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12 UNITED STATES DISTRICT COURT  
 13 SOUTHERN DISTRICT OF CALIFORNIA

14 KEVIN VANGINDEREN,  
 15 Plaintiff,  
 16  
 v.  
 17 CORNELL UNIVERSITY,  
 18 Defendant.  
 19

) Case No. 07-CV-2045-BTM (JMA)  
 )  
 ) Hon. Barry T. Moskowitz

) DECLARATION OF SIMEON F.  
 ) MOSS IN SUPPORT OF  
 ) CORNELL'S REPLY IN FURTHER  
 ) SUPPORT OF SPECIAL MOTION  
 ) TO STRIKE PLAINTIFF'S  
 ) COMPLAINT PURSUANT TO  
 ) SECTION 425.16 OF THE  
 ) CALIFORNIA CODE OF CIVIL  
 ) PROCEDURE

[Per chambers, no oral argument  
 unless requested by the Court]

Hearing Date: December 21, 2007  
 Time: 11:00 a.m.  
 Place: Courtroom 15

Action Filed: October 1, 2007

**DECLARATION OF SIMEON F. MOSS**

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I, Simeon F. Moss, declare as follows:

1. I am the Director of the Press Relations Office at Cornell University in Ithaca, New York, and I have held this position since 2004. Prior to this position, from 1995-2004, I was the Editor of the *Cornell Chronicle*, a weekly newspaper published by the University to keep its faculty, staff and students apprised of news relating to the Cornell community.

2. I submit this declaration in support of Cornell's Reply in Further Support of Special Motion to Strike Plaintiff's Complaint. Unless otherwise indicated, I have personal knowledge of the facts set forth herein through my positions at Cornell. If called as a witness, I could and would testify competently to the following.

3. I have researched the publication and distribution of the *Cornell Chronicle* in 1983 by reviewing bound volumes archived at the *Chronicle's* office, interviewing former and present *Chronicle* staff members, and consulting staff members of the *Ithaca Journal*, the city's newspaper which was responsible for printing and distributing the *Chronicle* in 1983. In my position as Director of Press Relations I work closely with the current *Chronicle* staff, and as past editor of the *Chronicle* I am aware that the *Chronicle* has compiled, and does continuously compile in the course of regularly conducted business, bound volumes of all published issues of the *Chronicle* for archival reference.

4. The bound volumes reveal that from 1982 to 1983, the *Cornell Chronicle* was published once a week during the academic year, and once a month in June and August. There were 35 issues published between August 1982 and July 1983. The following year, there were 45 issues published, including weekly issues during the summer session in July.

5. The *Cornell Chronicle*, for at least the past 25 years, has been available free of charge to faculty, staff and students. Subscriptions are available by mail to

1 those who wish to order direct delivery for a small fee. *See* page 11 of Exhibit B  
2 attached to Cornell's Request for Judicial Notice In Support of Special Motion to  
3 Strike Plaintiff's Complaint for distribution information relating to the March 17,  
4 1983 edition of the *Cornell Chronicle*.

5 6. My investigation further reveals that no fewer than 10,000 copies were  
6 printed and distributed each week the newspaper was published during the 1982 –  
7 1983 school year. The newspaper was widely distributed across campus, including  
8 at the various dining halls, the campus store, and key academic and administrative  
9 buildings. The *Cornell Chronicle* was available at any of these locations from the  
10 day of publication until the next week's newspapers were distributed.

11 7. The Barton Blotter section of the *Cornell Chronicle* routinely listed  
12 campus crimes reported during the previous week by the Cornell University Police.  
13 My review of the bound copies of the *Chronicle* revealed that between August 1982  
14 and July 1983, the Blotter appeared in 25 of the 35 issues published during that  
15 period.

16 8. As noted in the Web page attached as Exhibit 1 to Plaintiff's Affidavit  
17 submitted in opposition to Cornell's motion to strike:

18 Chronicle publications cover the university's seven  
19 colleges; the four graduate professional schools; Cornell's  
20 New York City campuses; the New York State  
21 Agricultural Experiment Station in Geneva, N.Y.; Arcibo  
22 Observatory in Puerto Rico; Shoals Marine Laboratory on  
23 Appledore Island in the Gulf of Maine; and Weill Cornell  
24 Medical College in Qatar.

25 Exhibit 1 goes on to describe the *Chronicle* as it existed when Exhibit 1 was  
26 printed, which appears to have been on October 13, 2007:

27 The Chronicle staff includes six news writers, a newspaper  
28 editor, a senior editor, a Web editor, a graphic designer,  
administrative staff and usually a few student interns.  
Writers report on Cornell research and events in science,  
technology, the humanities, the arts and the social  
sciences. They also write news and features on faculty,  
administrators and students. Regular columns cover new  
books, innovations, New York City campus events and the

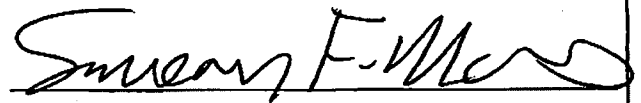
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university's land-grant mission. A weekly calendar highlights upcoming events.

Based upon my review of the bound volumes of the *Chronicle*, my experience as a former editor of the *Chronicle*, and my interviews with current and former *Chronicle* staff members, I believe that in 1983, the mission of the *Cornell Chronicle* was the same as described above and in Exhibit 1.

9. Contrary to Plaintiff's assertion, Cornell has not disseminated any press releases regarding this litigation. I know this because, as Director of the Cornell Press Relations Office, I would authorize and review any such releases before they were disseminated. I have not authorized or reviewed any press releases regarding this litigation, nor have I seen any such releases in any publication controlled by Cornell.

I declare under penalty of perjury under the laws of the State of New York and the United States of America that the foregoing is true and correct and that this declaration was executed this 13th day of December, 2007, at Ithaca, New York.



Simeon F. Moss