

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Roy Den Hollander,

Plaintiff on behalf of himself and all others
similarly situated,

Docket No.
10 CV 9277
(LTS)(HBP)(ECF)

-against-

Members of the Board of Regents of the University of the State of
New York, in their official and individual capacities;
Chancellor of the Board of Regents, Merryl H. Tisch, in her official
and individual capacity;
New York State Commissioner of the Department of Education,
David M. Steiner, in his official and individual capacity;
Acting President of the New York State Higher Education Services
Corp., Elsa Magee, in her official and individual capacity;
U.S. Department of Education; and
U.S. Secretary of Education, Arne Duncan, in his official capacity;

Defendants.
-----x

STATEMENT OF MATERIAL FACTS IN OPPOSITION TO SUMMARY JUDGMENT

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In conjunction with the plaintiff putative class's opposition to the State and the U.S. defendants' motions for summary judgment, which resulted from this Court's Fed. R. Civ. P. 12(d) conversion, the Class Representative, Roy Den Hollander, in compliance with S.D.N.Y. Local Rule 56.1, contends that any assertions by the defendants that the material facts concerning the following issues are in their favor and lack genuine disputes are wrong:

Res Judicata or Claim Preclusion

1. The Class Representative has provided evidence that the Magistrate Judge, District Court Judge, and Court of Appeals' Judges all dismissed or affirmed dismissal of *Den Hollander I* for lack of subject matter jurisdiction, i.e. standing, under Rule 12(b)(1) because *Den Hollander I* failed to allege the jurisdictional fact that the Class Representative is a taxpayer and the relevant mandating and appropriating statutes. (DH Decl. Exs. B-Magistrate *Report and Recommendation*, C-District Court *Order*, D-Second Circuit *Summary Order*).

2. During oral argument in the Second Circuit, Judge Calabresi emphasized that the complaint in *Den Hollander I* failed to allege that the Class Representative had taxpayer standing. (DH Decl. Ex. E-Transcript of Oral Argument, pp. 2, 5; and *see* Second Circuit *Summary Order*, Ex. D pp. 3-4)("Nor has plaintiff made out the requirements for taxpayer standing for his Establishment Clause claim.").

3. The Class Representative has provided evidence that he is a U.S. and New York State and New York City taxpayer. (DH Decl. Ex. F-1099 Tax Forms). The State and USDOE have provided no contrary evidence.

4. The Class Representative has cited to the mandating and appropriating statutes, Amended Compl. ¶¶ 21, 22, 24-27, 32, 33, 38-40, 42-43, 72-78, 145, 151-52, 159, and requested discovery

to determine the detailed flow of funds from State and federal coffers that aid the religion Feminism in higher education or judicial notice, see below at ¶¶ 13, 26-29, 61-67, 70-74..

5. The State misleading claims that the complaint in *Den Hollander I* was dismissed on the merits. (State Memo. pp. 2, 3). The State's co-defendant, the U.S. Department of Education and its Secretary ("USDOE"), admits otherwise stating that the District Court's "Judge Kaplan agreed with [the Magistrate Judge's] recommendation, and dismissed the action for lack of standing." (USDOE Letter to Dismiss p. 2.) Also, the State, later in its memorandum of law, finally admits "Plaintiff was judged to lack standing in [*Den*] *Hollander I*." (State Memo. p.10). [See Opp. Memo. to Dismissal Motions pp. 4-5 for the legal argument that *res judicata* does not apply in this case.]

Collateral Estoppel or Issue Preclusion

6. The Class Representative has provided evidence that his taxpayer status was never put in issue in *Den Hollander I* because the complaint had not specifically alleged it. (DH Decl. Ex. E, pp. 2, 5, Second Circuit Judge Calabresi's statements during oral argument).

7. The Class Representative has cured that prior jurisdictional defect by putting in evidence that he is a U.S., New York State, and New York City taxpayer. (DH Decl. Ex. F-1099 Tax Forms). The State and USDOE have provided no contrary evidence.

8. The Class Representative also cured the prior defect of not citing to the relevant State and Congressional acts by providing in the verified amended complaint for *Den Hollander II* the citations to the pertinent New York Legislature and Congressional mandates that authorize specific appropriations and disbursements of New York and federal taxpayer dollars to higher education in New York, Amended Compl. ¶¶ 21, 22, 24-27, 32, 33, 38-40, 42-43, 72-78, 145, 151-52, 159, and has requested discovery to determine the detailed flow of funds from State and

federal coffers that aid the religion Feminism in higher education or judicial notice, see below at ¶¶ 13, 26-29, 61-67, 70-74.

