Allen Poe tale of horror divorce I went through before a Lesbian judge (Joan Lobis) who was probably jealous that my face had been where she wanted to put hers.

All cost me a lot of money, time, and possibly a job with the CIA. Such would not have happened but for the Feminists.

Do you consider Feminists witches?

I thought NOW stood for the National Organization of Witches?

Most of them are. The witchcraft label has been applied to practices people believe influence the mind, body, or property of others against their will.

Did you ever censor your speech because it wasn't politically correct? Isn't that constraining your will to be free?

Feminist linguistics is an obvious effort to control thought, speech, and action. As George Orwell wrote, "if thought corrupts language, language can also corrupt thought," *Politics and the English Language,* 1946, and once thought is corrupted, so is a person's beliefs, and corrupted beliefs are the real power for controlling people against what otherwise would be their free will.

What are the falsehoods?

It can be false or misleading.

Tory: "member of extreme right-wing groups," from an email; "linked to extreme views on men's rights," second headline 1/12/14 article

Amy: "hardline anti-feminist advocate[]," "hardline" may have been a Freudian slip when she becomes emotional over men; "published on radical men's rights websites," 1/14/14 article.

Tory's disparaging and libelous publications

1/9/14, on information and belief - "[RDH] identified as belonging to extreme right wing groups in the USA." 1/9/14 Gouws wrt Tory questioning Gary Misan.

1/12/14 article: ***Lecturers in world-first male studies course at University of South Australia under scrutiny***

"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." Second headline 1/12/14 article.

"The lecturers' backgrounds are likely to spark controversy." 1/12/14 article.

"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." 1/12/14 article.

"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’.” 1/12/14 article.

“He also argues that feminists oppress men in today’s world and refers to women’s studies as ‘witches’ studies’.” 1/12/14 article.

“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.” 1/12/14 article.

“The course, which has no prerequisites . . . .” 1/12/14 article.

“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’.” 1/12/14 article.

“ ‘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.” 1/12/14 article.

“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.” 1/12/14 article.

“He said there were groups that legitimately help men, and then the more extreme activists.” 1/12/14 article.

“‘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.” 1/12/14 article.

“ ‘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.’” 1/12/14 article.

“Dr Wadham said that universities needed to uphold research based traditions instead of the populist, partisan approach driven by some.” 1/12/14 article.

1/14/14 *University of South Australia gives controversial Male Studies course the snip* Headline

“CONTROVERSIAL aspects of a Male Studies course will not go ahead” Second headline 1/14/14 article.

“The Advertiser revealed yesterday that some of the lecturers listed for the professional certificates <u>had links to extreme men’s rights organisations</u> that believe men are oppressed, particularly by feminists.” Emphasis in 1/14/14 article.

“US ‘anti-feminist’ lawyer Roy Den Hollander . . . .” 1/14/14 article.

"National Union of Students president Deana Taylor said a course like that proposed for the university provided 'a dangerous platform for anti-women views'." 1/14/14 article.

1/14/14 ***Pathetic bid for victimhood by portraying women as villains***

a. "Pathetic bid for victimhood by portraying women as villains"

b. "Big ups to UniSA for having the sense to reject anything linked to those at the very fringe of the men's rights spectrum . . . overseas ring ins. ("Ring in" is a gang term meaning persons that are called to help in gang wars/fights—sounds a little like Tory).

c. "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."

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

e. "The problem is, the circle (Tory is referring to "circle-jerk misogynists") 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.

f. "They want to play outside with legitimate experts in men's issues . . . ."

g. "It's a classic tactic, used by pseudoscientific fraudsters . . . [to create] a Hannibal Lecter-style creation that mimics valid inquiry."

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

i. "[T]rying to make women into villains . . . ."

j. "It could be dismissed if they weren't trying to creep in where they are not needed, or wanted."

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

6/18/14 ***Men's rights campaigner Roy Den Hollander attacks The Advertiser's Tory Shepherd in bizarre legal writ filed in New York County***

a. "[B]izarre legal writ . . . ."

b. "UniSA was planning a course in men's studies that included men with links to US men's rights extremists . . . ."

c. "Mr Den Hollander thinks he was in line to be paid $1250 to lecture."

d. “Mr Den Hollander is a proudly “anti-feminist” lawyer with a fairly unsuccessful track record.”

e. “WATCH: THE COLBERT REPORT ON ROY DEN HOLLANDER”

f. Roy believes in “censor[ship of] a journalist . . . .”

g. Roy is “an extremist by sounding like an extremist.”

h. Tory sarcastically demeans Roy’s legal complaint against her as “Brilliant, no?”

i. “He [Roy] 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.”

j. Tory communicated that Roy does not believe in equality for women because he demeans males who do by calling them “girlie-guys.” Tory wrote “In the men’s rights vernacular, ‘girlie-guys’ are usually known as ‘manginas’. The terms refer to males who believe in equality for women . . . .”

k. “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.”

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

Tenor and innuendos of the two articles are false, and use the same tactic as Joseph McCarthy and Roy Cohn did in the 1950s. Back then, certain words were used to label persons as sub-human, anathemas, and not deserving of rights—“communist sympathizer,” “fellow traveler,” and “red,” while today Tory and the Feminists use the opprobrium associated with words such as “antifeminist,” “right winger,” “hardliner,” and “masculine.”

Both used the description “anti-feminist” the way a reporter for *Pravda* in the old Soviet Union would have used the term “anti-communist.” At least the Russian commie reporters could point to intellectuals such as Marx and Lenin to define “Communism,” who can Tory and Amy point to for a definition of Feminism—their fellow groupies at consciousness lowering sessions?

Amy uses “radical” the way Tory uses “extreme,” to depict Plaintiff as a dangerous loony because she knows her readers will never realize that the following were also called “radicals”: America’s founding fathers, abolitionists, the South Australian Fabian Society, Australian Lucy Morice, Radical Women of Australia, the Paris Commune, anti-Vietnam War demonstrators, Environmentalists.

Where’s the malice?

These two don't hate all men, just the ones who stand up for their rights and don't bow down to the pedestal on which they delusionally believe they recline.

They hate, loathe and fear men's rights advocates, so when they learn that a bunch will be teaching a course, they jump on their electronic broomsticks railing demon men are invading the college and will convince all the pretty young co-eds to drop their pants.

With Amy, look at the cartoon in the beginning of her article that mocks men. Why include it? It's an expression of an unreasonable desire to see someone else suffer denigration = malice.

With Tory, she headlined her second and last article dated January 14, 2014 with "University of South Australia gives controversial Male Studies course the snip." Why did she use the word "snip"? Snip means to make a quick cut. Were her hate-filled fantasies of male emasculation or circumcision at work? At the very least, it connotes feelings of malice toward men and the guys involved in the course.

