SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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Dr. Mark Crispin Miller,

                                                Plaintiff,                                        INDEX NO. 160329/2020

vs.

Arjun Appadurai, Deborah Borisoff, Stephen Duncombe

Allen Feldman, Lisa Gitelman, Radha S. Hegde,

Nicholas Mirzoeff, Susan Murray, Arvind Rajagopal

Marita Sturken, Aurora Wallace, Jamie Skye Bianco

Paula Chakravartty, Brett Gary, Ted Magder, Mara Mills

Juan Pinon, Natasha Schull, Nicole Starosielski, Alexander

Galloway,

                                                Defendants.

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 **REPLY AFFIDAVIT OF DR. MARK CRISPIN MILLER**

STATE OF NEW YORK )

 ) ss:s.

COUNTY OF NEW YORK )

 Dr. Mark Crispin Miller having been duly sworn, hereby states and deposes under the pains and penalties of perjury:

1. I am the plaintiff in this action and make these statements to my personal knowledge. Each is true and I so swear.

2. I have read with interest defendants’ Affidavits. As several defendants recognize, NYU is committed to a modicum of due process. When a member of the community has a serious grievance against another, particularly in relation to sensitive inter-personal issues, the university provides mechanism for raising and resolving such matters. Each defendant has knowledge of these mechanisms. With one exception discussed below, these defendants never made use of these mechanisms to raise their serious and false claims that I am racist, sexist, anti-Queer, transphobic, the creator of a hostile work environment. Rather, they collectively signed a letter which went through numerous drafts. None can defend the content of that letter. Nor can they collectively. Not only did these colleagues - who almost universally claim positive relationships with me – not use accepted channels to raise their alleged issues; none of them ever contemporaneously commented about, or challenged, any post on my web site, comments they now claim predicate their attack upon me.

3. Defendants claim that students “have complained regularly about Professor Miller’s conduct in the classroom and the way in which he engages discussion around controversial views and non-evidence-based arguments.” Again, the defamatory email does not cite to any specific objectionable conduct in which I engaged nor provide any detail of the “way” in which I engaged in that discussion. Not one allegedly concerned defendant colleague ever spoke with me about either subject or raised any question about my “conduct in the classroom” or how I allegedly engage in discussions with students.

4. Defendants suggest that a large number of students have filed complaints against me, that “in all cases,” NYU leadership has directed students [and now faculty] to file “a bias complaint.” The email then claims that despite the filing of “many” bias complaints against me to “NYU’s bias review boards, the Office of Equal Opportunity and to school leaders,” there has been no change or improvement in the situation. These statements are false; the university policies require that I be provided notice of any such complaint and I have never received any formal notice of any student complaint. Had I the kind of history these defendants claim, there would be a record of university determinations and adjudications affirming such behavior. There is no such record.

5. Dr. Hegde provides no information about any student complaints she received as a departmental administrator nor any occasion she ever discussed any such student complaints with me. This never happened.

6. Dr. Hegde claims that the senior faculty attending a meeting in late September 2020 learned that my social media “followers” were allegedly threatening and abusing the reporting student. She does not relate that the group [many of whom now claim under oath to have had cordial relationships with me for years] decided to speak with me or otherwise express their concerns to me. No faculty member did discuss these issues with me.

7. In September 2018, Dr. Murray became Director of Graduate Studies for the department. She claims to have received numerous complaints about me both before and after she assumed this role. These complaints allegedly related to my use of “racial slurs” in my class and my condonation [through silence] of guest lecturers’ use of sexist terms, including one’s reference in 2018 to Jane Fonda as a “hairy cunt.” I discuss at length this incident below. Rather shockingly, Dr. Murray, who admits knowing this shortly after the event, makes no claim that she discussed any of this with me, reported it to anyone else, filed a complaint herself because she allegedly knew about and was concerned that I was creating an educationally hostile environment, advised students to file complaints, learned of any such student complaints or of NYU’s response thereto or did anything else about these “numerous” complaints. She never discussed any of these issues with me.