[See Opp. Memo. to Dismissal Motions pp. 5-7 for the legal argument that collateral estoppel does not apply in this case.]

Standing for Establishment Clause litigation

Taxpayer

9. The Class Representative has provided evidence that he is a U.S., New York State and New York City taxpayer. (DH Decl. Ex. F-1099 Tax Forms). The State and USDOE have provided no contrary evidence.

10. The Class Representative has provided in the verified amended complaint citations to the State's mandate for Bundy aid to higher education, including Columbia University. (Amended Compl. ¶¶ 32-33, 74, 145, 159).

11. The Class Representative has provided in the amended verified complaint citations to pertinent New York State law showing that the promulgation of Regents' policies and plans are mandated by the State Legislature and specific funds are appropriated to the University of the State of New York ("USNY") for the formulation and enforcement of the Regents' policies. (Amended Compl. ¶¶ 21, 24-27).

12. Among the Regents' policies is the *Equity for Women in the 1990s, Regents Policy and Action Plan, Background Paper* (1993), which on its face requires the adoption of Feminist tenets by all higher educational institutions. (DH Decl. Ex. H; Amended Compl. ¶¶ 99-106). The State simply ignores this Regent policy statement and action plan.

13. A continuance is requested in which to conduct discovery via interrogatories to determine the flow of financing from Congressional appropriations that USDOE provides to the USNY and

are used to create and implement the Regents' policies and plans, in particular, the *Equity for Women, Regents Policy and Action Plan*. The interrogatories will be served on USDOE and the State. The Class Representative has searched for the information over the Internet, particularly the SED and USDOE websites without finding such. The information is peculiarly in the possession of the defendants.

Non-economic

14. The Summary Judgment Declaration in Opposition by the Class Representative demonstrates the ubiquitous and offensive nature of Feminism at Columbia University with which the Class Representative regularly comes into contact. (DH Sum. Judgment Decl. ¶¶ 1-16).

[See Opp. Memo. to Dismissal Motions pp. 9-13 for the legal arguments supporting taxpayer and non-economic standing for the Class Representative.]

Feminism as a religion

15. The defendant's have not provided any pleadings, depositions, answers to interrogatories, admissions on file, or affidavits to show that there is no genuine issue as to whether Feminism is a religion. USDOE provides conclusory statements in its memoranda of law from *Den Hollander I* that Feminism does not meet the federal courts' standards for religion and compares Feminism to the "Gaia religion," "an Aztec serpent-god" and "nuclearism." (USDOE Memo. from *Den Hollander I*, pp. 17-18, incorporated into this case by USDOE letter memorandum p. 2 n.3).

16. The State, without any factual support, simply decrees that Feminism is secular. It also declares that Feminism is not a religion because religion is only "that which is conventionally

recognized as ‘religion’” (State Memo. pp. 11, 15). That’s not what the U.S. Supreme Court has held. (Opp. Memo. to Dismissal Motions pp. 13-16).

17. In the State’s reply memorandum of law, it merely makes the conclusory statement that “the general societal consensus is that ‘Feminism’ is a political and social doctrine, not a religion.” (State Reply p.5). The Class Representative is unaware of and the State does not provide any polling sources for this assertion.

18. The amended verified complaint at ¶¶ 50-68 lists some of the tenets of Feminism that satisfy the standards for religion used by the U.S. Supreme Court, five Courts of Appeals, the Southern District Court for New York, the Equal Opportunity Act, 42 U.S.C. § 2000e(j), and Title VII of the Civil rights Act of 1964.

19. The Class Representative has provided a copy of the State’s *Equity for Women, Regents Policy and Action Plan* that includes numerous Feminist tenets such as:

- a. Super affirmative action to increase the number of degrees received by females in those areas where they already receive well over 52%. *Equity for Women, Regents Policy and Action Plan* p. 3.
- b. “[C]hang[ing] the way [educators] think and act [including speech] in order to achieve” super affirmative action goals for females. *Id.* p. 5.
- c. “Major changes in curriculum and teaching” to accord with “[c]urrent studies about learning patterns and the intellectual development of women” that ends up promoting female friendly strategies over those helpful to males. *Id.* p. 2.
- d. The SED staff to re-train faculty in the Feminist view of appropriate sex roles and provide “regular monitoring and reinforcement [of that view] in educational settings.” *Id.* p. 6.
- e. The SED staff to conduct “academic program reviews at colleges and universities” in order to determine whether gender specific patterns (traditional sex roles that resulted from six million years of evolution) have disappeared. *Id.* p. 7.
- f. “Appropriate non-traditional role models” to increase the number of females enrolled in subjects such as mathematics, science, engineering, and computer technology with

the quota numbers reported to Higher Education Data Systems, *id.* p. 7, which will further decrease the overall number of males graduating college.