Reckless disregard with both is that neither interviewed me before their initial articles and, to my knowledge, never reviewed the content of the proposed course.

They saw the term "men's studies" and jumped on their broomsticks to attack.

There are militantly anti-male groups out there that are led by man-hating females. Tory and Amy most likely belong to such.

With injurious falsehood, malice is presumed if the statement was published, was false and injuries resulted.

You use the reporters' first names, why?

An expression of my disrespect for such rag journalists.

Also an expression of my opinion that they are stupid little girls wagging their tongues to harm people they don't like. It's how girls in high school fight, only these two have the power of the press which they use for their personal vendettas.

Are you anti-feminist?

Of course, I'm anti-Feminist; I'm too intelligent not to be.

So what's wrong with that? I speak out against a snake-oil ideology and that's my right.

Feminist have come to believe in their exceptionalism and their sense of being the chosen ones. That they can decide the destinies of men; that it is only them who can be right—just like a bossy wife.

Opposition to the ideology Feminism is not a crime—not yet anyway. My freedom of speech is not limited to parroting pro-Feminist propaganda as desired by self-appointed members of the PC Ministry of Truth.

I'm also anti anything that infringes my Constitutional rights.

I'm an anti-feminist, and proud of it, while they are man-haters or misandrists, and I'm sure they are proud of it.

I define Feminist as a person who believes that all men are guilty and all females innocent until they are proven guilty—but even then a man is at fault.

A collection of people many of whom could hardly bake a cake, fix a car, sustain a friendship or a marriage, or even solve a quadratic equation, yet they believe they know how to rule the world. They justify any reprehensible act so long that it's committed by a Feminist.

Are you a right winger?

No, unless you consider Students for a Democratic Society and the New Democratic Coalition as right wing organizations.

In the 1960s, I was accused of being a communist because of my SDS membership. Today, I'm accused of being a right wing extremist. So have my political views changed or just the epithets that conformists use to make others agree with their weak minded beliefs?

I know what I like and what my rights are. I'm not about to sacrifice either just to satisfy some special interest group that only has my harm at heart.

A number of experts also criticized the course.

You call those girlie-guys Tory enlisted experts or are they sexperts? Those androgynies are simply scared of being hexed by the Feminists.

Dr. Flood obviously sides with Tory, and if he lived in America in 1776 would have also sided with the Tories, since the founding fathers were responding to injustices and clearly on the "margins" of the British Empire.

Dr. Ben Wadham surely would have opposed the progressive programs of Teddy Roosevelt because they were "populist," and would have gleefully "crucif[ied] mankind upon a cross of gold" because William Jennings Bryan was a "populist."

Amy used an alleged female, Eva Cox, who said, "men who want to complain that they haven't had enough attention as victims, and that does worry me." What, Cox worry? Absurd, no man would want attention from her, now Amy is a different story.

I don't consider myself a victim but a target. Hopefully a moving one.

Weren't you published on the Voice of Men website that calls girls "bitches"?

Yes, but I don't use that term. I think it gives girls too much credit.

So what? You're published in _____, and I am sure it has used some language you may disagree with.

Your comment on guns?

A girl's tongue is her gun, so why should men disarm unless females are muzzled.

My comment is true—isn't it?

Mostly men exercise their right to bear arms, so how can the exercise of a right be extreme or even subject to criticism. When the media starts criticizing the exercise of rights, it deters people from exercising them, which is the same as not having them.

The power of the Second Amendment is to give people a fighting chance against unjust state violence, such as the revolution that occurred in Kiev.

Tory and Amy?

They're like the pigs in *Animal Farm*, squealing about equality when they really mean they're more equal than others, and the others are men.

I'm sure they bring a lot of joy whenever they leave the room.

They're ideologically corrupt, and not unlike a *de facto* cult preventing the spread of what they deem are heretical ideas.

They're prime candidates for natural de-selection.

Misogynist?

When I go out to nightclubs or my hip hop class, believe me, what's in my heart is not malice.

I like music, I like dancing, I like drinking, and I like pretty young ladies. But as with drinking, a guy has to be careful with the young ladies.

Look, would you rather drive a new car or a used one? And if you are the car, would you rather be driven by a student driver or one with a license.

Girls aren't rated Double X for nothing, which is why I chase them.

Why bother bringing these cases?

There are some people who will do anything for money, but there are others who will do anything for justice. I like to think I'm the later, but that just might be my ego talking.

What's at stake?

Universities were supposed to be open to differing views, but today under Feminism the winds of a cult-like conformity blow through the halls of academia when centers of learning and the press believe they have discovered the one and only truth.

The message is clear. On college campuses, everybody's freedom of speech is limited to parroting pro-Feminist propaganda as determined by the self-appointed members of the PC Ministry of Truth.

Freedom of speech. It is key to the flow of ideas and forbids treating differently those with unpopular viewpoints by suppressing their speech in favor of popular speech. Tory, Amy and the Feminists are out to eradicate discussion of the currently unpopular masculine perspective beneficial to males.

"To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. No field of education is so thoroughly comprehended by man that new discoveries cannot yet be made. Particularly is that true in the social sciences, where few, if any, principles are accepted as absolutes. Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die." *Keyishian v. Board of Regents of University of State of N. Y.*, 385 U.S. 589, 603 (1967)(Brennan, J.).

Are you advocating revolution?

I've been advocating that in one form or another since I was a member of SDS—Students for a Democratic Society.

I almost joined the Weathermen, but couldn't see the relevance in blowing up bathrooms.

As Abraham Lincoln said, "The people of the United States are the rightful masters of both Congress and the Courts, not to overthrow the Constitution, but to overthrow the men [and now females] who pervert the Constitution."

For me, it is just about time for civil disobedience.

Sure that can include violence, but I have not decided to start up the Eliot Ness truck yet. It's a figure of speech.

The only way to stop the discrimination against men is for 100,000 armed guys to show up in Washington, DC demanding their rights. The problem is there are perhaps only 200 men left in America.

What are they going to do to me—send me to Guantanamo? I like warm climates, besides if I escape, I get to drive around in 56 Chevys with hot Latinas and smoke Cuban cigars.

Or, they take away my license to practice law. So what? The only reason I got it was to defend my rights, but that's impossible in a judicial system prejudiced against men. So my law license is pretty much as useless as basing arguments on the Torah in a court of the Third Reich.

My allegiance is to the Constitution and Declaration of Independence—not to a government that's been corrupted by ideological Feminists, nor a government that sacrifices men's rights to give girls preferential treatment.