8. Likewise, even in her position as Graduate Student Coordinator and possessed of an email like DX-24, Dr. Murray did nothing. DX-24 is an email dated May 21, 2020 to her and Department Chair Benson complaining about an undergraduate course in Propaganda which this graduate student had completed four months earlier. Dr. Murray never shared or discussed this email with me, and I never saw it before this last week. On June 12, 2020, Department Chair Benson advised me that multiple students had complained about my propaganda course taught the prior

fall semester and suggested a tighten the syllabus to ensure that students have appropriate expectations of the course. None of the complaints alleged any form of bias or discrimination. The Chair provided me snippets from the complaints but did not share the alleged complaints with me. I have compared those snippets with DX-24 and find that all of the language attributed to the ‘four students’ is actually taken from the complaint from a single student. In response, I sent the Chair a few dozen emails from students praising my teaching, including four or five from students who took the same class and heard nothing further about this.

9. Likewise, Dr. Murray never discussed with me my re-post of Paul Craig Roberts’ reporting about Sandy Hook or raised any issue or concern with me about the same. Of course, this post was on a social media platform which had nothing to do with any course I was teaching at NYU and Murray does nothing to relate the post to any course I taught or any comment I ever made in an NYU classroom.

10. In a class about propaganda, my students and I did explore the changing rhetoric around “mask-wearing” and the progressive devaluation during 2020 of scientists who challenged the growing orthodoxy that masks were an efficacious means of keeping safe during the pandemic. I did note that the CDC, the WHO and Dr. Fauci altered their views as the year progressed and that some medical research supported the perspective that virus transmission was minimally reduced by mask wearing. This position was never intended to harm public health: just the opposite, in my view, reliance on a poor strategy could not seriously eradicate the virus and the illusion of efficacy disfavored public health.

11. Immediately after the Jackson complaint, departmental leadership suggested that I not offer my course on Propaganda next year but instead teach two sections of Cinema. As this was highly unusual, I regarded it as a retaliatory intrusion on my academic freedom. In response, several of my colleagues claim that professors have no inalienable right to teach their usual courses and that the Department Chair has ultimate assignment authority. That is true but does not speak to why and how that authority was being exercised this past fall in this regard. That an employer has the ultimate authority to hire and fire does not speak to the employer’s retaliatory or discriminatory motives. Both propositions may be true and here I believe were.

12. Dr. Murray cites to DX-49, written a month after the publication of the challenged letter by a group of unidentified doctoral students, none of whom even pretends to have taken any course with me. I do not typically teach doctoral students and was never shown a copy of their combative after-the-fact letter.

13. Dr. Wallace claims that, at some unidentified times between 2008-18, students verbally complained to her that I used my class to promulgate contrarian conspiracy theories without identifying exactly what those might be. She does not indicate how many times this occurred. She certainly does not claim she ever discussed any such complaints with me or explain why, if her claims are true, she did not. She certainly does not claim that the complaints related to racism, misogyny, transphobic or anti Queer expression. She also does not claim that any student stated that I bullied or intimidated her/him. Indeed, she relates that she told the students that they need not adopt any of my positions to succeed in my class and she certainly does not report any student disagreeing with her about this. I would never engage in such a practice and never have been accused of doing so. On the contrary, several students have attested that I am an unusual professor in that I do not tell me students what to think. Dr. Wallace does state she told the unidentified department chair[s] about these complaints but, unsurprisingly, is “not sure” what, if any, action anyone took. I never spoke with Dr. Wallace about any such complaints and none was raised with me by departmental leadership during this time period.

14. In 2019, Dr. Chakravartty claims she became concerned that my posts on transgender surgery might dissuade prospective Queer or transgender candidates from accepting employment and diversifying the department. Fortunately, this did not occur. Allegedly concerned about this possibility and with admittedly overlapping interests in social justice issues, Dr. Chakravartty never initiated any conversation with me about the issues or the potentially detrimental effects of his web site posts on the department job search. Nor did anyone else in the department do so.

15. In 2019, Dr. Mills was a member of the search committee for a Queer and/or Transgender Media Studies scholar. Concurrent with the search, I made two postings, DX-15 & 16, which Mills claims she then felt mocked transgender people. Late in 2019, after the search concluded, I did continue to use my web site to oppose “breast removal,” DX-17, which I deplored as not progressive and instead consistent with an extremist agenda. I also opposed other interventions grouped under the term “transgender medicine,” expressing concern for their impact. DX-18. Dr. Mills claims these posts offended her, but she did not express any contemporaneous concern directly to me nor take any issue with my point of view.

