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 13 UNITED STATES DISTRICT COURT  
 14 SOUTHERN DISTRICT OF CALIFORNIA

15 KEVIN VANDGINDEREN,

16 Plaintiff,

17 v.

18 CORNELL UNIVERSITY,

19 Defendant.

) Case No. 07-CV-2045-BTM-JMA

) Hon. Barry T. Moskowitz

) DEFENDANT'S REQUEST FOR  
 JUDICIAL NOTICE IN 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]

) [Special Motion to Strike and  
 Declarations of Valerie Cross Dorn  
 and Anne Richardson Kenney filed  
 concurrently]

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

) Action Filed: October 1, 2007

1 Pursuant to Federal Rule of Evidence 201, defendant Cornell University  
2 requests that the Court take judicial notice of the following:

3 **Exhibit A:** Ithaca City Court records pertaining to *The People of the State of*  
4 *New York v. Kevin Vanginderen*, Docket #D46-171.

5 **Exhibit B:** The archived image of the March 17, 1983 *Cornell Chronicle*  
6 that is the subject of this litigation. The image is available at  
7 [http://ecommons.library.cornell.edu/bitstream/1813/5350/14/014\\_24.pdf](http://ecommons.library.cornell.edu/bitstream/1813/5350/14/014_24.pdf). The  
8 allegedly libelous statement is contained on page 6 of the issue (page 15 of Exhibit  
9 B).

10 **Exhibit C:** September 3, 2007 e-mail from plaintiff Kevin Vanginderen  
11 (kvangin1@yahoo.com) to the Cornell University Library, in which Plaintiff  
12 requested that the March 17, 1983 *Cornell Chronicle* story be removed (*see* Compl.  
13 ¶ 2).

14 **Exhibit D:** The Order to Show Cause issued by the County Court of  
15 Tompkins County and the moving papers submitted in support thereof.

16 Judicial notice is proper because the documents for which this Request is  
17 made are “capable of accurate and ready determination by resort to sources whose  
18 accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *Lee v. City of*  
19 *Los Angeles*, 250 F.3d 668, 689-90 (9th Cir. 2001) (taking judicial notice of a state  
20 court’s records); *Fitzgerald v. Penthouse Intern., Ltd.*, 525 F.Supp. 585, 595 n.41  
21 (D. Md. 1981), *aff’d in part, rev’d in part on other grounds* 691 F.2d 666 (4th Cir.

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1 1982) (taking judicial notice, in defamation case, of photocopy of magazine article  
2 in question).

3  
4 DATED: November 2, 2007

BERT H. DEIXLER  
CHARLES S. SIMS  
CLIFFORD S. DAVIDSON  
PROSKAUER ROSE LLP

NELSON E. ROTH  
CORNELL UNIVERSITY

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9 s/Bert H. Deixler

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Bert H. Deixler

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11 Attorneys for Defendant,  
CORNELL UNIVERSITY