Feminism has created a de facto tyranny over men by government. As James Madison said, a tyranny exists when one group controls the executive, legislative, and judicial branches. The belief system of Feminism now has an overriding influence in all three. America is now a Feminarchy that tramples the rights of men.

Insurrection seems better than living as slaves to the Feminists and a government that enforces their male-hating policies. If we fail, we'll be gone, and then the ladies can fight among themselves and with the androgynies who are left.

Throughout history the failure of governments to uphold individual rights have caused violence—not prevented it. Today, the preferential treatment of girls violates the rights of guys, there's no justice within the system because the Feminist Establishment prevents the institutions in this country from upholding the Constitution as it applies to men seeking equal treatment.

"[W]here there is only a choice between cowardice and violence, I would advise violence." Gandhi.

Sometimes a social evil is so egregious, so entrenched, that violence is the only answer. Violence is often necessary in the name of a principle, and is admirable when waged in the name of democratic principles.

Never underestimate the influence of violence.

How do the laws discriminate?

Currently, just look at the three anti-feminist cases I brought:

<u>Ladies Nights</u>: The suit would have ended guys having to subsidize girls to party. I think that's called prostitution.

The owner of the China Club told me that he held Ladies Nights to get a lot of guys to come to the club thinking there would be plenty of girls. To which I added that when there wasn't, they'd console themselves by drinking.

Religion and Women's Studies case: Religion requires irrationality and acting against one's self-interest. So think irrationally and do something stupid and you've got a trait of femininity.

"'[I]ntensely personal' convictions which some might find 'incomprehensible' or 'incorrect' come within the meaning of 'religious belief'…." *Welsh*, 398 U.S. at 339 (internal quotes *Seeger*, 380 U.S. at 184-185):

Amy harps on the innuendo that allegations of Feminism as a religion are absurd. To Feminists and those scared of them, yes, but the U.S. Supreme Court and Court of Appeals cases on religion indicate otherwise.

Academic freedom does not give any University the right to provide a wide range of benefits to one group based on sex but not the other as a result of stereotyping. "Fairness in individual competition for opportunities … is a widely cherished American ethic. Indeed, in a broader sense, an underlying assumption of the rule of law is the worthiness of a system of justice based on fairness to the individual," which still includes males. *Regents of University of California v. Bakke*, 438 U.S. 265, 319 n. 53 (1978).

By 2016 in the U.S., females will receive 64% of the Associate's Degrees, over 60% of the Bachelor's Degrees, 53% of the Professional Degrees, and 66% of the Doctor's Degrees. National Center for Educational Statistics, *Digest of Educational Statistics*, Table 258.

VAWA: The reputation and careers of Americans, usually men, are destroyed by secret, Star Chamber like hearings in which aliens testify but not the accused.

Why did the Feminist get VAWA passed?

Why do females squeeze their feet into tiny shoes with stilts on one end, constrict the lower part of their bodies in panty hose, interfere with their respiration with tight push-up bras, paint their faces with cancer causing dyes, pluck their eyebrows, glue fake eyelashes to their eye lids, conduct chemical reactions on their heads to change hair color? To catch a guy.

If they are willing to do all that to land a guy, they are sure willing to use the government to violate a guy's rights if it increases their chances.

You lost that case?

And every case I brought where the rights of men conflicted with the preferential treatment of females.

The chances of the courts upholding the rights of men are about equal to some pretty young lady paying my way on a date.

One of these days the courts may do what they are supposed to—then again, maybe they never will.

Give me some examples of how the laws discriminated in the past?

1. The British Factory Acts in the 19th century limited the hours beyond which no woman was to work during any one day, the time which was to be allotted to meals, the sanitation of the workrooms, and other matters of a similar nature. Cleveland at 250-51.
2. In America in the 19th and early 20th centuries, statutes existed in all the States with a view to regulate and prescribe for the employment of women in hazardous occupations. Such laws forbid the employment of women in excess of a specified number of hours per day and per week. A few of the States had also established a minimum wage to be paid to women engaged in stated occupations.
3. In England females could not vote for members of Parliament but could vote on county and local matters. Cleveland at 254.

Flogging

4. An 1820 English Act forbade the flogging of women either in public or private, but not men. It was also okay to flog school boys with a cane but not a school girl.

Paternity Fraud

5. Under the 19th century common law when a mother had a child while married, the husband was presumed to be the father. Of course that was not always the case, but only lately has DNA testing been able to disprove such, but in around 30 states, it does not matter.

Liable for wife's acts

6. In England, marriages before 1870, the husband was liable for his wife's contracts, torts or civil wrongs before they were even married.
7. In America in the 1800s, if a wife rented and occupied premises, her husband would be liable for the rent.
8. A suit could be brought by or against a married woman only for contracts made by her previous to her marriage. And even in such cases she had to be joined by her husband as co-plaintiff or defendant.
9. A wife could not be sued for receiving stolen goods, if she received them from her husband.
10. In America in 19th and early 20th centuries, if a husband abandoned his wife, even with justification, he was nevertheless liable for her support.
11. In America in 19th and early 20th centuries, when a husband refused to supply his wife with necessaries suitable to her rank and condition, the wife could obtain them from any tradesman or tradesmen, and the husband had to pay the bills.

Liable for support of wife

12. Tradesman could supply a wife with goods which she had been in the habit of purchasing, whether the same be necessaries or not, and the husband had to pay.
13. In America in 19th and early 20th centuries, a woman could complain of her husband's laziness, and compel him at court to give bonds for the support and also for the maintenance of his children.

Liable for wife who left

14. If a wife, who had left her husband, offered to return and the husband refused to receive her, the wife could, then purchase necessaries in his name without his consent, and the husband was liable for all necessaries so supplied.
15. Any man who shall unlawfully neglect or refuse to support his wife or children, unless owing to physical incapacity or other good cause, might be convicted of a felony in some States, but liable to punishment in every State.
16. In America in 19th and early 20th centuries, an unmarried adult woman who becomes poor and unable to support herself, might, by legal process in some of the States, compel her father, mother, grandfather, grandmother, or any one or more of them, to furnish such support or to contribute towards it. If these relatives are not able to do so, the State, town or municipality would support the woman as a pauper.