16. Dr. Schull claims that she became aware of my alleged ‘transphobic” views, asserting that I espoused such rhetoric in my classroom. She provides no substantiation for this nor any source to support this falsehood. She certainly never was in any of my classes and I have discussed these issues once during a highly civil exchange in one of my courses. I discuss this further below.

17. My department did not ask me to abstain from participating as we considered candidates for the transgender theory course in 2019. I did duly cast my vote for Whitney Pow, the (in my view) best candidate by far, and, after she was appointed, I immediately wrote them a cordial email welcoming them to MCC when I learned that they would be joining us, and that we had a pleasant back-and-forth (about Northwestern, where she and I both went, and a book I *recommended to them for their research).*

18. Contrary to any claim Julia Jackson may have advanced to Professor Shull, during the class on September 20, 2020, there was no debate on masking between me and any other student. By then, the students had not read any of the studies, pro or con, that I discussed and suggested for their consideration.

19. Nicole Starosielski did act on her conviction that I am transphobic. She does not mention this in her Affidavit, but, early in calendar year 2020, she reported me for transphobia. Indeed, she contacted the University OEO, which called me in for questioning concerning my views on "gender equity." After informing me that, based on three online writings that offended her (my piece on the breast-binding commercial, and two of my Facebook posts on transgender athletes), Nicole complained about me, two lawyers questioned me about my website, my teaching, etc. The lawyers also told me that Nicole thought I deliberately started posting transphobic content to subvert the search for a transgender/queer theory person. (I explained that this was false, as I had posted similar items for some time). The lawyers questioned me for nearly an hour and stated that they were fully satisfied. . They told me that would get back to me in a week, but the next day, advised they were dropping the matter and I heard nothing more about it.  I must assume that Starosielski knows about this but failed to mention it because it does not support the defamatory letter she signed.

20. Throughout their Affidavits, my colleagues conflate my online writings —News from Underground mailings, and a few stray Facebook comments —with my teaching, when the two are wholly separate. Although students have often asked to join my list-serve, this certainly is not a requirement for any course. The point of this conflation is to reaffirm my colleagues' vision of my teaching as dangerous not just to my students but to my colleagues, too.

21. None of my colleagues has ever seen me teach, nor has any of those PhD students whose letter they include as an exhibit. The testimony of my students through the years, from my first days at NYU through the fall semester 2020, as well as that of many visitors to my courses, demolishes my colleagues' radical mis-portrayal of my teaching.  Those letters are the most eloquent evidence in my favor.  *See* Exhibit 2 hereto which provides student narratives concerning my teaching and puts the lie to claims of racism, intolerance, bullying, intimidation, and the like.

22. Having never seen me teach—nor ever bothered reaching out to me to ask about my views, or anything that I allegedly proclaimed in class—my colleagues base their claims on hearsay: what they have heard from one another, and from some few nettled students (whose impression of my teaching is, as all that other student testimony demonstrates, highly atypical). From my experience as a Professor, it is clear that every professor will have some detractors. That comes with this territory but elevating the views of the few and generalizing from those is quite dangerous and deceptive. Defendants make their case from a defamatory echo chamber that has been thundering for years, behind my back, as their affidavits make quite clear. More relevant to this case is that many of these defendants have served in administrative positions within the department and, as such, have had access to my excellent student evaluations and the narratives which support them. These give the lie to the claims made about my classroom performance and make knowing and malicious defendants’ collective claims about me as a teacher and professor.

23. I have *never* asserted, in class *or*online, that "Sandy Hook never happened," "the moon landing was a hoax," or "9/11 was an inside job." What I *have*done*,* as the student testimony proves, is urge my students to look into those issues for themselves, and recommend whatever reading/viewing is most relevant, urging them to *make up their own minds.* That is how I teach, and always have. Therefore, my colleagues' claim that I have somehow forced my crackpot notions on my student victims, ignoring their protests and disagreement, is a lie. Indeed, my teaching, as so many students have attested, is exceptional at NYU for its *avoidance*of indoctrination, and its consistent openness to other points of view. I *welcome*disagreement, both among the students and with me, as the student testimony of these fifty plus students shows. Several of them intimate that it is my colleagues who enforce groupthink in class, which I have never done.