- g. “Practices that support, recruit, and promote women will be identified and replicated” while all others will be “eliminated,” as determined by SED’s Affirmative Action Officer. *Id.* p. 9.
- h. Focusing the support networks of colleges and creating others to promote the hiring and placement of females, *id.* p. 9, even though more females than males are hired on graduating college.
- i. Developing, supporting, and promoting research on current issues facing females, but not males, which will be incorporated into teacher training by SED. *Id.* p. 10.

20. The Class Representative also requests a continuance in order to obtain an expert’s report denoting the tenets of Feminism.

[*See* Opp. Memo. to Dismissal Motions pp. 13-16 and Verified Amended Complaint ¶¶ 44-49 for the federal standards used to determine whether a belief system is a religion.]

Aiding Feminism

21. The State Legislature was mandated by the State Constitution to create and, as a reasonable inference, fund the “corporation” named the University of the State of New York (“USNY”). *N.Y. Constitution*, Art. XI § 2.

22. USNY is governed by the Regents and has powers granted it by the State Legislature. *N.Y. Constitution*, Art. XI § 2.

23. The Regents, all of whom are elected by the State Legislature, function as the legislature for higher education because they were granted those powers by the State Legislature. *Moore v. Bd. Regents University of the State of New York*, 44 N.Y.2d 593, 600 (1978); N.Y. Educ. Law § 207.

24. The Regents’ statewide plans and policy statements are in effect laws, rules, and regulations governing higher education. *See* N.Y. Educ. Law § 207.

25. The State admits that (1) all higher educational institutions in New York “must comply with [USNY’s] rules or any applicable laws;” (2) the Regents have the power to “suspend the charter, or other rights and privileges, of any institution in the University of the State of New York ‘... for violation of any law or any rule of the university’”; (3) the Regents have “broad power to ‘exercise legislative functions concerning the educational system of the state, determine its educational policies, and ... establish rules for carrying into effect the laws and policies of the state, relating to education.’” (State Memo. p. 4-5).

26. A critical function of the Regents is its preparation of a statewide plan for the development and expansion of higher education in New York. N.Y. Educ. Law § 237.

27. The Regents also periodically issue policy statements to supplement or set the direction that higher educational institutions should take in their programs. SED website, <http://www.highered.nysed.gov/ocue/lrp/>; see N.Y. Educ. Law § 207.

28. The State Legislature annually appropriates specific sums to USNY that legislative mandate requires be spent, in part, on the formulation and execution of Regent statewide plans and policy statements, such as the major policy statement and action plan *Equity for Women, Regents Policy and Action Plan*. See N.Y. Educ. Law § 237.

29. The Regents’ statewide plans and policy statements are also mandated by N.Y. Educ. Law § 237(1)(d)(3) to list resources for the execution of USNY’s plans and policies, including *Equity for Women, Regents Policy and Action Plan*. This Court can take judicial notice that such resources are provided out of the specific appropriations for USNY that come from taxpayer dollars. If not, then the Class Representative requests a continuance for discovery via interrogatories of the State that taxpayer funds provide, at least in part, for such resources.

30. SED serves as the Regents administrative arm managing the designated resources to carry out USNY's policies, which includes its *Equity for Women, Regents Policy and Action Plan* that promotes Feminism in higher education. N.Y. Educ. Law § 101.

Purpose

31. The State admits that “[t]he question to be answered in determining whether the challenged activities have a secular purpose is ‘whether government’s actual purpose is to endorse or disapprove of religion.’” (State Memo. p. 17, citing *Edwards v. Aguillard*, 482 U.S. 578, 585 (1987)). A synonym for “intent” is “purpose.” *Webster’s New World Roget*, ed. 1999. As argued in the accompanying Memorandum Opposing Summary Judgment, when a party’s intent is at issue, summary judgment will rarely be granted.

32. The State has failed to provide any pleadings, depositions, answers to interrogatories, admissions on file, or affidavits to show that there is no genuine issue as to whether the purpose of the State’s educational policies is to reshape higher education in accordance with the belief system Feminism.