Restriction on husband's property but not wife's

17. In America in the 1800s, during the life of a wife, a husband could not sell nor make a conveyance of his real estate either in whole or in part without her knowledge and consent. She had a one-third interest in his real estate and in NY one-half his personal property.
18. In America in the 1800s, except for five states, every woman possessed at marriage of property or acquired property during marriage by any means held it and all rents, profits and income from, to her separate use, free from the control of her husband and from attachment by creditors for his debts. A married woman could without her husband's consent sell, convey, and devise her separate estate, or any interest or interests in any and every part thereof, the same as if she were single.
19. In England, The Married Woman's Property Act of 1882 allowed married women to acquire, hold, and dispose of property in the same way as could a single woman, which except for primogeniture, was the same as a male. All property belonging to a woman at the time of her marriage, or which came to her after marriage, including earnings and property acquired by the exercise of any skill or labour, was absolutely her own, and the husband had no rights whatever over the property of his wife.
20. In England in 1870, under the Married Woman's Property Act:
    a. All the earnings of a married woman were her own property, as also were her deposits in any Savings Bank.
    b. Every married woman was allowed to insure her own or her husband's life for her separate use. This opened the way for wives taking out insurance on their husbands and then killing them.
    c. Where husband and wife are both liable, the property of the husband must first be taken to satisfy the liability.

Debtors' prison

21. In England, under the Married Woman's Property Act of 1882, a married woman trading on her own account could be made a bankrupt, but she could not be committed to prison for non-fulfillment of an order under the Debtor's Act of 1869. Arthur Rackham Cleveland, *Woman under the English Law the Landing of the Saxons to the Present Time*, at 282, London: Hurst and Blackett, 1896. For 1837-1895. Husbands, however, could be committed to prison for failing to pay certain debts.

a. Under the 1882 Act, every married woman had the same remedies, civil and criminal, against all persons, including her husband, for the protection of her separate property, as if she were a single woman. *Id.* at 283.

22. In 19th century England, judicial separation or divorce courts could grant alimony only to the wife and direct that the custody of the children of the marriage be given either to the innocent party.
23. In 19th century America, a wife was legally entitled to alimony, except for adultery, but not the husband, and the husband had to pay for the wife to bring a divorce action against him. Today in America with no-fault divorce, the entire structure of American marriage and divorce is geared to financially supporting faithless females. Men are 4 times more likely to lose their homes. One million American men are preemptively ordered out of their homes each year, even when no physical abuse is even alleged.

Heart balm

24. In the 19th and early 20th centuries in America, where a woman, who was of age, is seduced under a promise of marriage, she could personally sue the seducer. When the seducer was a single man, the latter would be compelled to make reparation by marriage. Where this could not be affected, exemplary damages would generally be obtained. If the seducer was a married man and the girl did not know it, she could obtain aggravating damages.
25. By 1929, with very few exceptions, women could hold any office in any of the States. They may have been members of a State legislature and they may have been members of Congress.

Sentencing

26. For the 41 classes of crimes to which the Federal Sentencing Guidelines apply, the average sentence for males is 278.4 percent greater than that of females (51.5 versus 18.5 months). David Mustard, *Disparities in Sentencing: Evidence from U.S. Federal Courts*, Journal of Law and Economics, vol. XLIV (April 2001).
27. Males not only receive longer sentences but also are less likely to receive no prison term when that option is available; more likely to receive upward departures, and less likely to receive downward departures. When downward departures are given, males receive smaller adjustments than females. *Id.*

Female value greater

28. A drunk driver will receive an average of a 3-year higher sentence for killing a female than for killing a male. *Unconventional Wisdom*, Washington Post, Sept. 7, 2000.
29. Black widows: Chicago female homicide cases resulting in non-convictions by 1914 had become a national scandal. Illinois State's Attorney Maclay Hoyne, declared that: "The manner in which women who have committed murder in this county have escaped punishment has become a scandal. The blame in the first instance must fall upon the jurors who seem willing to bring in a verdict of acquittal whenever a woman charged with murder is fairly good looking and is able to turn on the flood gates of her tears, or exhibit a capacity for fainting."

30. Female Defenses unavailable to males:

Menstruation and PMS, or I kill whomever I want and blame it on my biology:

At four o'clock in the afternoon on January 30, 1865, Mary Harris fired two shots at her former fiancé, as he walked down the hallway of the U.S. Treasury Building leaving work for the day. Burroughs fell dead and Harris was tried for murder.

Mary's prior fiancé had broken off their engagement and married another girl, so Mary followed him to D.C. and shot him dead. Mary tearfully testified that Burroughs had promised to marry her but married someone else. After a 12-day trial in which she pleaded "not guilty by reason of being 'crossed in love and suffering from painful dysmenorrheal at the time of the shooting' or what is now called premenstrual syndrome, Mary was acquitted.

N.Y. Times, July 20, 1865 printed: The verdict only furnishes a new illustration of what must be regarded as a settled principle in American law—that any woman, who considers herself aggrieved in any way by a member of the other sex, may kill him with impunity, and with an assured immunity from the prescribed penalties of law.

Battered Female Syndrome or he's dead so I can say whatever I want about him and the courts will believe me.

Svengali Defense or the devil, a man, made me do it.

Contract killing or get a guy to do it and then blame him.

Injurious Falsehood (form of interference with economic concerns) [Defamation protects a person's reputation while Injurious Falsehood protects economic concerns; it is an economic tort].

Intentional publication
Of false and misleading information
Malice = done with intent to interfere with another's interests or done without regard to consequences. A reasonably prudent person would anticipate economic damages [if show statement made and false then there exists presumption of malice]
That results in special damages, including loss of prospective economic advantage

Tortious interference with prospective contractual relations [Protects person in acquiring property. Where a contract would have been entered into but for malicious conduct of 3P].

Relationship with 3P that creates expectancy of future contractual relations
Defendant interferes with that relationship
Malice = Defendant's sole purpose is to harm plaintiff or defendant engaged in fraud
Economic injury, which includes loss of opportunities for profit

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 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 Corp Australia (doing business as News Limited). 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 a wholly-owned subsidiary of News Corp Australia and publishes *The Advertiser*.

4. Advertiser Newspapers is organized under the laws of Australia.

5. Advertiser Newspapers does not have any offices in New York.

6. Advertiser Newspapers does not have any employees in New York.

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

8. Advertiser Newspapers does not target any New York audience.

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

10. 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 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 7th day of August, 2014.

Notary Public

Duncan & Associates
39/61-89 Buckingham Street
Surry Hills, NSW 2010
www.lawyersnotaries.com.au

M Duncan & Associates
39/61-89 Buckingham Street
Surry Hills, NSW 2010
www.lawyersnotaries.com.au

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 COMPLAINT

Adelaide
South Australia
Australia) ss.:

TORY SHEPHERD, being duly sworn, deposes and says:

1. I am a citizen of Australia and a resident of Australia and a resident of Adelaide. 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.

4. In my capacity as the Political Editor, I wrote two articles dated January 12 and January 14 regarding a prospective male studies course at the University of South Australia.

M. D. LA VINCENTE
PUBLIC NOTARY
SOUTH AUSTRALIA

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.

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.

7. 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.

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

9. 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.