24. My colleagues go on and on about the "harm" my teaching (and my online writings) pose to students, adducing my alleged promulgation of various "conspiracy theories"—and what they call my "anti-mask rhetoric"—as the main source of such "harm." There are two additional points to make about this: first, as for my maintenance of "an unsafe learning environment," I see teaching *not*as an authoritative effort to *protect*one's students from disquieting ideas or revelations, but as encouraging their active questioning, and careful study, of received opinions and ideas—an effort that is often certainly uncomfortable but remain essential to the study of propaganda in particular, and, therefore, the survival of free thinking and democracy. As my colleagues have no idea what propaganda is, nor, evidently, have never questioned the narratives they have read in *The New York Times* and other media that reconfirm their vision of the world, they find the very notion of such questioning abhorrent. In this spirit have they readily believed the anguished tattlings of a few students who—unlike so many others—simply could not take the skeptical approach that I encourage, and exemplify, in class.  Secondly, and more specifically, my colleagues all continue to assert that what they call my "anti-mask rhetoric" is beyond the pale, because, they claim, it puts the very lives of NYU students and staff—and *minority*staff/students in particular—at risk. Here it is appropriate to note—again—that I did *not*discourage any of my students from wearing masks, and even told them, pointedly, that I was *not*telling to go unmasked, but *only*to explore the scientific rationale for the mask mandates. That my colleagues see such encouragement as downright dangerous attests to their paternalistic attitude toward teaching, and their authoritarian acceptance of official claims.

25. Defendants’ undiminished outrage over (what they call) my "anti-mask rhetoric" is a very good example of my colleagues' inability to grasp what propaganda is, since they assume that they know all there is to know about the subject (i.e., masks are an effective barrier against transmission of COVID-19), since they know what the *New York Times* et al. have told them, and they trust all those media completely. Since those outlets have systematically blacked out all contrary information and demonized all those who have tried to publicize it, or even merely study it, my colleagues are quite unaware that the effectiveness of masks is actually a controversial subject, with many doctors, scientists and PPE specialists worldwide arguing that masks *do not*work as advertised, and even do more harm than good. (Much of this blacked-out material is in my essay, "Masking Ourselves to Death," which the defendants have included as Exhibit 26, as if it were self-evidently false, and without in any way engaging with its arguments, or any of the data it presents.)

26. What's really dangerous is not the skeptical approach that I encourage as a teacher, but the unquestioning acceptance of official claims, and tightly blinkered view of pertinent reality, that my colleagues apparently regard as proper "conduct," both as teachers and as citizens. Claiming that my "anti-mask rhetoric" is especially harmful to minority students/staff at NYU, my colleagues evidently have no clue as to the mortal danger posed *by masking, and by other aspects of official COVID policy, to those very groups—*dangers that I have noted frequently online, although my colleagues have ignored it in their rush to cast me as a racist in the classroom and beyond. As noted clearly by the Occupational Safety and Health Administration (OSHA), and as all well-trained PPE specialists know well, masking is especially unhealthy for those suffering from (among other disabilities) asthma, diabetes, and hypertension—conditions especially widespread throughout the black community. Similarly, Vitamin D deficiency makes a person more likely to contract COVID-19, and to suffer badly from it—a particular risk to African Americans, who are more likely to exhibit this condition; and yet the media, and Western health authorities, have failed to make this issue widely known and, for this reason, urge African Americans to supplement their diets with that vitamin. Moreover, poor African Americans shuttled to large public hospitals in cities nationwide have been disproportionately placed on ventilators—and, therefore, disproportionately killed, since intubation has long since turned out to be a largely lethal practice; and it would be unnecessary in most cases, if those diagnosed with, and showing the early symptoms of, COVID-19, were treated quickly with some safe and inexpensive remedies: early treatment that has kept the COVID-19 death rate far lower in (for example) India, Pakistan and Saudi Arabia than in the USA and much of Europe. And, finally, the lockdown imposed coast to coast have had a catastrophic economic impact on African Americans in particular (as well as whites), wiping out a high percentage of businesses they owned and doing untold damage to the physical and psychological health of many.