33. The State merely makes the conclusory statement in its memorandum of law that the State’s activities “do not themselves advance religion.” (State Memo. p.18).

34. The Class representative has shown that in 1972, the State embarked on a secular purpose of balancing the number of males and females benefiting from higher education. *Regents Statewide Plan 1972*, p. 103 (DH Decl. Ex. K); *Equal Opportunity for Women-A Statement of Policy and Proposed Action*, Position Paper No. 14, p. 6 (1972) (DH Decl. Ex. J)

35. In 1972, females made up 42% of all college students. *Bureau of the Census*.

36. By 1984, however, more females than males were attending and graduating from New York colleges and universities, yet the State continued its policy of increasing the number of

females and the opportunities available to them. *Regents Statewide Plan 1984* (DH Decl. Ex. L); *Regents Major Policy Statement for 1984* (DH Decl. Ex. M).

37. The reasonable inference is that on or about 1984, the State's purpose was no longer secular affirmative-action because the results had gone far beyond equal treatment by the State's own measures. *See Johnson v. Transportation Agency*, 480 U.S. 616, 632, 637 (1987)(the purpose of affirmative-action is to eliminate the effects of past discrimination and obtain equitable representation).

38. In 1988, the State called for the increased participation of females in underrepresented fields, such as mathematics and science, even though the reasonable inference is that it would further decrease the number of males receiving college degrees. *Regents Statewide Plan for 1988* (DH Decl. N).

39. Then in 1993, when in New York State over 55% of college students were female, and females earned 60% of the associate degrees, 54% of the bachelor degrees, and 58% of the master's degrees, *New York Annual Educational Summary 1990-91*, Table 42, p. 50, the State cemented its changed purpose in the major policy statement: *Equity for Women in the 1990s, Regents Policy and Action Plan, Background Paper*, DH Decl. Ex. H.

40. The *Equity for Women in the 1990s, Regents Policy and Action Plan*, still in effect today, openly promotes, favors, and affiliates the State with a particular point of view for governing higher education—Feminism, which favors opportunities for females even when females far outpace males in college degrees. *Equity for Women, Regents Policy and Action Plan*, pp. v, 1, 2, 3, 5, 6, 7, 9, 11.

41. In 2004, the Regents' Statewide Plan recognized that a super-majority of all college students were female, that females earned 63% of the Master's degrees and a majority of the

Doctoral degrees in the State, yet consistent with Feminist doctrine, the Regents showed no concern for rebalancing the numbers to achieve equity for men. *2004 Statewide Plan* pp. 70, 72 chart 17.

42. Today, females make up 58% of all New York's college students, females receive over 55% of the Bachelor degrees, over 63% of the Master's degrees, and over a majority of the Doctoral degrees. SED, *ORIS*.

43. By 2016, 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 Doctoral degrees. National Center for Educational Statistics, *Digest of Educational Statistics*, Table 258.

44. The reasonable inference is that because the State has consistently over a 27 year period enforced policies favorable to the already preferentially treated majority—females, at the expense of the minority—males, the State has demonstrated its preference for the creed Feminism and placed its power and authority on the side of one particular set of believers—Feminists.

45. The Class Representative has submitted State documents showing that the State requires adherence to Feminist tenets in higher education, in particular the *Equity for Women in the 1990s, Regents Policy and Action Plan, Background Paper*. (DH Decl. Exs. H, J, K, L, M, N, P).

46. The State merely makes the conclusory statement in its memorandum of law that the State's educational "scheme" "passes the 'secular test'." (State Memo. p.17).

47. USDOE also admitted in its *Den Hollander I* motion to dismiss that "[W]ith regard to the 'establishment' component of the Establishment Clause, the relevant inquiry is whether the Government's intent ... is to 'establish' the particular religion in question."

48. Since summary judgment is inappropriate for determining state of mind, whether USDOE knowingly facilitated the State's purpose to turn New York's higher education system into a Feminist construct by delegating USDOE's college accrediting responsibilities for financial aid to the State, 8 N.Y.C.R.R. Subpart § 4-1, is an issue for trial.

[See Opp. Memo to Dismissal Motions. pp. 16-20 for the legal argument concerning the State's "purpose" for higher education.]