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

11. Except for that telephone call, I had no other contact with anyone in New York regarding the articles.

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

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

M. D. LA VINCENTE
PUBLIC NOTARY
SOUTH AUSTRALIA

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

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

16. 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 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 25 day of August 2014.

Notary Public

M. D. LA VINCENTE
PUBLIC NOTARY
SOUTH AUSTRALIA

Exhibit A

News

The Advertiser

News

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

- by: POLITICAL EDITOR TORY SHEPHERD
- From: 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.

25/08/2014

R. D. LA VINCENTE PUBLIC NOTARY SOUTH AUSTRALIA 4/08/2014 12:10 PM

The course, which has no prerequisites, begins this year and will canvass sub to gender bias.

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

"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 c 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.

25/08/2014

M. D. LA VINCENTE PUBLIC NOTARY SOUTH AUSTRALIA

Exhibit B

News

The Advertiser

News

University of South Australia gives controve Studies course the snip

- by: TORY SHEPHERD POLITICAL EDITOR
- From: The Advertiser
- January 14, 2014 10:45AM

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** *(http://www.adelaidenow.com.au/news/south-australia/lecturers-in-worldfirst-male-studies-course-at-university-of-south-australia-under-scrutiny/story-fni6uo1m-1226800150348)* 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".

25/08/2014

M.P. LA VINCENTI
PUBLIC NOTARY
SOUTH AUSTRALIA
4/08/2014 12:11 PM

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

However, Mr Den Hollander is unlikely to be able to tell Adelaide students abo between the men's rights movement and the civil rights movement, as the uni he is down to teach was never approved.

A statement from the university issued yesterday said only UniSA staff would courses, and that the university did not "endorse or support the controversial c 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".

25/08/2014

M. D. LA VINCENTE
PUBLIC NOTARY
SOUTH AUSTRALIA

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 COMPLAINT

City of Sydney)
) ss.:
In the state of New South Wales

RICHARD COLEMAN, being duly sworn, deposes and says:

I am an employee of Fairfax Media 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 a Solicitor by Fairfax Media Limited. 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. *The Sydney Morning Herald* is published by Fairfax Media.

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

4. Fairfax Media and *The Sydney Morning Herald* do not have any offices in New York.

5. Fairfax Media and *The Sydney Morning Herald* do not have any employees in New York.

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

7. 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 and neither Fairfax Media nor *The Sydney Morning Herald* has any control over whether copies printed by Press Reader are distributed in New York.

8. 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.

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

10. Fairfax Media and *The Sydney Morning Herald* do not have office facilities, locations, employees, telephone listings and/or bank accounts in New York.

11. **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 Complaint with prejudice in its entirety together with costs and such other relief as is appropriate, with costs and such other relief as is appropriate.

R. Coleman

Richard Coleman

Sworn to and subscribed before me
this 28th day of August, 2014.

~~Notary Public~~
Solicitor

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 COMPLAINT

City of Sydney) ss.:
In the State of New South Wales)

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. 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* in Sydney, Australia.

3. As an education reporter for *The Sydney Morning Herald*, my responsibilities included research, sourcing, and writing articles about education 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.

5. I wrote the Article because it related to a controversy taking place in Australia, and the articles were intended for publication in Australia and were 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.

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 Complaint with prejudice in its entirety together with costs and such other relief as is appropriate, with costs and such other relief as is appropriate.

Amy McNeilage

Sworn to and subscribed before me
this Thursday 28th of August, 2014.

~~Notary Public~~
Solicitor

"A"

Tuesday 14th of January 2014 - Sydney Morning Herald (Web-Only)
Pagenumber: 0 Section: News and Features Subsection:

University of South Australia distances itself from males studies proposals

AMY MCNEILAGE

The University of South Australia has distanced itself from a proposal for a series of male studies courses, some of which were to be taught by hardline anti-feminist advocates.

The University of South Australia has distanced itself from a proposal for a series of male studies courses, some of which were to be taught by hardline anti-feminist advocates.

The university has approved one of four proposed graduate courses, a certificate in male health and health promotion, which will begin online next month.

But an original proposal by one of the university's academics outlined three further certificates, including a course called "males and sexism", which named lecturers who have been published on radical men's rights websites.

Among those named was American lawyer and self-described anti-feminist Roy Den Hollander, who filed a lawsuit against Columbia University for offering women's studies courses that preached a "religionist belief system called feminism", The New York Times reported in 2008.

Another proposed lecturer, Miles Groth from Wagner College in New York, wrote on the New Male Studies Facebook page on Sunday: "Two years of preparation and the support of the university from the start now seem to be jeopardy because of unnamed critics making erroneous accusations. It has been known for some years now that academe is held hostage by radical ideological feminists in the humanities and social sciences, and administration, who fear them."

The university emphasised it did not endorse views of the suggested lecturers. It said the courses, which were criticised in the media on Monday, were rejected in 2012.

Any future courses would need to go through the same approval process, a spokeswoman said.

But National Union of Students president Deanna Taylor said it was concerning that the academic who founded the course, Associate Professor Gary Misan, was linked to the controversial Americans.

"It's a slippery slope once you open the door to people with these views and give them a platform ? it's not long before proposals like the ones that were rejected actually get approved," she said.

Feminist academic Eva Cox said it was probably time to take a good look at how assumptions about gender constrain both men and women:

"Whether we need to run a university course on them, I've got my doubts," she said. "The only reason I can see that you'd be running men's studies is for the men who want to complain that they haven't had enough attention as victims, and that does worry me.

"Yes, some men have difficulties with going to doctors ? but I think we need to look at the assumptions about masculinity and femininity and how they trap both genders rather than picking on one or the other."

EXHIBIT 6

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 7

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.

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 8

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

EXHIBIT 9

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.

22/10/14

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

"A"

Tuesday 14th of January 2014 - Sydney Morning Herald (Web-Only)
Pagenumber: 0 Section: News and Features Subsection:

University of South Australia distances itself from males studies proposals

AMY MCNEILAGE

The University of South Australia has distanced itself from a proposal for a series of male studies courses, some of which were to be taught by hardline anti-feminist advocates.

The University of South Australia has distanced itself from a proposal for a series of male studies courses, some of which were to be taught by hardline anti-feminist advocates.

The university has approved one of four proposed graduate courses, a certificate in male health and health promotion, which will begin online next month.

But an original proposal by one of the university's academics outlined three further certificates, including a course called "males and sexism", which named lecturers who have been published on radical men's rights websites.

Among those named was American lawyer and self-described anti-feminist Roy Den Hollander, who filed a lawsuit against Columbia University for offering women's studies courses that preached a "religionist belief system called feminism", The New York Times reported in 2008.