27. Among my colleagues' major points against me is the charge that, as a teacher, I propound "conspiracy theories"—a meme whose provenance we study in my propaganda classes, as my colleagues would know if they had ever bothered to discuss the subject with me. As carefully explained by Lance DeHaven-Smith in his *Conspiracy Theory in America*(University of Texas Press, 2014), an invaluable history of the meme's deliberate insertion into US journalistic discourse, the phrase "conspiracy theory." and its novel adjunct "conspiracy theorist," were first weaponized by the CIA in 1967 (in memo #1035-960), with the specific purpose of discrediting critics of the Warren Report, by casting them as crazy, venal and/or Soviet pawns. "Conspiracy theory" is plainly a slur, deployed to obfuscate explosive issues, thereby serving powerful interests both commercial and political.

My colleagues' reflexive use of that phrase against me serves that very purpose—as in Prof. Gitelman's affidavit, and the exhibit that includes her 2016 email to Prof. Benson, deploring my having evoked, in class, what she called the "conspiracy theory" that it is a health hazard to carry one's cell phone on one's pocket. If Prof. Gitelman had raised the issue with me in collegial spirit, instead of secretly reporting me as if my claim were a criminal offense, I would have cordially informed her that the health hazard of pocketing one's cell phone had, for years, been noted in the fine print of Apple's product information, available in every cell phone package, that *Time*magazine had run an article about it in 2010, and that many other mainstream outlets had reported it. Her use of that phrase was, to put it bluntly, ludicrous, although it would surely please the barons of the mighty cell phone industry.

28. It is worth noting that today's "conspiracy theory" often tends eventually to turn into established fact, vindicating those attentive, well-informed, and skeptical enough to voice, and work responsibly to justify, their wholly rational suspicions. Those now believing every word they read throughout the *New York Times*, on, say, the COVID crisis, or any other subject, should look back at that paper's record of "reporting" on the barbarism of "the Hun" during World War I; the famine in Ukraine, and Stalin's show trials, in the Thirties—the former horror denied outright, the latter justified; Hitler's persecution of the Jews, and then the Holocaust (scandalously downplayed by that paper even as they raged); the countless wrongs committed all throughout the Red Scare after World War II; and Saddam Hussein's vast arsenal of "weapons of mass destruction" prior to the invasion of Iraq under Bush/Cheney. Those who tried refuting those big lies, or calling attention to the ignored horrors, were either blacked out or vilified for doing so. My colleagues (and, due to such enlightenment, their students) could only benefit from studying that history, which might have dissuaded them from slandering me for merely urging students to look into the loud propaganda claims and narratives that the defendants see as beyond question. (That COVID-19 may be a lab-created pathogen—a possibility that I have entertained online, for which some of my colleagues now call me a "conspiracy theorist"—has lately been reported by the mainstream media.)

29. My colleagues have now doubled down on their assertion that I somehow victimized Julia Jackson, the student who came after me on Twitter, demanding that NYU fire me. They claim, again, and now repeatedly, that I somehow "attacked" her, for disagreeing with my view on masks. Beyond the fact that I did not espouse my "view on masks" in class, but only urged the class to look into the scientific rationale for the mask mandates, and on that basis *make up their own minds*, it also is a fact that Idid not, in any way, "attack" Ms. Jackson, who started this disastrous episode by attacking *me* (instead of raising her objections in the classroom, where I would have welcomed them)*,* and that Professor Benson, our department chair, immediately thanked her publicly, in the name of the entire department (about which more below).

30. As I did not attack Ms. Jackson in the first place, neither did I attack her afterward, somehow inciting others (my “followers," as many defendants darkly refer to them) to go after her. The only piece I sent my list-serve was a notice that I had come under attack on Twitter, calling those tweets "venomous," which is entirely accurate, and appropriate to an attempt at self-defense. That piece ended up on Twitter, as all NFU items did back then. My primary concern, then as now, was not Ms. Jackson's tweets *per se*, but Prof. Benson's swift public endorsement of her call that I be fired. I made no effort whatsoever to disseminate her name and/or contact information—something that she did herself, by tweeting as she did. Her tweets took off like wildfire (oddly, since at the time she had few followers), and so they naturally provoked some very nasty pushback on that platform, some of which my colleagues inaccurately cite to show that *I*subjected her to "cyberbullying," putting her as physical and psychological risk.