Entanglement

49. The State's *Equity for Women, Regents Policy and Action Plan* requires the State to monitor all higher educational institutions, such as Columbia, to assure the implementation of its Feminist precepts:

- SED assigned the "responsibility to monitor progress toward the stated goals," *Equity for Women, Regents Policy and Action Plan* p. 11, DH Decl. Ex. H;
- SED staff to re-train faculty as to appropriate sex roles and provide "regular monitoring and reinforcement [of that view] in educational settings," *Equity for Women, Regents Policy and Action Plan* p. 6, DH Decl. Ex. H;
- SED staff to conduct "academic program reviews at colleges and universities" in order to determine whether gender specific patterns have disappeared, *Equity for Women, Regents Policy and Action Plan* p. 7, DH Decl. Ex. H;
- "Practices that support, recruit, and promote women will be identified and replicated" while all others will be "eliminated," as determined by SED's Affirmative Action Officer, *Equity for Women, Regents Policy and Action Plan* p. 9, DH Decl. Ex. H.

50. The State has failed to provide any pleadings, depositions, answers to interrogatories, admissions on file, or affidavits to show that there is no genuine issue as to whether the State's activities create the danger of state inspection and evaluation of higher educational programs to assure compliance with the Feminist requirements of State policies.

51. The State merely makes the conclusory statement in its memorandum of law that as far as State entanglement, “[n]o such danger exists in this case” because State activities do not impact the content of curricula. (State Memo. p.18).

52. The Class Representative provided evidence of content approval by the State for the Feminist tenets propagated at IRWG by citing to the State’s Education Regulations. (Amended Compl. ¶¶ 23, 30, 33, 40; Opp. Memo. to Dismissal Motions pp. 2-3). The State asserts such regulations do not permit the State to regulate the content of any educational program, State Reply pp. 7-8, which creates a genuine dispute that may be resolved by deposing the State regulators who actually review and approve higher educational programs.

[See Opp. Memo. to Dismissal Motions pp. 20-21 for the legal argument that the State has excessively entangled itself with implementing the Feminist doctrine at Columbia and IRWG.]

Effect

State and USDOE financing that benefits the Feminist institution IRWG.

53. According to Columbia University Statutes §§ 350 and 351, IRWG is an institute within Columbia University that conforms to the policies of appropriate faculty bodies as designated by the University President. It has a budget for research expenses, clerical and technician help and receives allocations from departmental budgets for other research expenses or salaries. The direction of IRWG is assigned to a coordinating committee or an administrative committee of the University. The reasonable inference is that IRWG is a well funded, organized body that shares its Feminist belief system with a group of individuals, such as teachers and students, that influences daily activities in how to live, work, and relate to others.

54. IRWG admits at its website that its mission is to further and promote the Feminist belief system: IRWG “is the locus of interdisciplinary feminist scholarship and teaching.”

<http://www.columbia.edu/cu/irwag/index.html>; (DH Decl. Ex. I).

55. IRWG's website, under "History of the Institute," states the "Institute faculty provide feminist instruction ... leading to an undergraduate major, concentrations of several varieties, and a graduate certification program" in Feminism while providing a lecture series titled "Feminist Intervention." IRWG website, <http://www.columbia.edu/cu/irwag/index.html>.

56. IRWG's website, under "Programs of Study," states the Institute provides a "theoretically diverse understanding" of feminism through "courses in feminist theory, inquiry, and method...." *Id.*

57. The "Undergraduate and Graduate Programs" at IRWG center on courses in "feminist texts, theory, inquiry, perspectives, thought, and scholarship." *Id.*

58. IRWG's website, under "Calendar of Events," lists activities centered on Feminism. *Id.*

59. According to the IRWG course guide, the Institute's "[p]rimary courses focus on women, gender, and/or feminist or [lesbian] perspectives." *Id.*

60. The reasonable inference is that IRWG is a pervasively Feminist institution, and according to the U.S. Supreme Court, public funding may not be provided to an institution "in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission or when it funds a specifically religious activity in an otherwise substantially secular setting." *Hunt v. McNair*, 413 U.S. 734, 743 (1973).

61. The State admits the fact that "Bundy aid is distributed ... without regard to the religious or secular character of [any] institution, program, or course of study" and cites Fordham University's Catholic Theology Ph.D. program as an example. (State Reply p. 9). This admission comes as a surprise because "[n]o portion" of "Bundy Aid" can "be used for the religious instruction ... or for the advancement or inhibition of religion." 8 N.Y.C.R.R. § 150.2; *see also* N.Y. Educ. Law § 6401(2)(a)(iv); (Amended Compl. ¶ 33). By the State's admission, it

is not only violating its own laws but the Establishment Clause, unless the Bundy aid is provided to various religious institutions that are not pervasively sectarian and the aid is used for secular and not sectarian activities. The State provides no evidence that the financial aid it admits providing for sectarian studies throughout New York is used only for secular purposes.