Another proposed lecturer, Miles Groth from Wagner College in New York, wrote on the New Male Studies Facebook page on Sunday: "Two years of preparation and the support of the university from the start now seem to be jeopardy because of unnamed critics making erroneous accusations. It has been known for some years now that academe is held hostage by radical ideological feminists in the humanities and social sciences, and administration, who fear them."

The university emphasised it did not endorse views of the suggested lecturers. It said the courses, which were criticised in the media on Monday, were rejected in 2012.

Any future courses would need to go through the same approval process, a spokeswoman said.

But National Union of Students president Deanna Taylor said it was concerning that the academic who founded the course, Associate Professor Gary Misan, was linked to the controversial Americans.

"It's a slippery slope once you open the door to people with these views and give them a platform ? it's not long before proposals like the ones that were rejected actually get approved," she said.

Feminist academic Eva Cox said it was probably time to take a good look at how assumptions about gender constrain both men and women:

"Whether we need to run a university course on them, I've got my doubts," she said. "The only reason I can see that you'd be running men's studies is for the men who want to complain that they haven't had enough attention as victims, and that does worry me.

"Yes, some men have difficulties with going to doctors ? but I think we need to look at the assumptions about masculinity and femininity and how they trap both genders rather than picking on one or the other."

EXHIBIT 10

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

RODERICK N. SALFINGER, et al.,

Plaintiffs,

vs.

DECISION AND ORDER
Case No. 13CV010081

FAIRFAX MEDIA LIMITED
d/b/a THE SYDNEY MORNING HERALD, et al.,

Defendants.

This case comes before the court on the defendants' motion to dismiss for lack of personal jurisdiction. The defendants are accused of defamation. They are Australian and New Zealand print and internet media companies who neither publish nor sell anything in Wisconsin. Their only connections to Wisconsin consist of advertisements targeted to Wisconsin residents. But these advertisements do not appear in print or broadcast or outdoor media here in Wisconsin. They are not part of some effort here to drum up business here, or even to lure Wisconsin residents to the defendants' websites. These advertisements merely greet Wisconsin residents who themselves take the initiative to visit the defendants' websites.

I conclude that these contacts with Wisconsin residents are insufficient to justify an exercise of personal jurisdiction over the defendants. Accordingly, the defendants' motion must be granted and the case must be dismissed.

Background

Roderick Salfinger is an Australian entrepreneur who moved to Shorewood, Wisconsin in July, 2010. In October, 2010, the *Sydney Morning Herald*, a prominent Australian newspaper[1] published an article about Mr. Salfinger in its print and on-line editions. The article

[1] The *Herald* is said to be the oldest continuously published newspaper in Australia, with a weekday circulation of approximately 132,000. *See* http://yaffacdn.s3.amazonaws.com/live/adnews/files/dmfile/ABC_Feb2014.pdf (last visited November 29, 2014). For sake of comparison, the weekday circulation of the *Milwaukee Journal Sentinel* is approximately 194,000. *See* http://www.bizjournals.com/milwaukee/news/2013/11/01/journal-sentinel-sunday-circulation.html (last visited November 29, 2014).

mainly concerned the owners of the prolific Australian winery, Casella Wines Pty Ltd., whose Yellow Tail label overran U.S. liquor stores about a decade ago. But it also touched on Casella's dealings with Mr. Salfinger, and included a statement that "Mr. Salfinger . . . faces prosecution in the US after allegedly producing a revolver at his daughter's wedding."

In October 2013, Mr. Salfinger sued the Fairfax defendants[2] for defamation, alleging that the statement about him in the Casella article was false. He denies the statement and explains that he has never owned a revolver or handgun, has never been charged with or convicted of any firearms-related charge in the United States or elsewhere and never produced a firearm at his daughter's wedding. First Amended Complaint, filed October 31, 2014, ¶ 16.

Upon their first appearance in the case, the Fairfax defendants objected to this court exercising jurisdiction over them. They contend that they sell no newspapers in Wisconsin or do any other business here.

Mr. Salfinger's initial response was to point out that the Fairfax defendants do conduct business in Wisconsin, at least if one were to count the number of visits paid to Fairfax websites by folks in Wisconsin, or if one were to consider the publishing activities of *The Wisconsin Agriculturist,* a subsidiary of a subsidiary of the Fairfax defendants. But Mr. Salfinger abandoned these points when the Fairfax defendants countered with authority demonstrating that connections like these do not support an exercise of personal jurisdiction. *See be2 LLC v. Ivanov,* 642 F.3d 555, 558-59 (7th Cir. 2011)("If the defendant merely operates a website, even a 'highly interactive' website, that is accessible from, but does not target, the forum state, then the defendant may not be haled into court in that state without offending the Constitution"); *Rasmussen v. General Motors Corp.,* 2011 WI 52, ¶ 51, 335 Wis. 2d 1 (unless there are grounds

[2] The "Fairfax defendants" are all the defendants who join in the pending motion, including Fairfax Media Ltd., the publisher of the *Sydney Morning Herald,* as well as related companies that host the *Herald*'s websites.

Mr. Salfinger's amended complaint names others besides the Fairfax defendants, but apparently no others have been served. If the claims against the Fairfax defendants are dismissed, the claims against the other named defendants must be dismissed for failure to effect service of process upon them.

to disregard the separate corporate identities of a parent and subsidiary, the subsidiary's contacts with Wisconsin cannot support jurisdiction over a nonresident parent).

Instead, Mr. Salfinger has focused his attack on the fact, undisputed by the Fairfax defendants, that when a person from Wisconsin visits a Fairfax website, such as a website hosting the *Sydney Morning Herald,* the visitor is greeted with "advertising that is often targeted to the interests and geographic location of the online viewer." Plaintiffs' Supplemental Response to the Fairfax Defendants' Motion to Dismiss, filed November 3, 2014, at 4.

The targeting Mr. Salfinger describes is familiar, of course. By identifying our IP addresses and by storing cookies in the memories of our computers, website servers are able to recognize us when we visit, detecting our apparent location and prompting advertising or other features that relate to previous searches performed by the computer. On a news website like those operated by the Fairfax defendants, the news or other content at the center of the screen typically appears under a canopy and between columns of advertising individualized in some way to the viewer. In his affidavit filed on August 29, 2014, Mr. Salfinger provided examples of such from his visits to a *Sydney Morning Herald* website, in which the news from Australia is flanked by advertisements for products and services offered by Wisconsin businesses such as Aurora Health Care, Potawatomi Casino, Bryant & Stratton College and the Wisconsin Dells.[3]

It is on the strength of targeted advertising like this that Mr. Salfinger contends that exercising personal jurisdiction over the Fairfax defendants comports with due process.

[3] Mr. Salfinger's expert, Shlomo Samaet, provided two additional examples of apparently targeted advertising, including advertisements for Summit Credit Union, a Madison credit union, and Clifford & Raihala, S.C., a Madison law firm. *See* Affidavit of Shlomo Samaet, filed November 3, 2014, Exhibit B, Examples C & F. Of the other examples he offers, though, the connection to Wisconsin is harder to discern. *See id.,* Examples A, B, D & E (for Vinotemp, a Southern California manufacturer of wine storage units, Servicemaster, the ubiquitous residential and commercial cleaning and restoration service formerly based in Chicago but now based in Tennessee, Amazon (oh, how we wish a corporate giant like Amazon was headquartered in Wisconsin!), and CIT Bank, based in New York City, which lists no Wisconsin branches on its website (*see* http://www.cit.com/contact-us/united-states/index.htm (last visited December 1, 2014).

Analysis

The two-step methodology the court follows in ruling on an objection to personal jurisdiction is familiar:

> In determining whether personal jurisdiction may be exercised over a nonresident defendant, we employ a two-step inquiry. . . . The first step is to determine whether the defendant meets the criteria for personal jurisdiction under the Wisconsin long-arm statute. . . . If the requirements set out in the long-arm statute are satisfied, "then the court must consider whether the exercise of jurisdiction comports with due process requirements." . . .

Rasmussen, 2011 WI 52, ¶ 16 (citations and quotations omitted).

As we shall see in a moment, the call that must be made in the first stage – whether Wisconsin's long-arm statute stretches far enough to cover the Fairfax defendants – is a somewhat close one. But in the second stage of the analysis whatever call is made in the first stage becomes superfluous, because the Fairfax defendants' contacts with Wisconsin are simply too insubstantial to satisfy the dictates of the due process clause.

1. Whether Wisconsin's long-arm statute applies

The only portion of the long-arm statute that Mr. Salfinger invokes is WIS. STAT. § 801.05(4)(b), which provides that a "court of this state having jurisdiction of the subject matter has jurisdiction over a person . . .

> **(4)** LOCAL INJURY; FOREIGN ACT. In any action claiming injury to person or property within this state arising out of an act or omission outside this state by the defendant, provided in addition that at the time of the injury . . .
>
> (b) Products, materials or things processed, serviced or manufactured by the defendant were used or consumed within this state in the ordinary course of trade."

Mr. Salfinger explains why this portion of the long-arm statute fits his case: He suffered an injury to his reputation here in Wisconsin. His injury arises out of a falsehood perpetrated outside the state by the Fairfax defendants. And at the time they defamed him the Fairfax defendants were processing products for consumption within Wisconsin, that is, they were

engaged in information processing of products which included news content and advertising, which were consumed by readers in Wisconsin.

The Fairfax defendants argue that Mr. Salfinger has misread the statute. The only "product" to which this portion of the long-arm statute applies, they say, is a "tangible thing," something that can be touched, and cannot include mere information conveyed by electrical current. They suggest that the "products" to which WIS. STAT. § 801.05(4)(b) refers are products of the physical world, not denizens of a computer network.

Upon first approach, the argument has some appeal, at least if one is permitted to disregard the fact that computer networks and the electrical impulses that convey information along them are full-fledged physical realities. The argument has some appeal, at least, perhaps, to minds of a certain generation,[4] because when the word "product" is used in the company of words such as "manufactured," "serviced," "processed," and "consumed," what comes to mind are widgets, not ideas. And it is true, as the Fairfax defendants point out, that there is no precedent for applying this portion of the statute to the information industry as opposed to other industries that churn out the kind of "products" we normally associate with the kind of litigation in which WIS. STAT. § 801.05(4)(b) is most often put in play, *i.e., product* liability litigation.

But the lack of authority in this field works more to Mr. Salfinger's advantage than against him. There may be no precedent favoring Mr. Salfinger's position, but neither is there precedent for Fairfax's position, *i.e.,* that the meaning of the words "products" and "processed" should be limited to widgets or other so-called "tangible things." To the contrary, attempting to limit the meaning of broad terms such as "products" and "processed" seems contrary to the principle that the long-arm statute is to be construed liberally in favor of exercising personal jurisdiction, not narrowly in order to limit its reach. *See Rasmussen*, 2011 WI 52, ¶¶ 16-17.

[4] Minds formed in America at the end of the age of manufacturing, but perhaps not minds formed in America at the dawn of the age of the internet.

If a broad construction of the terms "products" and "processed" is preferred over a limiting construction, then the only question is whether it gives too broad a meaning to the words "products" and "processed" to read them as broadly as Mr. Salfinger has. I don't think Mr. Salfinger's reading stretches them too far. Indeed, once you think about it, it seems almost straightforward to treat newspaper and advertising content and their distribution to the market across the internet as "products" of a "process," given that newspaper articles and advertisements are products of human creation, not nature, and that the engine of their blending and distribution to us is, in fact, a process, a familiar process that we call information *processing*.

Such an analysis, as Mr. Salfinger points out, is in keeping with *Kopke v. A. Hartrodt S.R.L.*, 2001 WI 99, ¶ 17, 245 Wis. 2d 396, in which the court opted to apply "the broad definition of 'process' suggested by" *Nelson by Carson v. Park Industries, Inc.*, 717 F.2d 1120, 1124 n.5 (7th Cir. 1983). The *Nelson* court highlighted the dictionary definition of the verb "process," which includes "preparing something for market or other commercial use by subjecting it to a process," *id., citing* Webster's Third New International Dictionary of the English Language (1963). A definition of this scope is more than ample enough to embrace the *Herald*'s process of preparing and arranging news and advertising content for the market and subjecting it to information processing in order to put it on screens of readers in Wisconsin.

Because I find Mr. Salfinger's expansive construction of WIS. STAT. § 801.05(4)(b) sounder than the limiting construction urged by the Fairfax defendants, I conclude that the court is authorized by statute to exercise personal jurisdiction over the Fairfax defendants.

2. Whether an exercise of personal jurisdiction comports with due process

When we reach the second stage of the analysis, however, Mr. Salfinger's case for personal jurisdiction falters. It is quite clear to me that for a Wisconsin court to exercise

personal jurisdiction over these defendants in the circumstances presented by this case would offend due process.