31. Since MCC is a department of media studies, this claim bespeaks a willful and myopic unawareness of how Twitter works which omits from mention the numerous attacks Ms. Jackson's tweets unloosed on *me*, by tweeters quick to slash at me for my alleged "anti-mask" pronouncements in the classroom. Those attacks included several media hit pieces, by *The Gothamist*, *City & State* (which called me one of the "three biggest losers of the week"), NBC News (local) and a national student publication, all of which assailed me without bothering to interview me or present my side of the story.

32. In their eagerness to cast me as her torturer, and thereby justify their libels, certain of my colleagues deem it unforgivable that I did not want Julia Jackson to continue as a student in that class, and so asked Rebecca Brown, MCC's administrative assistant, and Prof. Benson, if there might not be some way to encourage her to drop the course. Without pausing to ask why Prof. Benson instantly shared that request with faculty members, I will say only that Ms. Jackson's ongoing presence in the class would necessarily have been disruptive, and unpleasant not just for myself but for the other students. (The class discussed what happened, and the consensus was that Ms. Jackson's silence in the class that so offended her, followed by her Twitter drive against me, was, as one student put it, "messed up."). While I always welcome vigorous dissent in class—as many students' letters of support attest—I do not welcome public calls for my termination, and that doubt any of my colleagues would, either.

33. My colleagues' repeated charge that I have expressed "transphobic" views during my teaching is entirely based on their conflation of my online writings with my teaching as well as an invidious misreading of the former. As I have noted at some length in my detailed rebuttal of the defendants' letter to the dean, I have been strongly critical of transgenderism as an ideology and movement, *not*of "transgender individuals," as my colleagues repeatedly assert. Specifically, as a firm believer in informed consent, I harbor grave concerns about "transgender medicine," which can and does do lasting harm when practiced on young children—a practice even more destructive than conversion therapy, which I also fervently oppose, because the physical effects of "transgender medicine" are irreversible. Further, on feminist grounds, I very much oppose the enforced admission of biological males to women's shelters, against the wishes of those seeking refuge there, and to women's prison's, against the wishes of the inmates and the guards in those facilities. On those same grounds, I find it shockingly unfair that biological males are now permitted to compete in girls' and women's sports, where they have been racking up a lot of easy victories. On that subject I have posted several online comments, in a satiric vein—using humor to expose what I see as an essentially misogynistic wrong. My colleagues see such jottings as expressions of a general hatefulness that somehow puts my students at grave risk.  My gay friends and students, including Stephen Jimenez (author of *The Book of Matt*), Will Garden, Roberto Strongman (author of *Queering Black Atlantic Regions*), Gregory Keller, Camille Reyes, and Naomi Wolf, whose *Outrages,* a powerful history of modern homophobia, republished last year by Chelsea Green, I enthusiastically endorsed on News from Underground and others, have pointedly corrected this conclusion, sending letters of support. My views are also in accord with those of Jenn Smith, a transgender woman and Facebook friend. All this easily refutes my colleagues' charge that I am a vector of transphobic hate—as does my exoneration of that accusation by the OEO last March upon the complaint of defendant Starosielski, and my cordial emails welcoming Whitney Pow, MCC's transgender theorist, the person hired following the much-discussed search. I should say, all this *would*refute that stubborn accusation *if*my colleagues were not intent on blackening my name, and—contrary to their protestations—trying to get me fired for thinking differently than they do, and not just about transgenderism.

34. As for my teaching, the topic of trans-genderism has come up only *once*, in my undergraduate propaganda course two years ago, when I asked the class if they would like to spend a week or two on social justice propaganda. I made that suggestion after Will Garden, a student in that class, and an NFU subscriber, emailed me with some qualms about two pieces I had lately sent the list-serve: one on the elite funding of the transgender movement, and the other on the dangers of transgender medicine, by a pediatric endocrinologist at Johns Hopkins. I asked that student to air those qualms in class, so that we might discuss them with the others. That is what we did; and that class was an intense and wonderful experience for all of us. (Will Garden's letter is part of Exhibit 2 below.)