62. Discovery is therefore required to determine whether the Bundy aid provided to Columbia benefits the Feminist sectarian institution IRWG, which propagates Feminism, or, if this Court decides IRWG is not pervasively sectarian with regard to Feminism, then whether the Bundy aid is used for Feminist purposes or purely secular purposes at IRWG. The Class Representative requests a continuance in order to conduct discovery through interrogatories of the State to determine the flow of State Bundy aid that goes directly into supporting the operation of IRWG.

63. The flow of State funds to IRWG are required to be reported to SED. *Bundy Participant Reporting Requirements* ¶¶ 3, 4, <http://www.highered.nysed.gov/oris/bundy/>.

64. The Class Representative filed a Freedom of Information Law request for the flow of direct financial aid provided Columbia, which includes Bundy aid. SED, however, denied the request on the grounds that “SED does not possess or maintain” such records. (DH Decl. Ex G). HESC, however, stated that SED “is the New York Agency that maintains records of the amounts of government-based financial assistance received by individual schools in New York State on an annual basis.” (DH Decl. Ex. G).

65. The information requested by the Class Representative is within the State’s control.

66. The flow of Bundy aid is also contained in Columbia’s managerial accounting statements, but Columbia, not a party to this action, has refused to provide such information to the Class Representative. (DH Decl. Ex. G).

67. If the State fails to provide the information through discovery, then the Class Representative requests a *subpoena duces tecum* directed at Columbia to provide the information.

68. The purpose of the State's "Bundy" aid is to "provide[] direct unrestricted financial support to certain independent postsecondary institutions" in order to help "preserve the strength and vitality of [New York's] private and independent institutions of higher education...." <http://www.highered.nysed.gov/oris/bundy/> (Overview). It is not, as the State claims, to help students finance their education, which creates another factual dispute for which summary judgment should be denied. (State Memo. pp. 20-22).

69. Before IRWG receives any Bundy aid, its Women's Studies Program has to be approved by the State, N.Y. Educ. Law § 6401(2)(iii), which means reviewing the subject matter of courses and other aspects of the program, 8 N.Y.C.R.R. §§ 50.1(i), 52.1(b)(3), 52.2, 126.1(d). In addition, "[i]nstitutions must make application to participate and must meet the eligibility criteria set forth in Section 6401 of the Education Law." <http://www.highered.nysed.gov/oris/bundy/> (Overview). The State's claim that it does not review the content of courses creates a genuine dispute necessitating the deposing of State officials who determine the granting of Bundy aid.

70. From 1996 to 2009, SED has paid to Columbia well over \$40 million in Bundy Aid. (*See* DH Sum. Judgment Decl. ¶ 17).

71. Total federal awards to Columbia University in fiscal 2009 were \$686,700,000. "Awards include all federal assistance entered into directly between the University and the federal government" and "pass-throughs, which are not student loans." (Columbia University, *Supplemental Schedule of Expenditures of Federal Awards Year Ended June 30, 2009* at p. 200, <http://www.finance.columbia.edu/controller/resources/2009A133.pdf>).

72. The Class Representative requests a continuance to discover via interrogatories the amount of federal awards from USDOE to Columbia that are received by IRWG and the use to which those awards are put. Interrogatories served on USDOE should determine the answers.

73. USDOE has not provided any evidence that its funds do not directly or indirectly benefit IRWG's propagating of Feminism. USDOE submitted well over 300 pages of documents in *Den Hollander I*, but failed to cite to a single page that showed none of the hundreds of millions provided Columbia University furthered the IRWG Feminist mission.

74. The reasonable inference is that Bundy aid and USDOE aid are used to help indoctrinate Feminism by financing the materials used at IRWG and the salaries of IRWG employees who administer and daily preside over Feminist courses, meetings, lectures, seminars, consciousness raising sessions, publications, counseling, and career advising for which the goals are to convince persons to turn their will and their lives over to Feminism.

[See Opp. Memo. to Dismissal Motions pp. 21-25 for the legal arguments that the State and USDOE's institutional financing of Columbia's IRWG have the effect of advancing the religion Feminism.]

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 25, 2011
New York, N.Y.

/S/

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