The standards that govern this question are familiar. Before a court may exercise personal jurisdiction over a nonresident defendant, the court must find that the defendant has certain "minimum contacts" with Wisconsin "such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" That's the famous formulation handed down by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945)(quotation omitted). By "minimum contacts" we have come to understand that "the defendant's conduct and connection with the forum State are such that he [or she] should reasonably anticipate being haled into court there." That's how the standard was formulated in *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980). And what is particularly salient about the "defendant's conduct and connection with the forum State" is whether there is "some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." That was the contribution to this jurisprudence made in *Hanson v. Denckla*, 357 U.S. 235, 253 (1958). In *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985), the Supreme Court refined this "purposeful availment" requirement further, holding that a defendant may not be "haled into a jurisdiction solely as a result of 'random,' 'fortuitous,' or 'attenuated' contacts, . . . or of the 'unilateral activity of another party or a third person.'" *Id.*, 471 U.S. at 475, *citing, among others, Keeton v. Hustler Magazine, Inc.,* 465 U.S. 770, 774 (1984). *See also Kopke,* 2001 WI 99, ¶ 24.

The United States Supreme Court recently revisited these standards, in *Walden v. Fiore*, ___ U.S. ___, 134 S. Ct. 1115 (2014). In its decision, the Court reminded us of two particular aspects of the minimum contacts doctrine that are implicated by the debate over jurisdiction in Mr. Salfinger's case. First, as the Fairfax defendants point out, the Fairfax defendants'

> relationship must arise out of *contacts that the "defendant[s themselves]" create[ ]* with the forum State. . . . Accordingly, we have upheld the assertion of jurisdiction over defendants who have purposefully "reach[ed] out beyond" their State and into another by, for example, . . . circulating magazines to "deliberately exploi[t]" a market in the forum State . . .

Id., 134 S.Ct. at 1122 (emphasis added, citations omitted). And, second,

> We have consistently rejected attempts to satisfy the defendant-focused "minimum contacts" inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State. . . . [O]ur "minimum contacts" analysis looks to the defendant's contacts with the forum State itself, *not the defendant's contacts with persons who reside there*. . . . Due process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the "random, fortuitous, or *attenuated*" contacts he makes by interacting with other persons affiliated with the State.

Id., 134 S.Ct. at 1122, 1123 (emphasis added, citations omitted).

Viewed against these standards, it becomes clear why the contacts the Fairfax defendants maintain with Wisconsin are too insubstantial to comport with due process. The Fairfax defendants have not "purposefully 'reach[ed] out'" and into Wisconsin, for example, by circulating newspapers or magazines here (as was the case in *Keeton*) or by placing advertising here to draw Wisconsinites to their websites in Australia and New Zealand (*á là uBID, Inc. v. GoDaddy Group., Inc.,* 623 F.3d 421, 428 (7th Cir. 2010)("there is evidence in this case that GoDaddy (or its agent) has placed physical ads in particular Illinois venues"). The Fairfax defendants have not "purposefully avail[ed] themselves of the privilege of conducting activities *within* [Wisconsin], thus invoking the benefits and protections of its laws." *See Hanson v. Denckla*, 357 U.S. at 253 (emphasis added).

It is true that by means of targeted advertising the Fairfax defendants do "reach out" to some Wisconsinites, but not unless Wisconsinites first "reach out" to the Fairfax websites. The fact that the alleged contacts between the Fairfax defendants and the forum state are not made until initiated by extra-territorial contacts of Wisconsin residents is significant. These contacts are attenuated, and "'attenuated' contacts" a defendant "makes by interacting with other persons

affiliated with the State" are insufficient to satisfy due process. *See World-Wide Volkswagen Corp.*, 444 U.S. at 299. Attenuated contacts such as these would not lead a reasonable merchant to "reasonably anticipate being haled into court" in Wisconsin. *Id.* at 297.

Applying our familiar minimum contacts jurisprudence to the unfamiliar and, in some respects, metaphysical world of the internet can be conceptually challenging. But "real world" analogies – analogies drawn from more familiar realms of the physical world – are not difficult to imagine, and while they do not dictate the outcome of the analysis, they can be helpful in conceptualizing it. Here's a real world analogy that might help:

Because of the prominence of our local American football dynasty, Wisconsinites can find a welcome place to watch a Packer game on every continent. It turns out, in fact, that there is a particularly welcoming place in Port Douglas, a friendly little town in the north of Queensland, Australia. The place is called the Courthouse Hotel. It is called out for special recognition on the team's website.[5] It would not come as a surprise that what motivated the Courthouse Hotel's special Green and Gold trappings was sheer awe of the Packers' storied history. Neither, however, could one claim surprise if it came to light that the motive behind the Courthouse Hotel welcoming Packer fans was more commercial than reverential.

Assuming the latter, if a ute full of Packer fans on their way up to Cape Tribulation stopped to watch a game and have a meat pie and fell sick afterword, or stepped into the toilet and slipped and fell (not as obvious as it might seem to an Aussie), or became embroiled in an injury-producing biff over which is more manly American football or Aussie Rules football, would anyone seriously suggest the Courthouse Hotel could be sued in Wisconsin? Or even if the Courthouse Hotel were located in Sydney and catered not only to Packer fans, but also throngs of Brewer, Bucks, Admiral, Badger, Golden Eagle and Panther fans as well? Although the owners of the Courthouse Hotel might be said to have made a connection with Wisconsinites

[5] *See* "Murphy Takes 5: Hitting the road," http://www.packers.com/news-and-events/murphy_takes_5/article-1/Murphy-Takes-5-Hitting-the-road/b217d25c-89a0-49db-8c1c-933e4597caee , posted October 6, 2012 (last visited November 26, 2014).

(or at least some of their beloved sports franchises), the connection is simply too attenuated with the state itself to constitute a "minimum contact."

One final point deserves brief comment. Mr. Salfinger argues that because foreigners can more easily be called to account for defamation claims in Australia, the Fairfax defendants might have expected to face similar treatment here ("because jurisdiction would lie in their home country under analogous circumstances," Plaintiffs' Supplemental Response, at 7). Therefore, he contends that they could have "anticipate[d] being haled into court" here.

The argument is flawed in two different ways. First, the kind of anticipation that is salient for constitutional purposes is anticipation that arises from contacts with the forum state, not merely from a reciprocal application of state law, and Mr. Salfinger has not demonstrated that the Fairfax defendants had sufficient contact in the first place. In other words, by itself anticipation of being sued in the United States is insufficient to support an exercise of jurisdiction. Third, Mr. Salfinger concedes that the unstated premise of the argument – that American courts should apply Australian law in cases involving Australian defendants – finds no support in our law.

Conclusion

For all of the foregoing reasons, IT IS HEREBY ORDERED THAT:

1. The Fairfax defendants' motion to dismiss is granted.
2. All claims against the Fairfax defendants are dismissed.
3. The claims against the remaining defendants are dismissed for lack of service.
4. This is a final order for purposes of appeal under WIS. STAT. § 808.03(1).

_____
Richard J. Sankovitz
Circuit Court Judge

Dated: _____