35. What is most relevant about that episode is that Will engaged me on those issues with collegial honesty and openness—unlike my colleagues, who evidently have no interest in such robust back-and-forth, but only in the strict enforcement of their uniform opinion (in Orwellian pursuit of what they call "diversity").

36. Groundless as they are, my colleagues' accusations of "transphobia" are nowhere near as baseless as their new—and newly libelous—charges of racism and misogyny: that I have hurled racist slurs at "ethnic students"; chuckled at a guest lecturer's barbaric sexist rant; and deliberately stacked a panel at McNally Jackson Bookstore, assembled to discuss student debt, with white males only, "dismissing" an objection to such uniformity voiced by a woman in the audience.

37. The charge of chuckling at crude sexism is based (loosely) on an incident in "The Culture Industries," back in the spring semester of 2018, when, during a panel discussion of the media's treatment of the (first) Kennedy assassination, filmmaker John Barbour launched into an anecdote about his meeting with Jane Fonda back in 1970, when, as the host of LA's most popular drive-time radio talk show, he had the activist come on to speak against the war in Vietnam. During their pre-broadcast conversation, he found her language to be far too inflammatory to do anything but alienate his program's audience; and he wanted more than anything to get them to oppose the war, as he did. "People don't respond intellectually. They respond emotionally," he told her; but she refused to listen or change her tone. So Barbour—a former stand-up comic, in the vein of Lenny Bruce, George Carlin and Dick Gregory— made his point by suddenly attacking her in crudely sexist terms, as noted by my colleagues; but he did so not to demean her, but to make her understand that too-hot language is just too offensive to enlighten people: a point she understood (she later hired him to write speeches for Tom Hayden, then her husband), but which some students in that class completely missed, because *his* language was so ugly that he made his point too well. A few students wrote me a letter of complaint after the incident, signing it, misleadingly, "Your Culture Industries class," as if all 50+ students felt as they did. That many of them actually felt differently, got Barbour's point, and quite enjoyed his (rather rambling) presentation, is quite clear from the video of that class, which we will gladly make available in court. This goes to demonstrate that my colleagues' version of that incident is, typically, distorted, in service of their effort to defame me even more, and thereby absolve themselves of libel.

38. The charge of hurling racial slurs is based (loosely) on what happened in that class the following week, when I began that meeting with a long discussion of the Barbour incident. At one point, in explaining that comedians of Barbour's generation often used offensive language to make critical points about society and politics, I (hesitantly) told the class that Barbour's friend Dick Gregory had authored a best-selling memoir, in the Sixties, provocatively titled *N\*\*\*\*r*. (I refrain from spelling it out, as Gregory would prefer, for obvious reasons.) At this, a (white) student objected, claiming that, while he does not believe that books like *Huckleberry Finn*and *To Kill a Mockingbird*should be censored, he also did not think that such words ever should be said aloud in college classrooms—to which a black woman in the class replied that, "on the contrary, this is *exactly* where such language *can*be used." (The video of that class too will be made available in court.). None of this reflects racial bias on my part.

39. Finally, the charge that I deliberately stacked that bookstore panel with white males, blowing off a woman's complaint about such uniformity, is just as false as all my colleagues' other charges. I did not "dismiss" that complaint, but fully answered it, pointing out that we had done our best to diversify the group ahead of time, but that all the women I had invited were not available that night. (There is a video of *that* event as well, which may be made available in court.)

40. Finally, my colleagues struggle to absolve themselves of libel by asserting, first, that it was I, not they, who made this whole ordeal a public issue, by releasing their letter to the dean; and, secondly, that the purpose of that letter, demanding that he order an "expedited review" of my conduct, with an eye toward "disciplinary action," was *not*to get me fired. Both those claims are, to put it mildly, disingenuous.

41. First of all, it was not I who was the first to publicize the drive to terminate me, but (of course) Ms. Jackson, who called explicitly for me to be "relieved of [my] duties" at NYU—and then Prof. Benson, who instantly responded with his tweet of thanks, clearly written *in the name of the department*: "We as a department have made this a priority and are discussing next steps." Inasmuch as "this" could only be my termination, that blunt assurance by MCC's chair, speaking explicitly for the entire department, made a very public point of said department's obvious intention to do everything it could to grant Ms. Jackson's wish. It was that tweet (which is still up, despite my repeated requests that it be taken down), followed (a) by the dean's and Dr. Carlo Ciotoli's email to my other students, intimating that I'd given them dangerous misinformation, and telling them what studies to read—and tobelieve (something that I never do); then (b) by Prof. Benson's pressing me to drop the propaganda course for this semester (on patently spurious grounds), that prompted me to put up my petition in defense of academic freedom: a very public protest of NYU's no-less-public endorsement, and ensuing exploitation, of Ms. Jackson's call for my removal. *See* Exhibit 1 for the Petition. I was not the first to make this issue public, nor was the circulation of my colleagues' letter to the dean improper, but wholly necessary to my public self-defense since that letter represents a drastic ramping-up of the campaign against me at NYU.

43. Nor can my colleagues reasonably argue that their purpose never was to have me fired, in light of Prof. Benson's tweet expressing *their*resolve to do just that—and, furthermore, in light of the demonic portrait of myself now limned in their affidavits, which almost makes my image in their letter of the dean seem downright sympathetic. That dark vision of myself as a deranged "conspiracy theorist" spewing crackpot propaganda and "explicit hate speech" about transgender people, and putting everyone at risk by "discouraging students from wearing masks," and "intimidating those who do," has now been even further darkened by these added charges of neanderthal sexism and Klan-like bursts of racist bigotry, and by language even more extreme, offering a caricature of a professor whose "conduct" is so egregious in so many ways, threatening existential danger to so many all around him, that it would be an abdication of responsibility *not*to "ma[k]e [it] a priority" to have him fired (if not arrested).

44. I conclude by noting yet again, as pointed out in my petition, that my fight for academic freedom is not just waged on my own behalf, but in the name of *all*who have been gagged, or persecuted for their dissidence, not just this past year or so, but for the last half-century at least, or even longer. What is happening to me has happened, and is happening, to countless others—professors, journalists, doctors, scientists, whistle-blowers, and activists of many kinds - all silenced, and often ruined, for their dissidence; and it must stop, and those complicit in such treatment held accountable.

45. Nor, finally, is this lawsuit only about academic freedom, since it concerns the deeper question as to *what it means to be a teacher,*whether s/he be working at a school, or in some other line of work, or none. Those who *teach,*whether out of books, or through their discoveries, or deeds, or by example, must be free to question *all*received opinion, free to study, and to challenge, *all*official narratives—*especially*those that we have all heard forever, the ones that "everybody" thinks are wholly true; and, in particular, those narratives on which, we're told, our very lives and happiness depend, so that we contradict them at our peril. Science, and democracy, depend on just such freedom to pursue the truth; as, therefore, does humanity itself, along with everything that makes our lives worth living. It therefore is no merely academic matter that this freedom has come under wild attack, not only by state agencies and corporate powers—which has, of course, been happening, ever more explicitly, for decades—but now, as well, by highly educated mobs, as universities and newsrooms have turned into little Ministries of Truth, where the "truth" is up to those in charge: "Academic freedom does not entitle professors to teach whatever classes they desire." "Academic freedom does not give professors the right to teach whatever classes they choose, since it is the department chair's decision." According to that view (propounded by Profs. Sturken and Magder), at NYU today (and not just NYU), the "truth" must *not*confront or contradict authority, because it is determined *by*authority—a "truth" that is itself an incapacitating lie, which must now be challenged, and defeated.

 WHEREFORE, defendants’ motion to dismiss should be denied.

Dated: February 16, 2021, New York, New York

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Mark Crispin Miller\_\_\_\_\_\_\_\_\_\_\_

 MARK CRISPIN MILLER

Signed and sworn to before me virtually this \_\_\_ day of February 2021.

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NOTARY PUBLIC

MY COMMISSION EXPIRES: